



Fort Myers Beach Town Council

**Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931
Wednesday, January 8, 2025**

Agenda

9:00 AM

ORDER OF BUSINESS

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

- A. Town Council - December 2, 2024
- B. Management & Planning Session - December 11, 2024
- C. Town Council - December 16, 2024

IX. CONSENT AGENDA

- A. Resolutions 25-01 through 25-04; Extension of Local Emergency - Hurricane Ian
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.
- B. Resolutions 25-05 through 25-08; Extension of Local Emergency - Hurricane Idalia
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE

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

- C. Resolutions 25-09 through 25-12; Extension of Local 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.

- D. Resolutions 25-13 through 25-16; Extension of Local Emergency - Hurricane Helene

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 HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE) 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.

- E. Resolutions 25-17 through 25-20: Extending Local State of Emergency, Hurricane Milton

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 MILTON, 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.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

- A. Ordinance 24-35; DCI20230090, Pink Shell Resort CPD

First Reading and Public Hearing on a proposed ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR 6.02 ACRES OF THE PROPERTY LOCATED AT 275/322 ESTERO BLVD, 200 ESTERO BLVD, 192 ESTERO BLVD COMMON ELEMENT ONLY, 142

ESTERO BLVD, 171-191 ESTERO BLVD, 251-281 ESTERO BLVD, AND 309 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-WI-0070D.028A, 24-46-23-WI- 00700.0340, 24-46-23-WI-00700.0290, 24-46-23-WI-00700.0330, 24-46-23-WI-00700.0320 , 24-46-23-WI-03700.00CE, & 24-46-23-WI-04100.00CE IN FORT MYERS BEACH, TO ALLOW EXPANSION OF THE EXISTING PINK SHELL BEACH RESORT TO INCLUDE A NEW 40 UNIT RESORT HOTEL 2 ADDITIONAL HOTEL UNITS IN THE WHITE SANDS BUILDING, AND TWO STAND-ALONE GUEST STRUCTURES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for final reading and possible adoption, Monday, February 3, 2025 at 9:00 a.m.

- B. Resolution 25-28; SEZ20240186, 1479 Estero Blvd., Lani Kai Shared Parking

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20240186 FOR USE OF AN EXISTING LOT TO PROVIDE COMMERCIAL PARKING SPACES IN THE DOWNTOWN ZONING DISTRICT OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 1479 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

- C. Resolution 25-24; SEZ20240158, 1240 Estero Parking Lot Special Exception (Lani Kai)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240158 TO ALLOW SHARED USE PARKING LOT PER LDC SECTION 34-2011(2)a., FOR THE PROPERTY LOCATED AT 1240 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

- D. Resolution 25-25; SEZ20240240, 2584 Estero Blvd., Estero Beach Club

A RESOLUTION OF THE TOWN COUNCIL OF FORT MYERS BEACH APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION 20240240, REQUESTING A SPECIAL EXCEPTION FOR THE PROPERTY LOCATED AT 2584 ESTERO BLVD., GENERALLY REFERRED TO AS "ESTERO BEACH CLUB CONDO" STRAP NUMBER 19-46-24-W3-02000.00CE, TO ALLOW FOR THE REPLACEMENT/ REPAIR OF PAVER DECKS, POOL SHELL AND COPING, CEMENT WALKWAYS, A CEMENT FOOT-WASH STATION, IRRIGATION LINES AND A FENCE ALONG AN EXISTING RETAINING WALL, LOCATED PARTIALLY AND ENTIRELY WITHIN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR

AN EFFECTIVE DATE.**XII. ADMINISTRATIVE AGENDA**

- A. CDBG-DR Subrecipient Agreements
Authorize the Town Manager to execute two subrecipient agreements for the awarded CDBG-DR funding in the amounts of up to \$8,336,753.00 and \$4,681,844.90 for the projects submitted to the Public Facilities and Critical Infrastructure CDBG-DR programs.
- B. 2025 Legislative Priorities
Discussion and approval of legislative appropriation requests for the 2025 Legislative Session
- C. ITB-25-01-PR; Bay Oaks Recreational Campus Redevelopment Project
Reject and cancel all ITB-25-01-PR proposals for the Bay Oaks Recreational Campus Redevelopment Project with cause, since all bids far exceed the estimated or budgeted amount as provided in the Invitation to Bid and Section 2-480(a)(11) of the Town Code, and provide direction to staff to re-bid the project.
- D. Resolution 25-27; ROW Licensing
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING AND AUTHORIZING THE ISSUANCE OF PERMITS (LICENSING AGREEMENTS) WITH PRIVATE PARTIES FOR USE OF THE TOWN RIGHTS-OF-WAY FOR PARKING OF VEHICLES, BICYCLES, MOTORCYCLES AND OTHER MODES OF TRANSPORTATION; REQUIRING PAYMENT OF ANNUAL PERMIT FEES AND COMPLIANCE WITH OTHER CONDITIONS AS NEEDED; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.
- E. Resolution 25-26; Ratifying Contract FMCR Marine Debris, Hurricanes Helene & Milton
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING SPA-24-14-EN FOR ACTION OF THE TOWN TAKEN DECEMBER 2, 2024 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH FLORIDA MARINE CONTRACTING & RECOVERY, LLC TO REMOVE DEBRIS FROM WATERWAYS IN THE TOWN OF FORT MYERS BEACH CAUSED BY HURRICANES HELENE AND MILTON, AND DISPOSE OF DEBRIS AT AUTHORIZED WASTE MANAGEMENT SITE AT A COST NOT TO EXCEED \$200,000.00; AND PROVIDING FOR AN EFFECTIVE DATE.
- F. Resolution 25-29; Ahtna Change Order #1 ITB-24-03-EN
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDER #1 OF CONTRACT ITB-24-03-EN BETWEEN THE TOWN OF FORT MYERS BEACH AND AHTNA

MARINE AND CONSTRUCTION COMPANY, LLC ADDING 24 DAYS OF CONTRACT TIME TO CONSTRUCT THE ESTERO ISLAND BEACH RENOURISHMENT AND HURRICANE RECOVERY PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

- G. Resolution 24-XXX; ICS SPA-24-13-EN Hurricane Milton Sand Screening
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING SPA-24-13-EN FOR ACTION OF THE TOWN TAKEN OCTOBER 24, 2024 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO SCREEN DEBRIS FROM SAND OVERWASHED BY HURRICANE MILTON TO PRODUCE BEACH COMPATIBLE SAND, PLACE AND GRADE BEACH COMPATIBLE SAND ONTO THE BEACH, REMOVE DEBRIS FROM THE BEACH, REMOVE DEBRIS SAND FROM RIGHT OF WAY AND TOWN PROPERTY AND DELIVER TO DEBRIS MANAGEMENT SITE, AND DISPOSE OF DEBRIS AT AUTHORIZED WASTE MANAGEMENT SITE; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE NO'S. INV121024-31, INV121024-31, INV121124-31, INV121924-31 AND INV122324-31 IN THE AMOUNT \$ 721,814.17; AND PROVIDING FOR AN EFFECTIVE DATE.
- H. Resolution 25-21, Ratify Andrew Sitework LLC Emergency Contract - Hurricane Helene
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN SEPTEMBER 27, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ANDREW SITEWORK LLC TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE TOWN'S STREETS AND RIGHT-OF-WAY; AUTHORIZING PAYMENT OF INVOICE #2024-19E #1 IN THE AMOUNT OF \$154,282.75; AND PROVIDING FOR AN EFFECTIVE DATE.
- I. Resolution 25-22, Ratify Andrew Sitework Emergency Contract - Hurricane Milton October 10, 2024
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN OCTOBER 10, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ANDREW SITEWORK LLC TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE TOWN'S STREETS AND RIGHT-OF-WAY; AUTHORIZING PAYMENT OF INVOICES #2024-19E #2 AND #2024-19E #3 FOR A TOTAL AMOUNT OF \$96,787.08; AND PROVIDING FOR AN EFFECTIVE 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 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
Monday, December 2, 2024

Minutes

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

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

Council Member Safford approved Council Member King via Zoom, seconded by Council Member Woodson.
The motion carried unanimously.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Vice Mayor Atterholt moved to add the special event permit for the elementary school to the first item under the consent agenda, seconded by Mayor Allers.
The motion carried unanimously by roll call vote.
Council Member Woodson moved to approve the final agenda, seconded by Council Member Safford.
The motion carried unanimously.

V. PUBLIC COMMENT

Mark Ludvigson, resident and builder, commented that many people did not understand the Comp Plan (Comprehensive Plan) and questioned what builders could or could not build. He asked that the Comp Plan be simplified so people could understand it.

A. Lee County Property Appraiser Matt Caldwell

Mr. Caldwell commented that property owners could find information on the website and noted that land values had changed. He explained the 50% rule and stated that anyone displaced from their homes for more than 30 days in a calendar year was eligible for a refund on their taxes. He felt that property values would move laterally next year.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King thanked those who responded to his emergency call over the weekend.

Vice Mayor Atterholt thanked those involved with the sand sculpting event and read a list of the sponsors.

Council Member Woodson agreed with the vice mayor.

Council Member Safford stated that the event was almost canceled due to the last two hurricanes. He thanked all the volunteers and singled out several.

Mayor Allers noted it was a great event and congratulated the winner.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

A. Public Safety Committee

No items.

VIII. APPROVAL OF MINUTES

A. Joint Session Town Council & Local Planning Agency - November 13, 2024
Council Member Safford was erroneously identified as an LPA member on page 7.

Council Member Woodson moved to approve the amended minutes, seconded by Mayor Allers.
The motion carried unanimously.

B. Town Council - November 18, 2024

Under Town Attorney's Items on page 23, the foreclosure on Nature View was set to go to sale on ~~December~~ November 21st.

Council Member Woodson moved to approve the amended minutes, seconded by Mayor Allers.
The motion carried unanimously.

IX. CONSENT AGENDA

The special event permit for the Shine Bright Night event at the beach school was added to the consent agenda.

John Koss described the celebration for the one-year anniversary of getting the school back. He noted he had not received approval from the fire department yet. Vice Mayor Atterholt commented that a group from his condo floor would distribute Battle Pups from a non-profit group out of Ohio to children on Friday.

Council Member Woodson approved the consent agenda, seconded by Council Member Safford.

The motion carried unanimously.

- A. Resolutions 24-257 through 24-261; Extension of Local Emergency - Hurricane Ian

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

Council Member Woodson approved the resolution, seconded by Council Member Safford.

The motion carried unanimously.

- B. Resolutions 24-262 through 24-266; Extension 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 approved the resolution, seconded by Council Member Safford.

The motion carried unanimously.

- C. Resolutions 24-267 through 24-271; Extension of Local 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 approved the resolution, seconded by Council Member Safford.

The motion carried unanimously.

- D. Resolutions 24-272 through 24-276; Extension of Local Emergency - Hurricane Helene

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 HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE) 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 approved the resolution, seconded by Council Member Safford.

The motion carried unanimously.

- E. Resolutions 24-277 through 24-281: Extending Local State of Emergency, Hurricane Milton

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 MILTON, 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 approved the resolution, seconded by Council Member Safford.

The motion carried unanimously.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly noticed, and she swore in those providing testimony. Council Member Safford disclosed a conflict with item A. under Public Hearings and submitted Form 8b to the Town Clerk.

- A. Resolution 24-285; SEZ20240194, 4950 & 4952 Estero - Kahlua Beach Club Special Exception

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240194 TO ALLOW RESTORATION OF A POOL, POOL DECK, TWO (2) CHICKEE HUTS, SHUFFLEBOARD AREA AND FENCE IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF FORT MYERS LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 4950 AND 4952 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. No ex parte communications were disclosed. The applicant confirmed receipt of the agenda and background materials.

Community Development Principal Planner Judith Frankel reviewed the background of the request as stated on the blue sheet.

Jim Ink represented the applicant and utilized PowerPoint for his presentation. He stated that the LPA (Local Planning Agency) unanimously recommended approval. Slides included Team Members, Request Statement, What This Request Would do and Why Grant the Request, Area Plan, Future Land Use Map, Pre-lan Conditions and Proposed, Conditions and Approval Criteria.

Principal Planner Frankel described slight changes to the pool and reviewed the six criteria for approval. She indicated that the staff recommended approval with conditions.

No public comment.

Vice Mayor Atterholt moved to approve the resolution, seconded by Council Member Woodson.

The motion was carried unanimously by roll call vote, with Council Member Safford abstaining.

- B. Ordinance 24-36, DCI 20230213, Neptune Inn, 2310 & 2316/2320 Estero Blvd.

First reading and public hearing of and ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2310 ESTERO BLVD AND 2316/2320 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0430N.0001, 19-46-24-W3-04300.00CE AND 19-46-24-W3-0110A.0010 FORT MYERS BEACH COMMONLY KNOWN AS THE NEPTUNE RESORT, TO ALLOW 148 LODGING UNITS AND ACCESSORY RETAIL AND RECREATIONAL USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR

AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on December 16, 2024 at 9:00 a.m.

Mayor Allers read the title of the resolution. The applicant confirmed receipt of the agenda and background materials. Ex parte communications: All Council members disclosed meeting with the applicants, receiving emails and being familiar with the property.

Community Development Planner Sarah Propst reviewed the background of the request as stated on the blue sheet. She indicated the LPA unanimously recommended approval.

Attorney Noel Davies represented the client and utilized PowerPoint for the presentation. Slides included Introductions - Project Team and Process.

Planner Patrick Vanasse entered the presentation into the record and presented a brief version starting with Background, Pre-lan, Post-lan, Background - Moving Forward and Key Points. Planner Ken Gallander continued with Request - Redevelopment, Subject Site, Location, Site Design & Compatibility, Master Concept Plan, Concept Parking Plan, Concept View from Gulf of Mexico, Concept View

Northwest & Aerial, Concept View along Del Mar Access & View Corridor, Concept View Eastside View Corridor, Concept View Toward Gulf of Mexico, Concept View from Southwest, Concept View from South/Gulf of Mexico, Height, Density/Intensity, FAR, Transportation & Parking, Parking and Traffic/Parking Mitigation. Planner Vanasse discussed Public Benefits/Special Benefits, Proposed Conditions/Commitments, Economic Impacts, Hotel Room Update and Findings & Conclusion.

Adam Valente, applicant, stated that he expected a 10% return on his investment (ROI) when they acquired the Neptune before lan. He explained why he estimated the ROI would be 8%-9% after lan, even after doubling the rooms and adding height. He anticipated the insurance would increase four to five times what it was before. He indicated that he would not be able to build anything if the project was not approved. Planner Vanasse explained how traffic would enter and exit the property. The timeline to complete the project was approximately three years.

Mr. Valente noted that most units would be about 425-430 square feet. Planner Propst stated that the TPI equivalency factor was 8.9. Planner Vanasse replied that he did not misrepresent a factor of 9.1 and Planner Propst agreed that the numbers are typically rounded up.

Public comment:

Susan Bonfigli, resident, supported the project and noted they had been great neighbors. She would love to see more greenery.

Cassius Upton, resident, felt that public benefits had to be in perpetuity, which should be clarified.

Cindy Johnson, resident, supported the family-oriented project but noted a lot of families did not support the density. She felt they had to be careful with increasing density and traffic.

Bill Veach, resident, noted that public benefits should be substantial and the town council could make public restrooms a condition for approval.

He had an issue with giving benefits to businesses that residents did not have. No one was telling single-family homeowners they could build a duplex if that would help them afford to build. Coming up with twice the density and twice the income-earning potential was unfairly distributed. He commented that traffic would be worse. He felt this was an example of doing something for businesses that would detrimentally affect residents.

Tom Brady, resident, felt they needed a good economic model. He discussed impact fees and suggested looking at expenses for the town. He noted that adding more people added expenses to the town, which was the offset. He commented that the financial models had to be refined.

Terry Cain resident promoted the comp plan and felt the town had to figure out what they wanted the vision to be.

Jean Guzzi, resident, thought the project was beautiful but did not support the density, intensity and parking. She described the lack of water pressure at her house after the latest two hurricanes and questioned the future of the infrastructure. She thought it was too large.

Public comments closed.

Council Member Safford thought the presenters did a fantastic job but felt some of the public benefits were forced by Ian. He was disappointed that the property had not been cleaned up sooner, but he was glad they were cleaning it now. He did not think their ask was crazy and he fully supported it. He suggested adding bathrooms as a condition because it would benefit people on the beach.

Council Member Woodson appreciated their hard work and supported the project.

Vice Mayor Atterholt stated he would not have supported the project pre-Ian, but he thought they put together a rebuild proposal that was fair and reasonable, given the adverse circumstances. He would like some items adjusted and more details regarding public benefits. He supported the proposal.

Mayor Allers felt the group did a good job but was torn because he did not think everything was flushed out. He disagreed that residential density would decrease because they were no longer building 980 square foot cottages.

He was unsure if he fully supported it or was against the project, but he would vote to send it to a second hearing.

Council Member Woodson moved to send the ordinance to a second reading with the amendments discussed on December 16, 2024, at 9:00 a.m., seconded by Council Member King.

The motion carried unanimously by roll call vote.

C. Ordinance 24-34; DA20240170, Seagate/Home Rule Development Agreement

Additional public hearing for proposed Ordinance 24-34 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 3001 ESTERO BOULEVARD, 2943 ESTERO BOULEVARD, 2932 ESTERO BOULEVARD, 211 DONORA BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 29-46-24-W1-00145.1000, 29-46-24-W1-00145.5000, 30-46-24-W2-00001.0000, 29-46-24-W1-0120A.0010 AND OWNED BY SEAGATE FORT MYERS BEACH LLC, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-73 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY PREVIOUSLY KNOWN AS THE RED COCONUT RV PARK; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; 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 ordinance. Ex parte communications: Council Member King received pro and con emails and watched the Beach Talk Radio interview, Vice Mayor Atterholt received pro and con emails and had a couple of phone calls with the applicant, Council Member Woodson received pro and con emails and had a couple of phone calls with the applicant, Council Member Safford had three phone calls with the applicant, met with neighbors on Donora, met with neighbors at his office to discuss the project and received pro and con emails and Mayor Allers had conversations with the applicant, met him on the site, listened to the Beach Talk Radio interview and did an interview with Beach Talk Radio the next day and received pro and con emails. All Council members stated they could make an objective decision on the project. The applicant confirmed receipt of the agenda and background materials.

Planner Propst reviewed the background of the request as stated on the blue sheet. She noted that the application submitted met all the development agreement procedures. She explained that Seahorse Lane had to remain to provide a through road for the neighborhood, but it could be moved north or south. Vice Mayor Atterholt verified that by right opportunities were three stories over flood on the gulf side and two stories over flood on the bay side. She noted the applicant would have to meet the redevelopment requirements of the code and comp plan to get the density requested.

Tina Ekblad, Sage Entitlements, distributed hard copies of her presentation. The development agreement in the packet did not include the amendments from the first hearing, so she included the changes in today's packet. She noted changes in the development agreement were in red text. She requested that all previous materials be entered into the record. Her presentation included an Introduction and a Site Plan & Development Summary. She reviewed changes made in the development agreement.

Matt Price, applicant, stated that the circle at the beach club was removed and the turn from Estero goes directly into the beach club. The bathroom will be a temporary trailer that could be moved quickly and Mr. Price will investigate putting it under the elevated deck at the beach club. Ms. Ekblad continued with the Building Height and reviewed changes. She clarified what substantial changes meant and Mr. Price noted he had worked with town staff on the language. Mr. Price agreed to add general language to encourage his workforce to utilize the Beach School.

Ms. Ekblad brought up height and noted that four stories were allowed on the south and three on the north. She discussed exceeding the view corridors and the other public benefits. She indicated they would not install landscape on the pool fence if so directed. She addressed a comparison case related to Diamondhead and stated that the building was permitted by a development order without any public hearings. She noted they had three public hearings so everyone could be heard. Mayor Allers asked whether they would consider any deviation in the height. Mr. Price replied that it was a volume question and if the project was denied, he would come back and fight for more density. Ms. Ekblad continued with the Requested Deviations and reviewed public benefits.

Public comment:

Kim Beaver, resident, distributed a copy of a petition from people who opposed the project. She discussed keeping a town with character and building back responsibly. She asked that they hold some town council meetings in the evening.

Dave Leigh, resident, opposed the project. He brought up a survey regarding the height and 900 people responded. At a ratio of 7 to 1, they were opposed to the project's height. He appreciated Mr. Price's responsiveness. Mr. Leigh reviewed a list of needs and wants, including height limitations and transportation options. He stated they were more important than public benefits. He implored the council to reject the project as proposed.

Jay Birsch, resident, agreed with what Seagate wanted to do. He was not worried about traffic. He suggested that the town look at Virginia Beach and he provided a handout.

Greg Scasny, resident, asked that they vote for denial without prejudice because the project was too tall and inconsistent with the comp plan. He felt the development agreement process was not appropriate for a development of this scale and was meant to help smaller developments. He stated that the first project using a development agreement, wanted to put the two tallest structures ever built on the island and bypass the rigor and detail of a CPD (Commercial Planned Development) process.

He explained why it was not consistent with Policy 4-C-4. He suggested they get the project to a place that would make a majority of the residents proud to get behind Seagate, but this iteration was not it.

Kevin Sullivan, resident, supported the developments on the island so far, but he was against Seagate's proposal of two 17-story structures. He discussed reasons for denying the project. He asked how they could deny London Bay's 17-story building while approving Seagate's 17-story building. He noted the success of Margaritaville without over-the-top giveaways like this one. He discussed the traffic problems and the risks of not listening to the community.

(Council Member King left the meeting at 1:35 p.m.)

Mike Dagnese, resident, lived next door and indicated that all he would see was a wall of cement and would lose sunlight. He felt they should have put the tall buildings in the back but they should not even build that high. He noted the traffic would be much worse. He asked where their employees would live. He wondered who would want to come here if they had to sit in traffic for hours. He suggested they return to the drawing board, make the rooms smaller and cut the height in half.

Dapper Davidson, resident, stated it was the town council's job to protect the residents. He used pieces of wood to demonstrate how tall the building was compared to the neighborhood houses. He discussed moving everything in the back so he did not have to wake up to a massive wall and no sunsets.

Melody King, resident, described her history on the beach. She spoke on behalf of many residents and did not know why anyone would invest \$57 million after Ian. She discussed building a huge development on a sinking sandbar. She addressed the backlash surrounding Eddie Rood's walkover and asked where the advocates were today.

Samantha Campbell, resident, stated that Seagate would hurt the whole island and set a bad precedent. She supported development, but not this project and brought up the increased traffic.

Rafael Gnirck, resident, noted that Red Coconut had 141 450 sq. ft. trailers with one or two people living in them. Seagate condos will have three to five bedrooms, which increases density four to five times. He reminded the council that the LPA recommended denial of the request and the founders incorporated the town to prevent condos like this from being built.

Arnold Schramel, resident, asked the town council to follow the LPA's recommendation because it was too much height. He did not think it should be this project or nothing else. He felt the Seagate people were good and should work with the town.

Linda Dagnese, resident, asked whether they were still incorporated because the reason they incorporated was so people could have sunshine in their yards. If Seagate is built, she will lose all her sun along with everyone up to Publix. She asked whether they wanted to live in the shade. She did not support the project.

Susan Bonfigli, resident, would not welcome a structure of that size and discussed the lack of sunshine, wind noise and the impact on Matanzas Pass Preserve. She worried about the future economic impact on the town.

She liked their idea but suggested they shrink the units and reduce the building height.

Cassius Upton, resident, thought the project was terrible. He noted that the tallest building since incorporation was the Pink Shell and they had to give up a lot to get it. He stated this project had four buildings that surpassed the Pink Shell. He indicated this was not what Fort Myers Beach was about and it was a money grab.

Christopher Smutz from London Bay encouraged the town to consider the economic impact of Seagate's proposal. He commented that it would increase property values and tax revenues, leading to job and wage creation. He noted that Seagate listened to the community leaders and provided many public benefits.

John Koss, resident, commented they were doing a disservice to their comp plan because the land was so expensive the developers have to build larger projects. He looked at height and density as different issues. He supported the density of the project but not the height. He thinks Seagate should bring the height down and match the height of the other buildings in the neighborhood. He felt it would set a precedent in the developer's minds. He thought that the comp plan was out the window.

Barbara Hill, resident, was not in favor of the towers; however, she liked the quality of the construction of their other projects. She noted the comp plan and incorporation happened because the council wanted to keep the building heights reasonable with the comp plan.

Kathy Turner, resident, noted there were two errors in the development agreement. She commented that all plantings required irrigation. She was not in favor of the project and stated the council had the opportunity to destroy her residential neighborhood with 17-story towers. She did not think a linear park was a public benefit because it was a plot of land between two sidewalks. She explained why the other public benefits were not. It was overdeveloped at 433% more than he could get by right and she suggested they come back with something between four and seventeen stories.

Ellen Fulcher, resident, asked that the council negotiate for the residents and what they were asking for, like less height. She asked that they push for a compromise.

Valerie Brown, resident, noted that New Jersey's coastline was similar to Fort Myers Beach and after Sandy hit, they did not need high rises to come back and were doing great.

Michael Brieth, resident, noted that feasibility really meant profit. He stated that whatever happened, the developers would make money. He urged them to vote against the proposal. He said they had not even talked about the lights.

Mark Ludwigsen, resident, described how the town used to be and noted the comp plan was there for a reason. He did not approve of the 17 stories.

When he moved to the beach, he built what he was told he could build, but now investors were going for the sky. He asked that the council follow the comp plan.

Bill Simmons, resident, recalled why the town was incorporated. He felt they should listen to the LPA and the high rise would set a precedent. He supported development, but there had to be a medium and the developers could not say take it or leave it.

Cindy Johnson, resident, felt the community had to get together and go through the comp plan. She asked what happened to the charettes. She questioned what they wanted to see in the next 25 years. She stated that they bought on Fort Myers Beach to avoid big developments. She wondered whether residents who had to leave were going to come back to a tourist's beach. She noted the lights from Seagate would affect the turtles and birds. Jean Guzzi, resident, was against 17 stories. She was concerned about the large units and renting them weekly. She was fearful of the traffic and infrastructure.

Tom Brady, resident, was against this project; however, he supported small businesses. Seagate admitted that they had not engineered the building yet, so they could go back to the drawing board and come up with something everyone could agree on.

Public comment closed.

Ms. Ekblad reviewed the Red Coconut property and compared its intensity to Seagate's development. She noted the rentals were limited to three times a year for a month or longer. She stated the maximum height was 235 feet and was limited to the parking area only. She said it was a single building with multiple towers, not multiple buildings. Ms. Ekblad reviewed the various permits they had to obtain. In her professional opinion, this development was consistent with the comp plan and she explained why. She asked that they move it to a second hearing.

Mr. Price stated he wanted to talk to people and did not mind making changes. He asked that the council approve sending it to another hearing. He cited the election results and pointed out that the one person who ran against his project lost. Mayor Allers asked why he would not take another look at the project concerning the height. Mr. Price replied that he had to fit the units and some people were not against the height. He brought up the election again and felt the results supported his project.

Vice Mayor Atterholt was disappointed with how Mr. Price described the process. He respected everyone who took the time to voice their opinions. He agreed with moving it to another reading so Council Member King could attend.

Vice Mayor Atterholt moved to move the ordinance to a second reading, seconded by Council Member Safford.

The motion carried 3-1, with Mayor Allers dissenting and Council Member King excused.

XII. ADMINISTRATIVE AGENDA

A. Interlocal Agreement Between the Town and the Tax Collector

Approval of an Interlocal Agreement Between the Town of Fort Myers Beach, Florida, and Lee County Tax Collector for the collection of non-ad valorem assessments related to demolition costs of unsafe buildings Town Attorney Stuparich explained that the interlocal was required by Florida law.

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

The motion carried unanimously by roll call vote, with Council Member King excused.

B. Special Event - FMB Women's Club Festival of Trees

FMB Women's Club is requesting approval of a special event permit to hold their Annual Christmas Tree Festival on Friday, December 13, 2024 and Saturday, December 14, 2024 from 1:00 p.m - 8:00 p.m. at Bay Oaks Recreational Center, to serve cocktails, have outdoor music and have a food truck on site.

Mayor Allers abstained from the vote due to a conflict of interest.

Vice Mayor Safford moved to approve the request, seconded by Council Member Woodson.

The motion carried 3-1 by roll call vote, with Mayor Allers recused and Council Member King excused.

C. Resolution 24-282, Authorizing Budget Adjustment #2 - New Year's Eve Fireworks

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING BUDGET ADJUSTMENT (#2) TO FUND NEW YEAR'S EVE FIREWORKS; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Finance Director Joe Onzick explained that the funds could be set aside from savings. (Council Member King rejoined the meeting.)

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

The motion carried unanimously by roll call vote.

D. Resolution 24-248, Strategic Planning Research Agreement

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH RATIFYING A RESEARCH AGREEMENT WITH THE UNIVERSITY OF SOUTH FLORIDA BOARD OF TRUSTEES FOR STRATEGIC PLANNING SERVICES AS DESCRIBED IN A PROPOSAL UNANIMOUSLY APPROVED BY TOWN COUNCIL ON SEPTEMBER 9, 2024, IN AN AMOUNT NOT TO EXCEED \$225,427.60; AUTHORIZING THE USE OF AMERICAN RESCUE PLAN ACT (ARPA) FUNDS FOR THE PROJECT AND AUTHORIZING THE TOWN MANAGER OR MAYOR TO SIGN ANY AND ALL DOCUMENTS NEEDED TO IMPLEMENT THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick explained that this was to ratify an action that had already taken place.

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

The motion carried unanimously by roll call vote.

E. Resolution 24-256, STA #16 FY24 Axis Infrastructure Services

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A SUPPLEMENTAL TASK AUTHORIZATION #16 WITH AXIS INFRASTRUCTURE, LLC IN AN AMOUNT NOT TO EXCEED \$280,000.00 TO PROVIDE TECHNICAL SUPPORT, GIS, AND SPECIAL PROJECT MANAGEMENT FOR THE 2024-25 FISCAL YEAR; AUTHORIZING THE TOWN MANAGER TO SIGN THE AGREEMENT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Operations & Compliance Director Frankie Kropacek stated this was a continuation of the agreement. Planner Propst noted she would have an update on the impact fees in January.

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

The motion carried unanimously by roll call vote.

F. Resolution 24-255, Carlos Circle STA 4

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH RECINDING RESOLUTION 24-177 AND AUTHORIZING THE TOWN MANAGER OR HIS DESIGNEE TO APPROVE AN UPDATED STANDARD TASK AUTHORIZATION #4 IN THE AMOUNT OF \$146,980.00 WITH TETRA TECH UNDER CONTRACT NO. 22-25-AD FOR TIER 1 PROJECT CARLOS CIRCLE AND ANY ASSOCIATED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager Andy Hyatt noted that this was already approved in an FY2020 contract and needed to be moved to FY2024.

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

The motion carried unanimously by roll call vote.

G. Resolution 24-286; ITB-24-08-EN, Matanzas Pass Mooring Field Dinghy Dock Construction Project

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO AWARD ITB-24-08-EN TO KELLY BROTHERS, INC. AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER TO COMPLETE THE DINGHY DOCK CONSTRUCTION PROJECT; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek explained why it was necessary.

Vice Mayor Atterholt moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt indicated that the bid opening for the Bay Oaks project was December 10, 2024, and he hoped to present a contract to the town council on December 16, 2024. Director Kropacek indicated that the plan to redo the pool should be available by February or March 2025.

The 7-11 property will close on Monday. Part of the furniture was delivered to the Town Hall. He anticipated having the top two floors ready by this month and hopes to transition to the building in January. Painting the town hall's exterior should start later this week or next. He explained why the building had to be painted. He indicated the elevator may not be repaired until February, so they might have to move to Bay Oaks temporarily. The trailers will be moved soon.

The poinsettia tree will be lit in Times Square on December 9, 2024, at 5:00 p.m. Town Manager Hyatt stated he had a call scheduled with Rick Scott's office tomorrow regarding FEMA (Federal Emergency Management Agency). The town will also respond to FEMA with a letter.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich stated that the Nature View property was sold on November 20, 2024, and the town recovered \$725,839.46. They were waiting for a \$75.00 check. She reviewed the history of the property. She indicated that the Key Estero property was still in circuit court and explained the following steps if the judge ruled in the town's favor. Vice Mayor Atterholt encouraged the town to negotiate with the attorney and property owner to open the retail plaza. Town Attorney Stuparich added that the property owner applied for a special exception, but the application was incomplete. Director Kropacek noted that the property owner was also cited for building a wall without a permit. Town Attorney Stuparich will contact the attorney.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member King stated that he would be spending the night at the hospital. Vice Mayor Atterholt asked whether council members were comfortable researching grant money to refurbish an office for a medical professional. Council members agreed. Director Kropacek provided an update regarding the micro study.

Council Member Safford asked about the Farmers Market in Times Square. Director Kropacek described the damage that needs to be repaired. Council Member Safford asked whether it could be moved under the bridge. Director Kropacek responded that the area was used for parking.

Town Manager Hyatt suggested holding it at Lynn Hall Park and offered to talk to the county. Council Member Safford thanked Myerside and Neptune for providing parking for the sand sculpture event. He noted the boat parade was on Saturday and started at 6:00 p.m.

Council Member Woodson asked what they could do to clean up the lots in Times Square. Director Kropacek replied that the building supervisor would follow the red tag process to clean up the properties.

Mayor Allers asked for an update about the wagon idea and Town Attorney Stuparich will provide information at their next meeting. Mayor Allers noted that bike caroling will be on December 21, 2024, starting at Bayside Park to Diamondhead and back to Bayside Park. Margaritaville will have a free concert and other events will be held. He asked whether the town was willing to entice developers to do a long-term lease on the old town hall property to bring in retailers. Council members agreed it was worth exploring.

XVII. ADJOURNMENT

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



Fort Myers Beach Management & Planning Session

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

Minutes

Wednesday, December 11, 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. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. R2P2 Final Report Presentation

Presentation of the Coastal Florida Recovery and Resiliency Partnership Project (R2P2) Report

Ellie Baker introduced Drew Parker, who was calling from North Carolina. Ms. Baker introduced her colleagues, Jon Ford and Margaret Flippen. Slides in the presentation included the R2P2 Planning Process, Community Goals, Community Engagement and Online Survey. Mr. Ford continued with Island-Wide Connectivity, Connectivity Goals, Previous Plans & Current Efforts, Connectivity Plan, Island-Wide Mobility and Connections, Times Square to Red Coconut, Newton Beach Park and Alternative Layouts. Ms. Flippen continued with Old San Carlos Boulevard/Times Square, Old San Carlos Boulevard Development Parameters, Existing Conditions, Streetlights, Permitted, Palm Trees, Festive Street Murals, Times Square (Then), Times Square Challenges, Recovery and Resilience Options, Development Parameters, Range of Options and Comparing Options. Ms. Baker concluded the Implementation Framework and noted that the report was available on the website.

Bill Spikowski partnered with the R2P2 group and felt that the smaller businesses were the lifeblood of Times Square and set it apart from other communities. He noted there were things the town could do to bring businesses back and indicated that Option 1 was a possible plan, but code

changes would have to be made and FEMA (Federal Emergency Management Agency) rules had to be followed. He added that property owners would have to agree to sell.

Council Member Safford stated that he did not think option 1 would work because tourists were not interested in eating at food trucks daily. He asked Mr. Spikowski what they could tackle the easiest and fastest. Mr. Spikowski replied that Newton Beach Park was the first. He commented that food truck parks were an attraction because they offered music, shade and table service. Council Member Woodson added that food trucks on wheels could not serve alcohol and asked how to change the state liquor laws. Mr.

Spikowski noted the state does not change the laws often, but he would not assume that it was impossible since it was an economic development issue.

Council Member Safford feared the pier would be built but nothing else.

Mayor Allers stated that they tried to get the Times Square owners together, but it was not going to happen. He stated they had to try to entice the owners to work together or sell to someone who would partner with the community.

He shared Council Member Safford's fears. Council Member Woodson noted that some owners were moving ahead in their own direction. She supported the idea of the town finding a way to support the owners monetarily.

Mayor Allers asked Mr. Spikowski what he would do. Mr. Spikowski replied that changing the LDC (Land Development Code) to allow mobile vendors would be easy. He noted that allowing two stories over flood helped, but the cost to build was still a problem for small owners. He felt that acquiring land with outside funding was worth exploring. Mayor Allers suggested visiting Backyard Social in Fort Myers. He indicated the shipping containers were elevated with covered patios, a stage and alcohol.

Vice Mayor Atterholt noted that the report focused on reenergizing Old San Carlos. He asked Mr. Spikowski what he thought the impact would be with a more modest Arches proposal at Moss Marine. Mr. Spikowski responded that it would either help or draw energy away.

B. Leasing Town ROW for Private Property use

Leasing of Town right-of-way for private use

Community Development Principal Planner Judith Frankel stated that Jim Ink represented the owners of 1901 Estero and was prepared to speak if the council desired. Mayor Allers asked why she was bringing up the issue.

Principal Planner Frankel indicated that Resolution 18-20 carried forward what had been established before the town was incorporated. Lee County had right-of-way lease agreements with private property owners and the town agreed to continue the agreements. She noted there were about six properties involved and they were being redeveloped. She asked whether they wanted to continue that with a new resolution or revisit it. She described 1901 Estero as the old Hoosiers restaurant and indicated the property owner would like to continue leasing nine parking spots on Ohio. Mayor Allers did not have an issue with it if the fire department approved it.

Council Member Woodson stated the charge was \$100.00 per space for the year. Council Member Safford noted there was a receipt for \$424.00. Principal Planner Frankel explained the pricing and indicated they would have to change the fee schedule. Operations & Compliance Director Frankie Kropacek added that the potential for those spots was \$60.00 per spot per day. Principal Planner Frankel stated that the owners were trying to maintain the existing portion of the building and add to it.

Principal Planner Frankel will bring back the resolution with a suggested fee. Jim Ink described what the owners planned to do with the old Hoosiers property and passed around a building rendering.

C. Code of Ethics

A review of the Town Code of Ethics policy

Town Manager Hyatt noted he was attempting to streamline and incorporate items into the policy. He will meet individually with council members. Council Member Woodson felt that they needed to update social media policy. Vice Mayor Atterholt asked that the gift rule policy be clarified. Town Attorney Stuparich will check whether advisory committees are bound by the ethics policy.

D. Advisory Committee Appointments

Discussion of a draft resolution: A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 5 OF THE TOWN COUNCIL'S POLICIES AND PROCEDURES MANUAL AS RECENTLY AMENDED BY RESOLUTION 24-246 TO CLARIFY THE SELECTION PROCESS IN THE EVENT OF A TIE VOTE FOR APPOINTMENT OF A QUALIFIED INDIVIDUAL AND TO ESTABLISH A LIMIT ON THE NUMBER OF WAIVERS AN APPOINTED INDIVIDUAL MAY REQUEST; AND PROVIDING FOR AN EFFECTIVE DATE.

Discussion was held on the language. Town Attorney Stuparich indicated she would work on the wording and bring it back at a future meeting.

E. Advisory Committees

DISCUSSION: Qualifications for Appointment to Advisory Committees, Boards and Agencies

Town Attorney Stuparich reviewed the qualifications. She asked how many committees an individual could serve on at one time. Council members felt that two committees were the limit. Council Member King felt that people should be allowed to serve on committees despite their knowledge or experience. Council Member Woodson asked whether people who lived on the island should be given preference. Council members agreed. Preference will be given to residents or property owners in zip code 33931. Town Attorney Stuparich will modify the language and bring it back.

IV. AGENDA MANAGEMENT**A. December 2024**

Add a discussion regarding Ordinance 17-15.

Council Member Woodson inquired about the second opinion on the water project. Director Kropacek stated that the five companies refused to go on record regarding another company, but he was still working on it.

Invite Mike Poff to an M&P or regular meeting for an update on the beach renourishment.

Add a discussion regarding the pier and pilings on the south end.

Add an R2P2 discussion.

Add a discussion regarding public/private partnerships.

V. ADJOURNMENT

Council Member King moved to adjourn at 11:04 a.m., seconded by Mayor Allers. The motion carried unanimously.



Fort Myers Beach Town Council

**Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931
Monday, December 16, 2024**

Minutes

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 amended agenda, seconded by Council Member Woodson.

The motion carried unanimously.

V. PUBLIC COMMENT

Michele Cherney, resident, introduced herself and stated she was interested in being a member of BORCAB (Bay Oaks Recreational Campus Advisory Board). Bill Veach, resident, discussed the broad action of revoking all temporary use permits. He stated that FEMA (Federal Emergency Management Agency) considered a container a building and distinguished between RVs and buildings. He noted that if the town included RVs, it would evict people from their homes at the beginning of the season. He asked the town to make sure it would not be so broad.

Cathy Turner, resident, agreed with the mayor's statement regarding decorum during meetings, but it needed to be directed to the applicants, too. She believes the development agreement was not designed for a large project. She felt it burdened the staff and only benefited the applicant. She noted that she only received replies from two council members when she sent emails. She felt that meetings held in the morning were difficult for many to attend.

Lori Webster discussed why she felt members were elected to the council. She stated they were supposed to put an end to secrecy. She indicated they were leaders but also servants and should represent the people in the community.

Howie Hoffman, resident, noted that people who worked in the food trucks were just trying to eat. He asked that they let them stay.

Tom Brady, resident, apologized for being emotional at the last meeting. He was upset that a skyscraper would be built in his backyard. He did not vote for a 17-story building and the election results did not mandate the construction of the project. He never believed Vice Mayor Atterholt and Council Member Safford would vote for 17 stories. He noted they turned down smaller projects because they did not align with the comp plan (Comprehensive Plan). He indicated that there was no view corridor to the bay from their property and the elevated pool would block the view from Estero Blvd.

Craig Loose, resident, thanked council members for saving the Santini Pier. Dave Leigh, resident, reviewed the results of his survey regarding the height restriction. He agreed the election was not a mandate. Another petition was circulating with 100% against. He stated there was such a big turnout at the meeting because the project should not be allowed.

Cassius Upton, resident, asked why they went against what the LPA (Local Planning Agency) recommended. He noted that Chair Cereceda and LPA Member Plummer voted against the project. He felt it was hard to trust some of the council members.

Melody King discussed the \$1.5 billion allotted through a community development block grant for disaster relief from Ian to Lee County and asked that the allocation be reevaluated. She stated it was unacceptable that the grant was directed toward water parks and treatment plants instead of housing for residents. She noted that people could not live in a water park and their water was still tainted.

She indicated they were choosing skyscrapers over the lives of the community. Jessie Titus, resident, stated they got Seagate wrong and noted that they will not be remembered for their good work if the project goes forward. She was on the LPA when the comp plan was written and stated there should be no doubt of its intention. She discussed falling property values and the impact on homes and residents. She noted if they approved the project, they would be remembered as the council that chose not to protect them. She described how the Seagate development would cause harm to the community. She stated they wanted progress, but it must be the right kind of progress and she revealed that Bonita Springs recently voted against a Seagate proposal because it did not meet their comp plan.

Katherine Canlon, resident, asked that they do not approve the project. The applicant knew there were building restrictions when he bought the property. She asked them not to cave.

Barbara Hill, resident, commented that the Seagate project would destroy the vision of the town and it was not a good fit for a residential neighborhood. She stated it was their duty to vote no because it did not fit the comp plan and they should demand that the developer build smaller. She never heard the word compromise and stated that was the way to go. Reduce the units by a third and have the applicant return with a revised plan. She posed many questions and noted the leaders were legally bound to abide by the comp plan and LDC (Land Development Code). She asked whether their decision today would become a challenging, litigious situation.

Fred Malone from the Buffalo Grill stated they should not punish the food trailers who followed the rules when obtaining permits.

Tona Schotz, resident, stated the height of the Seagate would directly affect her home and asked that they stick to the plan and vision of the town. She hoped they would vote against the project and ask the applicant to resubmit.

John Schiera, resident, stated the Seagate project was a blatantly poor example of urban planning. They needed to follow guidelines. He felt they would run into future problems if they approved the project. He commented that it was absurd they were considering a project with 17 stories.

Mark Ludvigsen, resident and contractor, knew what he could and could not build when he moved to the town. He was upset since so many residents were against it and the council members knew better than they did. Residents were telling them what they did not want to see, but they were going against their wishes.

Lee Farner, resident and civil engineer, stated that the property was large enough that they could build a development within the height restrictions and make tons of profit. He felt by allowing multistory projects, they were allowing them to maximize their profit at the community's expense. He asked why.

Linda Dagnese, resident, questioned why they were even thinking about going over the height limit. She stated she would have to look at a wall and asked if that sounded good to anyone. She chose to live there 40 years ago so she could see the sky and see people on the beach, not in a restaurant across the street. She stated that a council who wanted to sell them out was not right and noted they needed to go past the pocketbook into the brain.

Carol Steier, resident, thanked the mayor for trying to keep the comp plan and the town's mission. They have never been more disappointed in a group of elected officials. She described why they decided to move to the town. They were against additional height and density and noted that Margaritaville managed to follow the rules. She stated the 17 stories could be spread out over their property. Since most residents did not want huge buildings, she asked them to say no to the 17 stories.

Dennis Alfieri, resident, thought the most significant thing was the precedent it would set. He asked how they could vote against London Bay after voting for this. He noted they would have to let everyone do it or nobody; there was no in-between. If they went to court, they would lose. Walter Pilkons, resident, felt that trailers should be allowed in residential areas if a house was not livable for one reason or another. He lived in a trailer behind his home, which was about five months from completion. He mentioned people still dealing with FEMA and insurance and had not started construction yet.

Dewitt Willis, resident, lives in a trailer because Ian leveled their home. He talked about how expensive it was to rebuild what was there and he finally had a set of plans after eight months. He stated it would take time and what was he supposed to do if they take away the trailers. He was confused by decisions that were being made that did not help anyone.

Jerry Prosnick, resident, was trying to rebuild and was living in a trailer. He was homeless without the trailer and had nowhere to go.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

No items.

A. Donation

Accept a donation from Jay and Mary Highley for the purchase of poinsettias for the Town's annual poinsettia tree in Times Square.

Town Manager Hyatt recognized and thanked Jay and Mary Highley for donating the poinsettias for the last couple of years.

Mayor Allers moved to accept the donation, seconded by Council Member Woodson.

The motion carried unanimously.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS**A. Bay Oaks Recreational Campus Advisory Board**

Appoint a new member to the FY2024-2025 Bay Oaks Recreational Campus Advisory Board (BORCAB)

Michele Cherney and Diane Richardson applied for the position.

Council Member Safford moved to certify the accuracy of the results, seconded by Council Member Woodson.

The motion carried unanimously.

Council Member Safford moved to appoint Michele Cherney, seconded by Council Member Woodson.

The motion carried unanimously.

B. Town Advisory Boards

Designation of a Council representative to the six Town advisory boards/committees.

There were no liaison changes to the advisory committees.

Anchorage Advisory Committee and Cultural and Environmental Learning Center Advisory Board - Vice Mayor Atterholt

Audit Committee - Council Member Safford

Bay Oaks Recreational Campus Advisory Board - Council Member Woodson

Marine and Environmental Resources Task Force - Council Member King

Public Safety Committee - Mayor Allers

There were no objections to the current appointments.

C. Outside Committees

Designation of a Council representative and alternate to the seven outside committees.

There were no changes to the following committees.

Coastal and Heartland Estuary Partnership and Metropolitan Planning Organization - Council Member King

Coastal Advisory Committee - Projects Manager Chadd Chustz

Fort Myers Beach Elementary School Youth Council, Horizon Council and

Tourist Development Council - Mayor Allers
Southwest Florida Regional Planning Council - Community Development
Planner Sarah Propst or Principal Planner Judith Frankel

There were no objections to the current appointments.

VIII. APPROVAL OF MINUTES

No minutes.

IX. CONSENT AGENDA

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

The motion carried unanimously by roll call.

- A. Resolution 24-290, Town Disaster Advisory Council Appointment and Authorization

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPOINTING TWO TOWN STAFF MEMBERS TO THE DISASTER ADVISORY COUNCIL; AUTHORIZING THE TOWN MANAGER TO SELECT AND APPOINT TOWN STAFF MEMBERS TO REPRESENT THE TOWN OF FORT MYERS BEACH AND TOWN OF FORT MYERS BEACH UTILITIES DEPARTMENT ON THE LEE COUNTY DISASTER ADVISORY COUNCIL AND FILL ALLOCATED SEATS ON THE COMMITTEE; PROVIDING AN EFFECTIVE DATE.

Add "as needed" after the words "the committee" at the end. Town Attorney Stuparich clarified it was so the town manager could fill vacancies on those committees as needed.

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

The motion carried unanimously by roll call.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly advertised and she swore in those providing testimony.

A. Ordinance 24-34; DA20240170, Seagate/Home Rule Development Agreement (Red Coconut)

Second Reading and Final Public Hearing of proposed Ordinance 24-34 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 3001 ESTERO BOULEVARD, 2943 ESTERO BOULEVARD, 2932 ESTERO BOULEVARD, 211 DONORA BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 29-46-24-W1-00145.1000, 29-46-24-W1-00145.5000, 30-46-24-W2-00001.0000, 29-46-24-W1-0120A.0010 AND OWNED BY SEAGATE FORT MYERS BEACH LLC, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-73 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY PREVIOUSLY KNOWN AS THE RED COCONUT RV PARK; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; 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 ordinance. Ex parte communications: All council members except Council Member King disclosed conversations with the applicant. All council members received several emails and had discussions with various residents. Mayor Allers also spoke about the project on an episode of Beach Talk Radio. Town Clerk Baker stated that copies of all emails were provided to the applicant.

Matt Price reviewed his experience as a development expert and Tina Ekblad reviewed her experience as a certified planner.

Council Member Safford moved to accept Mr. Price and Ms. Ekblad as experts in their field, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

The property owner confirmed receipt of the agenda and background materials.

Community Development Planner Sarah Propst indicated the applicant had provided an updated master concept plan and development agreement since the last hearing, which was included in the agenda packet. Planner Propst reviewed the background of the request as stated on the blue sheet.

Matt Price, applicant, apologized for what he said at the last public hearing and stated his team would not talk among themselves today. He discussed conversations with individual council members two years ago and stated that they all agreed that height was better than density. He described plans for public restrooms and a beach access solution. He reviewed how the design started and said things would probably continue to change based on feedback. He agreed to pay all impact fees. Planner Propst stated that the road had to remain per the comp plan and LDC. Council Member Safford noted that he did not know how that road would connect to Lovers Lane and continue without eminent domain. He suggested that the road be moved to the back and the whole thing be moved back. Planner Propst mentioned a potential environmental impact, but she noted there were a lot of options. Council Member Safford asked whether they could update the comp plan and write the agreement to remove the road or change it to a bike lane and move the project back. Mr. Price did not want to put something in the development agreement contradictory to the comp plan.

Ms. Ekblad noted that the presentation was available for everyone and she would only summarize changes made since the last hearing. The Site Plan and Development Summary now includes the restrooms. She described the private beach club and noted it was consistent with the height requirements. She discussed how the development agreement changed after meetings and felt it provided enough flexibility to go through the process. Ms. Ekblad felt their request for additional height was consistent with the comp plan and policy 4-C-4.

Mayor Allers asked how tall the overall height was from ground level to the top of the 15-story residential building 1. Ms. Ekblad replied that she thought it would be around 255 feet, but it had not been designed yet. Mayor Allers clarified the height of the other buildings and Ms. Ekblad commented that the project narrative had not been updated. An updated master concept plan was provided to Mayor Allers and Ms. Ekblad acknowledged that one of the buildings was taller than Ocean Harbor. Mayor Allers read policy 4-A-1 into the record. Ms. Ekblad explained why she thought the design of the building, including the restaurant, the water feature and the linear park fronting Estero Blvd., was consistent with the policy. Mayor Allers read policy 4-A-3 into the record. Ms. Ekblad replied that the residential structure was less intrusive than the previous development and did not consider it an intrusive commercial use. Mayor Allers read 4B of the future land use map categories and asked whether Ms. Ekblad felt they met the requirements. Ms. Ekblad explained why they did. Mayor Allers questioned whether she believed the three buildings, two of which were taller than the tallest structure on the island, protected the residential neighborhood across the street. Ms. Ekblad replied that the project as a whole protected the residential character of the existing community.

She did not think it was fair to break out specific buildings. Mayor Allers referred to policy 4-C-4 and asked whether Ms. Ekblad thought they met the requirements of fairness. Ms. Ekblad explained why the process they went through was fair.

Ms. Ekblad clarified that the additional eight single-family homes would go in the same tract as the four single-family homes and explained potential density transfers. Mr. Price stated the public restrooms would be permanent and built in the clubhouse. He revisited the beach access situation at Gulf View Colony and discussed how he was assisting the Art Association with a development agreement.

Ms. Ekblad explained why the Gulf Colony beach access should not pause the project and indicated the property was not subject to the development agreement. Council Member King questioned the dispute about the view corridor numbers. Ms. Ekblad replied that the view corridor dimensions were on the plan.

Mayor Allers referred to Exhibit C on page 67 regarding the parks and asked whether they would consider deeding all the parks to the town. Mr. Price responded that the town told him they did not want to maintain them, but he was open to discussions.

Planner Propst reviewed how they got there, what the code says and a recommendation. She stated that if the town council considers the public benefit provided by the development proposal to be greater than the benefit of abiding by the by-right height limitations, staff recommends approval.

However, if the town council determines the public benefit is insufficient, they should recommend denial.

Operations & Compliance Director Frankie Kropacek stated that they believed the project would provide an economic driver for the town and recommended approval. Town Attorney Stuparich explained why they had complied with everything they needed to under the code if they approved the project. Planner Propst discussed evaluating the level of unfairness.

Mayor Allers was concerned that Director Kropacek only addressed the economic aspect but did not mention the residents surrounding the property. Town Manager Hyatt agreed that Director Kropacek was speaking on behalf of the licensed planners and agreed with the recommendation based on the LDC and the comp plan.

Public comment:

Cathy Turner, resident, felt the project was too big for a development agreement and was concerned about density and height beyond 10 feet.

She noted that this was a quality-of-life issue and disapproved of it being reviewed as a fiscal decision. She was concerned with people driving up and down on Donora and the delivery trucks early in the morning. She asked that they not decide based on a financial decision.

Carol Steier, resident, did not think the project was realistic and felt they could build smaller units. She suggested they go back to the drawing board to do better. She asked that the council vote no.

Melody King, resident, stated they were fighting for their quality of life. She discussed the wetlands behind the project and will forward an email after the meeting. She commented that it would never get approved for permitting.

Bill Veach, resident, felt that the development was being built just for the condo views. He discussed how tall the structure was and how it would negatively impact the residential neighborhood and block the sunset. He noted that Council Member Woodson voted against the Moss Marine project to protect her view corridor. He stated that there would be 10 years of construction with heavy machinery and cranes and the town would not see revenue for years. He referred to the Vice Mayor's pre-lan and post-lan statements and noted the infrastructure was still pre-lan, with a two-lane road the town did not control. He indicated there was a difference between 30 above flood and 230 above flood. He commented that it was tall because they were trying to pack a lot of very large units in a small place, not because they were trying to keep open space around it.

Jessica Titus, resident, asked that the council protect them, be strong and have them come back with a better plan.

Kevin Sullivan, resident, supported thoughtful development but not Seagate. He discussed enjoying Margaritaville with real public benefits versus Seagate, which he considered a monstrosity with minimal public benefit. He stated that the council was not listening to the constituents or neighborhood residents. He noted the town would do fine without massive 17-story buildings and asked that they not expose the town to years of litigation. He asked that they step up and vote for the comp plan.

Robin Gornto, resident, stated they needed development but did not need corporate greed and giant condos bigger than her house. She begged the council to make a responsible decision and send them back to the drawing board for a reasonable project.

Greg Scasny, resident, stated that the council needed to deny the current Seagate proposal because it was inconsistent with the comp plan. He commented that the town was not stagnating and listed good developments with more in the pipeline. The constituents were overwhelmingly against the proposed development and did not want to see inappropriate high-rises in a residential area. He asked that they all keep their word, do the right thing, uphold the law and deny the development as currently presented.

Judy Ferreter, resident, stated that Gulf View Colony beach access was a deeded parcel with its legal description. She noted the owners were interested in selling the land, which was 4.68 acres on the bay side and included the beach path. They were not interested in moving it because it was right across the street from their driveway. She read a prepared statement and asked that they protect their parcels.

Elizabeth Halladay described Hialeah, FL, when it was a small town and asked if they wanted what Hialeah was now. She stated that every summer, hurricanes ruined everything. She asked whether all they wanted was big buildings everywhere. She noted that Seagate was not telling them exactly what would be built.

Dennis Alfieri, resident, commented that they would approve anything economically advantageous for the island, meaning that as long as anything was economically advantageous, it would get built no matter how big it was. He stated it would change the quality of life for the neighborhood just like the huge London Bay proposal would in that area. He said they did not have to make as much money as they had planned and it should be smaller.

Shelly Sheridan, resident, thanked Facebook and Beach Talk Radio for letting them know what was happening since many who were out of town were unaware. She stated that just because there was a hurricane did not negate the reason the town was incorporated. Although they voted for the council members, they did not vote for 17-story buildings. She voted for them because she thought they would respect the reasons why the beach incorporated years ago. She was not opposed to a few stories if they offered good public benefits. She asked that they vote no to this and future 17-story buildings on the beach.

Cassius Upton, resident, questioned how 17 stories were reasonable when they incorporated because a 154-foot building was approved. He stated this was 100 feet taller and not reasonable. Flexibility was six or seven and it was insane that it was even on the docket, especially since the LPA recommended denial. He discussed protecting neighborhoods and noted the residents did not choose to live next to a 17-story building when they moved into the area. He stated that if London Bay is approved, the new town hall will never see the sun from that building. He commented that they were not asking Sanibel to build this because Sanibel had a backbone.

Anita Cereceda, resident, stated that she had been thinking about what to say to compel them to deny the project for days. She wished that the vice mayor was as concerned about her neighborhood as he was about the art association. She described playing with her dog in her backyard, imagining not one 17-story building but all of the buildings that would create an absolute wall in her neighborhood. The project was not consistent with the goals and objectives of the comp plan. She could not think of a single former council member who would vote in favor of the project. She could not believe this council would change a course that had been so set in stone and upheld by so many different councils. She implored them to deny the project.

Dan Riddle, resident, stated that they purchased a house on Donora nine months ago partly because of the ordinances in effect on Fort Myers Beach. He wanted them to think about respecting his neighborhood. If approved, a 17-story building will block the sun at the Gulf Westwinds pool from about 2:00. He agreed more height would be necessary, but there was a huge difference between 3 and 15 stories. They made plans based on the town's covenant with the residents from the 90s. He asked that they respect the covenant, vote it down and send them back to the drawing board.

Jane Riddle, resident, provided an analogy involving choirs and noted that the most important thing was to blend. She stated it could be a well-rehearsed song, but when one person or building was louder, bigger and off-key, there was no blend.

A 17-story building will block natural light, add traffic and impact the environment. It did not blend with the homes in the neighborhood and there needed to be harmony and common sense regarding the project.

Lori Webster, resident, was not anti-development but was anti-greed. Luxury 3,000 sq. ft. condos generate big money and developers want big money.

She bought a home here because she did not want to be next to condos or a weekly rental area. She loved the ability to see sunset colors, but this would block her views, lower her property values and lessen her quality of life. She described flooding and draining issues in the neighborhood and noted that this development would exacerbate the problem. She asked that they give their objections the consideration they deserved and 17 stories with 255 feet did not belong in their neighborhood.

Ray Murphy, resident, noted his family had been there for over 50 years and he lived through the incorporation. He commented on the Donora and Shell Mound neighborhood and noted many were retiring or retired and wanted to live out their days peacefully. He indicated they could not live peacefully and enjoy their days staring at a massive wall. He felt after Ian that it was a rush to the gold mine to see how much everybody could get. It would not improve anyone's quality of life but would hinder it. DiamondHead was the straw that broke the camel's back and the mantra was no commercial intrusion into residential neighborhoods and this was a commercial intrusion. He asked them not to let this be the straw that broke the camel's back after Ian and to deny the project.

Mike Dagnase, resident, lived in the closest house to the property and he asked what the benefits were. It was all about the money and they did not need to build 4,000 sq. ft. units. They could condense the units and reduce the size of the building. He asked them to go back to the drawing board. He asked how the council could let them be in charge and suggested they tell them no and let them leave. He would never see another sunset from his property and described what would happen to the neighborhood if the road in the back was connected. He asked that they tell them to come back with a working blueprint.

An Mark Ludvigson stated that everyone talked about 17 stories in a residential area except for most council members. He did not know why they were there, and even though they had a right, the residents did, too. He agreed something had to go there, but not 17 stories. He noted they could make a change by changing how they voted last time.

Sue Patton, resident, stated that no one talked about the view of the island from the water. She asked if they wanted buildings twice as high as Waterside on the island. She described the feeling of looking at the sky and smaller buildings. She indicated they did not need 17 stories and asked the council to tell them to come down to a level everyone could live with.

Tom Brady, resident, discussed originalism and the loophole in policy 4-C-4. He stated everyone knew how the founders felt since they were in the audience. He said there was no evidence that the town needed these revenues to survive. The rules were put in place to protect their lives. He asked them not to legislate from the bench.

Eric Steier, resident, stated that common sense said to vote no.

William Simmons, resident, did not like what Seagate was doing by holding the historic art district hostage.

Steve Johnson, resident, spoke for residents near the Woman's Club who would not speak up. The election was not a mandate for development since the mayor received the most votes and was the only one against this. He felt the real issue was the intensity of the building and encroachment, which was too much for the island. He noted many businesses were back, but the council seemed desperate to approve something that was so opposed. He felt they were not acting as a representative of government for a

municipality. He questioned the forceful attempt to move forward when the plans were not secure and filled with uncertainties. He asked that the council oppose the development until something more acceptable was on the table.

Jean Guzzi, resident, suggested that they change their vote until there were more specifics. She thought the development agreement was for smaller projects, not a monster. She hoped someone would change their mind.

Bill Simmons, resident, agreed with Ray Murphy that they wanted to stop big developments and keep the island small. This project was setting a precedent that was exceeding everything. He supported development but not this height and felt they needed to back off and come up with something smaller.

Ethan Mackey, resident, commented that 17 feet was too high and he implored the council to encourage thoughtful development. He felt that 17 floors were egregious and did not seem to be a marginal exception to what they requested. He asked them to reconsider and vote no on the proposal. Public comment closed.

Mayor Allers asked Mr. Price whether he would like to voluntarily table his project and take another look at it. Mr. Price replied not right now, although he respected everyone's view. He discussed future growth on the island and explained why he was the best person to develop the property. He stated he was willing to talk to anyone but felt he did enough and proved his point. He commented that people would still be unhappy if the building were 14 feet instead of 17.

Council Member Woodson stated that Mr. Price was one of the best partners to deal with and was honest. She felt that because he was open to design variances, that said a lot about the partnership and local feasibility.

Council Member King indicated there was a possibility that it would not be as tall as he proposed. Mr. Price commented that he would not build a structure taller than he had to.

Ms. Ekblad stated the project was a residential multi-family with supporting commercial and replaced an intense commercial project. She said the ordinance was very clear and they met all the criteria. She mentioned all their efforts to adapt to feedback and requested their approval.

Mayor Allers listed the reasons he did not support the proposed development.

Mayor Allers moved to deny the ordinance as it was proposed without prejudice to allow the applicant to come back with something that fits within the comprehensive plan, seconded by Council Member Safford.

Council Member Safford noted it was less density than they could ask for, but the community was not together on this project. He promised to represent the community and he listened. He felt everyone would be okay with a couple more stories, but 17 was too much.

Council Member Woodson felt Seagate had honesty and integrity and should proceed with the process.

Vice Mayor Atterholt noted that traffic and density were big concerns after Ian, so when this proposal moved the massing off the beach and did not ask for more density, he thought it was worth exploring. He respected the community and their passion. He was intrigued that they were not asking for more density and it seemed there was a possibility the project would be tweaked. He was comfortable moving forward.

Council Member King commented that the town's fiscal revenue had bothered him for a while and they had sustained significant financial revenue in the past years. He commented that the new budget chair in the Senate would be tightening the screws and that was a concern.

Mayor Allers acknowledged that economics played a part, but he struggled with the idea that the sky would fall if they approved something inconsistent with the comp plan because that was not the case. The property appraiser told them they would probably return to where they were before Ian two years after the storm. The comments overwhelmingly stated that the project was too big to start with, although the community was willing to work with Seagate and offered suggestions.

The motion failed 3-2 by roll call vote, with Vice Mayor Atterholt and Council Members Woodson and King dissenting.

Council Member Woodson moved to approve the ordinance with all proposed amendments and a density transfer request will come back to the council, seconded by Vice Mayor Atterholt.

After discussing whether the town wanted to own the parks and whether the FAR calculation would change, Mr. Price said he would give up his development rights in perpetuity.

The motion carried 3-2 by roll call vote, with Mayor Allers and Council Member Safford dissenting.

- B. Ordinance 24-36, DCI 20230213, Neptune Inn, 2310 & 2316/2320 Estero Blvd.

Second Reading and Final Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2310 ESTERO BLVD AND 2316/2320 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0430N.0001, 19-46-24-W3-04300.00CE AND 19-46-24-W3-0110A.0010 FORT MYERS BEACH COMMONLY KNOWN AS THE NEPTUNE RESORT, TO ALLOW 148 LODGING UNITS AND ACCESSORY RETAIL AND RECREATIONAL USES; 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 ordinance. Town Clerk Baker swore in those providing testimony. Ex parte communications: Council Member Safford had conversations with Mr. Vanasse and received emails; Council Member Woodson had conversations with the Neighborhood Company and received emails; Mayor Allers received emails and updated proposed amendments from the applicant based on the discussion from the first hearing.

The property owner confirmed receipt of the agenda and backup materials. Principal Planner Judith Frankel reviewed the background of the request as stated on the blue sheet. She reviewed the deviations. Staff recommended denial because of a reduction of 55 parking spaces; they proposed more than four times the units permitted by the zoning district and twice the number allowed by right under the build-back policy. The staff noted the deviations were a result of a design choice.

Attorney Noel Davies represented the applicant and noted they added more detail to their conditions. Patrick Vanasse of the Neighborhood Company addressed the denial recommendation and stated they provided an independent parking study and the transportation professional said the project had sufficient parking. Deviations were design decisions and the plan development allowed them to ask for deviations.

He displayed and discussed Traffic Mitigation, Design, Fort Myers Beach Elementary School, Amenities and Miscellaneous.

Council Member Safford appreciated the details and how the packets were put together.

Vice Mayor Atterholt appreciated the additional detail.

Adam Valente discussing when they would do the preparatory interior and noted they were ready. He thought the building would be demolished at the end of quarter 1.

He stated that they intended to preserve what little was left of the Neptune logo. He commented that they would contribute \$30,000.00 toward a public restroom option. They would also discuss providing a dedicated restroom inside their building, but he did not know whether that would work. Mr. Vanasse addressed the history of restrooms on the beach and felt the town as a whole should address the issue. Mr. Valente clarified they were committed to resolving the restroom issue.

Principal Planner Frankel reviewed the conditions in the staff report and noted they could be included in the ordinance. The additional commitments and conditions would be included as an exhibit with the master concept plan.

No public comment.

Council Member Safford moved to approve the ordinance with the conditions set forth and the proposed commitments and adding six parking spots for the town, a 33931 zip code discount, public restrooms on the first floor or \$30,000 towards restrooms, seconded by Council Member Woodson. Mayor Allers could not support the project because of the amount of increased density.

Vice Mayor Atterholt was stunned by the density ask, but he felt they were unique because the property was purchased before Ian with no intention of building a new facility. He thought those were extenuating circumstances and would support the project.

Council Member Safford revealed that people he spoke to supported businesses that were here before Ian.

The motion carried 4-1 by roll call vote, with Mayor Allers dissenting.

C. Resolution 24-288; VAR20240100, 51 Pearl Street

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 1) 7.3 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 17.7 FEET, 2) A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND 3)A VARIANCE OF 12.1% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 52.1% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. All council members disclosed a presentation with the Neighborhood Company and receipt of emails.

Rachael Hanson from the Neighborhood Company reviewed her education and experience in Planning.

Council Member Safford moved to accept Ms. Hanson as an expert in her field, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

The applicant confirmed receipt of the agenda and background materials. Principal Planner Frankel reviewed the background of the request as stated on the blue sheet. She noted that the staff recommended denial because it was a design choice and mechanical equipment may be detrimental to the neighbors.

Mr. Vanasse from the Neighborhood Company represented the applicant and explained that after the LPA meeting, the owner hired them to redesign the house.

Ms. Hanson utilized PowerPoint for her presentation. Slides included Background & Request, Property Location, Subject Site Pre-lan, Subject Site Post-lan, Proposed Redevelopment, Variances Requested, Changes from the LPA Hearing, Proposed Site Design, Aerial of Pre-lan Setback, 2021 Aerial View, 2024 Aerial View, Comparison Lots, Findings & Conclusions and Conclusion.

Public comment:

Nick Dundee, Board Treasurer for Surf Song Condos, was against the project due to residents losing their view corridor and that he does not support the variance.

Tom Keith, resident, was opposed to some of the views being blocked and parking issues..

Public comment closed.

Mr. Vanasse noted the view was the tiny blue sliver on the slide. (Council Member King had to leave the meeting at 3:30 p.m.) Mr. Vanasse stated that the biggest impact on the condos' view was the height, which the applicant was entitled to by right.

Principal Planner Frankel indicated that if the applicant moved the house closer to the front of the property, it would align with the neighboring house, which already obstructed the view. Because of the CCCL (Coastal Construction Control Line), they have less property.

Mr. Vanasse noted that any elevated structure would impede the view from what was there before lan. He added that the minimum size of the buildable footprint in the V zone was 7,500 square feet. The buildable footprint of the applicant's property was half that size.

Principal Planner Frankel reviewed the conditions in the staff report if the request was approved.

Mayor Allers moved to approve the resolution with the recommendations laid out by staff in conjunction with changes made since the LPA meeting, seconded by Council Member Safford.

The motion carried 3-1 by roll call vote, with Vice Mayor Atterholt dissenting.

XII. ADMINISTRATIVE AGENDA

- A. Interlocal Agreement Between the Town and Lee County Property Appraiser
APPROVAL OF AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH, FLORIDA, AND LEE COUNTY PROPERTY APPRAISER FOR THE COLLECTION OF NON-AD VALOREM ASSESSMENTS RELATED TO DEMOLITION COSTS OF UNSAFE BUILDINGS.

Town Attorney Stuparich said this was to allow the town to recover funds from demolishing unsafe buildings. This agreement was required by Florida Statutes in order to put those expenses on the individual tax bill for 2025.

Director Kropacek noted that three properties were ready to be demolished and the contractors would evaluate the work and submit quotes to the town. He added that the Wyndham obtained a demo permit and hired a contractor to demolish the building. If they did not demo the building within 30 days, the town would demolish it at an estimated cost of \$600,000.00.

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

The motion carried unanimously by roll call vote, with Council Member King excused.

- B. Resolution 24-296; Revocation of Temporary Use Permits

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RECIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Attorney Stuparich noted that this action would revoke the permits. This resolution did not apply to people who had not received a notice of violation. She indicated there were about 13 non-compliant structures and seven would appear before the first code enforcement hearing with DOAH (Division of Administrative Hearings) on January 7, 2025, at 9:00 a.m. Operations & Compliance Manager Thomas Yozzo said the goal was to get it done in the next few months. He described the structures affected. Manager Yozzo will forward the list of structures affected to Town Clerk Baker. Town Attorney Stuparich described the magistrate process.

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt.

The motion carried unanimously by roll call vote, with Council Member King excused.

C. Resolution 24-284, Authorizing Budget Adjustment #3 and Revenue Replacement Grant

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING GRANT AGREEMENT NUMBER D2125 WITH THE STATE OF FLORIDA, DEPARTMENT OF EMERGENCY MANAGEMENT IN THE AMOUNT OF \$7,547,805 FOR REVENUE REPLACEMENT; APPROVING A RELATED BUDGET ADJUSTMENT (#3); AUTHORIZING THE TOWN MANAGER TO SIGN ANY AND ALL NECESSARY DOCUMENTS TO ACQUIRE THE GRANT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Finance Director Joe Onzick noted the agreement was straightforward with no strings attached. He explained that the funds would be moved into the bridge loan fund to replace what was already used or planned to be used, which would leave about \$127,000.00 to repay. He added that money would be set aside to repay the bridge loan in a few months; however, they did not have to repay it until 2033. The funds would continue to earn interest, and if the loan were forgiven, the money would be available for the council to use however it wanted.

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

The motion carried unanimously by roll call vote, with Council Member King excused.

D. Resolution 24-289, Authorizing Budget Adjustment #4 - Allocation of Remaining ARPA Funds

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE USE OF \$932,573 OF REMAINING UNALLOCATED AMERICAN RESCUE PLAN ACT (ARPA) FUNDS, AND RELATED BUDGET ADJUSTMENT (#4); AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick read a list of projects and expenditures covered by the funds to date and a list of items that could be funded with the remaining unallocated funds.

Vice Mayor Atterholt moved to approve the resolution, seconded by Mayor Allers.

The motion carried unanimously by roll call vote, with Council Member King excused.

E. Resolution 24-294, Federal Lobbyist Agreement

A RESOLUTION TO APPROVE AN ENGAGEMENT LETTER WITH GRAY ROBINSON, P.A. WITH ADDENDUM TO PROVIDE GOVERNMENT RELATIONS REPRESENTATION ON BEHALF OF THE TOWN ON FEDERAL ISSUES, INCLUDING BUT NOT LIMITED TO WORKING ON BEHALF OF THE TOWN TO RESOLVE OUTSTANDING ISSUES WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") FOR \$7,500 PER MONTH FOR A MINIMUM OF 6 MONTHS; AUTHORIZING THE TOWN MANAGER TO SIGN ANY AND ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager Hyatt reviewed the background of the request as stated on the blue sheet.

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

The motion carried unanimously by roll call vote, with Council Member King excused.

F. Resolution 24-192, Authorizing \$656,232 Contract with GapVax, Inc for Combination Jet Vac

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE PURCHASE OF A COMBINATION JET/VAC FROM GAPVAX, INC. AND AUTHORIZING THE TOWN MANAGER TO EXECUTE A PURCHASE ORDER IN THE AMOUNT NOT TO EXCEED \$656,232; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution.

Vice Mayor Atterholt moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote, with Council Member King excused.

G. Resolution 24-291; Authorizing \$176,957 Contract with Sam Galloway Ford for 3 Trucks

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE PURCHASE OF THREE VEHICLES FROM SAM GALLOWAY FORD, INC. AND AUTHORIZING THE TOWN MANAGER TO EXECUTE PURCHASE ORDERS FOR THESE THREE VEHICLES FOR A NOT-TO-EXCEED AMOUNT OF \$176,957; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Culture, Parks & Recreation Director Jeff Hauge stated that four trucks were lost due to the hurricane.

Vice Mayor Atterholt moved to approve the resolution, seconded by Mayor Allers.

The motion carried unanimously by roll call vote, with Council Member King excused.

H. Resolution 24-295; Hurricane Helene Sand Screening

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING SPA-24-11-EN FOR ACTION OF THE TOWN TAKEN OCTOBER 3, 2024 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO SCREEN DEBRIS FROM SAND OVERWASHED BY HURRICANE HELENE TO PRODUCE BEACH COMPATIBLE SAND, PLACE AND GRADE BEACH COMPATIBLE SAND ONTO THE BEACH, REMOVE DEBRIS FROM THE BEACH, REMOVE DEBRIS SAND FROM RIGHT OF WAY AND TOWN PROPERTY AND DELIVER TO DEBRIS MANAGEMENT SITE, AND DISPOSE OF DEBRIS AT AUTHORIZED WASTE MANAGEMENT SITE; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE NOS. 110624-29, 111524-29, AND 111824-29 IN THE AMOUNT \$427,870.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek reviewed the background of the request as stated on the blue sheet.

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt.

The motion carried unanimously by roll call vote, with Council Member King excused.

I. Resolution 24-287; Hurricane Milton Beach Cleanup

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING SPA-24-12-EN FOR THE ACTION OF THE TOWN TAKEN OCTOBER 7, 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 RIGHT OF WAY, TOWN PROPERTY, AND THE BEACH CAUSED BY HURRICANE MILTON; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE No. 101824-31 IN THE AMOUNT \$256,167.25; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek reviewed the background of the request as stated on the blue sheet.

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt.

The motion carried unanimously by roll call vote, with Council Member King excused.

J. Resolution 24-297, Adopting Cybersecurity Standards

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY'S CYBERSECURITY FRAMEWORK AS THE CYBERSECURITY STANDARD FOR THE TOWN OF FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Deputy Clerk Jason Freeman reviewed the background of the request as stated on the blue sheet.

Vice Mayor Atterholt moved to approve the resolution, seconded by Mayor Allers.

The motion carried unanimously by roll call vote, with Council Member King excused.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt planned to have the new town hall completed by March 1, 2025. Appropriation request conversations will be held soon, and legislative priorities will have to be discussed.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich stated that now eleven active permits would be rescinded, not thirteen.

A. Proposed Settlement of DiBiasi litigation

Town Attorney Stuparich noted the proposed tentative settlement was for \$85,000.00 and an easement to keep the town's drainage in place. Mr. DiBiasi would be responsible for obtaining permits and building his ramp. Town Attorney Stuparich recommended approval of the tentative settlement.

Mayor Allers moved to approve the settlement, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote, with Council Member King excused.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

No items.

XVII. ADJOURNMENT

Council Member Woodson moved to adjourn, seconded by Council Member Safford.

The motion carried unanimously.

DRAFT

1. **Request:**

Meeting Date: January 8, 2025

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

Why the action is necessary:

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

What the action accomplishes:

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

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

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

Attachments:

1. 25-01, Extending Declaration of Local Emergency Ian 1.7.25-1.13.25
2. 25-02, Extending Declaration of Local Emergency Ian 1.14.25-1.20.25
3. 25-03, Extending Declaration of Local Emergency Ian 1.21.25-1.27.25
4. 25-04, Extending Declaration of Local Emergency Ian 1.28.25-2.3.25

Financial Impact:

6. **Alternative Action**

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

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Eva Spychalski, Administrative Resources Coordinator
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/30/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

RESOLUTION 25-01

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 7th day of January 2025.

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

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

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

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

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by Mayor Allers and seconded by Council Member Woodson, and upon being put to a roll call vote, the result was as follows:

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

ADOPTED this 8th day of January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the 9th day of January 2025.

RESOLUTION 25-02

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 14th day of January 2025.

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

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

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

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

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by Mayor Allers and seconded by Council Member Woodson, and upon being put to a roll call vote, the result was as follows:

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

ADOPTED this 8th day of January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the 9th day of January 2025.

RESOLUTION 25-03

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 21st day of January 2025.

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

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

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

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

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by Mayor Allers and seconded by Council Member Woodson, and upon being put to a roll call vote, the result was as follows:

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

ADOPTED this 8th day of January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the 9th day of January 2025.

RESOLUTION 25-04

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 28th day of January 2025.

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

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

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

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

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by Mayor Allers and seconded by Council Member Woodson, and upon being put to a roll call vote, the result was as follows:

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

ADOPTED this 8th day of January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on the 9th day of January 2025.

1. **Request:**

Meeting Date: January 8, 2025

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

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Idalia

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

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

Attachments:

1. 25-05, Extension of Local Emergency - Idalia 1.7.25-1.13.25
2. 25-06, Extension of Local Emergency - Idalia 1.14.25-1.20.25
3. 25-07, Extension of Local Emergency - Idalia 1.21.25-1.27.25
4. 25-08, Extension of Local Emergency - Idalia 1.28.25-2.3.25

Financial Impact:

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Hurricane Idalia

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Eva Spychalski, Administrative Resources Coordinator
Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/30/2024
Approved - 12/31/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

RESOLUTION NUMBER 25-05

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-06

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-07

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-08

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

1. **Request:**

Meeting Date: January 8, 2025

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.

Why the action is necessary:

Keeps the Local State of Emergency in effect for Tropical Storm Debby

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-154.

Attachments:

1. 25-09, Extension of Local Emergency - Debby 1.7.25-1.13.25
2. 25-10, Extension of Local Emergency - Debby 1.14.25-1.20.25
3. 25-11, Extension of Local Emergency - Debby 1.21.25-1.27.25
4. 25-12, Extension of Local Emergency - Debby 1.28.25-2.3.25

Financial Impact:

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Tropical Storm Debby

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Eva Spychalski, Administrative Resources Coordinator
Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/30/2024
Approved - 12/31/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

RESOLUTION NUMBER 25-09

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

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

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

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

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
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 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
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 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-10

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

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

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

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

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

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

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

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

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

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
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 - Entering into contracts;
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 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
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- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-11

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

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

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

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

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-12

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

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

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

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

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

1. **Request:**

Meeting Date: January 8, 2025

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 HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE) PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Helene

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-192

Attachments:

1. 25-13, Extension of Local Emergency - Helene 1.7.25-1.13.25
2. 25-14, Extension of Local Emergency - Helene 1.14.25-1.20.25
3. 25-15, Extension of Local Emergency - Helene 1.21.25-1.27.25
4. 25-16, Extension of Local Emergency - Helene 1.28.25-2.3.25

Financial Impact:

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Hurricane Helene

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Eva Spychalski, Administrative Resources Coordinator
Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/30/2024
Approved - 12/31/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

RESOLUTION NUMBER 25-13

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 HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE); PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

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

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

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

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

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

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

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.
3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
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 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
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- (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.
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 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
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 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
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7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-14

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 HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE); PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

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

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

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

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

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

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

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.
3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

- (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.
 - (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-15

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 HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE); PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

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

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

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

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

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

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

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.
3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

- (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.
 - (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-16

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 HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE); PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

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

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

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

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

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

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

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.
3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

- (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.
 - (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such

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

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

1. **Request:**

Meeting Date: January 8, 2025

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 MILTON, PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Milton

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Amy Baker, Town Clerk

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-214

Attachments:

1. 25-17, Extension of Local Emergency - Milton 1.7.25-1.13.25
2. 25-18, Extension of Local Emergency - Milton 1.14.25-1.20.25
3. 25-19, Extension of Local Emergency - Milton 1.21.25-1.27.25
4. 25-20, Extension of Local Emergency - Milton 1.28.25-2.3.25

Financial Impact:

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Hurricane Milton

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Eva Spychalski, Administrative Resources Coordinator
Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/30/2024
Approved - 12/31/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

RESOLUTION NUMBER 25-17

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 MILTON; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

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

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

WHEREAS, the effects of Hurricane Milton impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on October 6, 2024, must be extended.

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-18

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 MILTON; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

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

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

WHEREAS, the effects of Hurricane Milton impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on October 6, 2024, must be extended.

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-19

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 MILTON; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

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

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

WHEREAS, the effects of Hurricane Milton impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on October 6, 2024, must be extended.

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

RESOLUTION NUMBER 25-20

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 MILTON; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

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

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

WHEREAS, the effects of Hurricane Milton impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on October 6, 2024, must be extended.

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

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

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

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

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

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to,

an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

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

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

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

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

The foregoing Resolution was adopted by the Town Council upon a motion by _____ 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 January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 9th day of January 2025.

1. **Request:**

Meeting Date: January 8, 2025

First Reading and Public Hearing on a proposed ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR 6.02 ACRES OF THE PROPERTY LOCATED AT 275/322 ESTERO BLVD, 200 ESTERO BLVD, 192 ESTERO BLVD COMMON ELEMENT ONLY, 142 ESTERO BLVD, 171-191 ESTERO BLVD, 251-281 ESTERO BLVD, AND 309 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-WI-0070D.028A, 24-46-23-WI- 00700.0340, 24-46-23-WI-00700.0290, 24-46-23-WI-00700.0330, 24-46-23-WI-00700.0320 , 24-46-23-WI-03700.00CE, & 24-46-23-WI-04100.00CE IN FORT MYERS BEACH, TO ALLOW EXPANSION OF THE EXISTING PINK SHELL BEACH RESORT TO INCLUDE A NEW 40 UNIT RESORT HOTEL 2 ADDITIONAL HOTEL UNITS IN THE WHITE SANDS BUILDING, AND TWO STAND-ALONE GUEST STRUCTURES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for final reading and possible adoption, Monday, February 3, 2025 at 9:00 a.m.

Why the action is necessary:

The Town Council decides requests for CPD rezonings

What the action accomplishes:

Approval of the CPD will allow amendments to the existing CPD including addition of a 40 unit hotel.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Sarah Propst, Community
Development, Planning
Manager

5. **Background:**

JABO LLC, owner or agent of 275/322 Estero Blvd, 200 Estero Blvd, and the common element of 192 Estero Blvd, known as Pink Shell Resort, is requesting a CPD rezoning, to rezone multiple properties from CPD and CR to CPD. This rezoning will combine the existing Pink Shell CPD with new properties for a total of 6.02 acres, all landward of the CCCL.

Attachments:

1. Ordinance 24-35 ns
2. Staff Report Pink Shell
3. Exhibit A MCP 2024-12-20
4. Exhibit B Schedule of Uses and Development Regulations
5. Exhibit C Conditions of Approval
6. Exhibit D Historical Zoning Resolutions Summary
7. Applicant Deviations and Justifications
8. Applicant Request Narrative
9. Conceptual Landscaping Plan
10. Application

Financial Impact:

unknown

6. **Alternative Action**

Deny without prejudice

7. **Management Recommendations:**

Approval if the proposed public benefits are determined adequate for the deviation for building height

8. **Recommended Approval:**

Judith Frankel, Principal Planner
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/22/2024
Approved - 12/23/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

ORDINANCE 24-35

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR 6.02 ACRES OF THE PROPERTY LOCATED AT 275/322 ESTERO BLVD, 200 ESTERO BLVD, 192 ESTERO BLVD COMMON ELEMENT ONLY, 142 ESTERO BLVD, 171-191 ESTERO BLVD, 251-281 ESTERO BLVD, AND 309 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-WI-0070D.028A, 24-46-23-WI- 00700.0340, 24-46-23-WI-00700.0290, 24-46-23-WI-00700.0330, 24-46-23-WI-00700.0320 , 24-46-23-WI-03700.00CE, & 24-46-23-WI-04100.00CE IN FORT MYERS BEACH, TO ALLOW EXPANSION OF THE EXISTING PINK SHELL BEACH RESORT TO INCLUDE A NEW 40 UNIT RESORT HOTEL 2 ADDITIONAL HOTEL UNITS IN THE WHITE SANDS BUILDING, AND TWO STAND-ALONE GUEST STRUCTURES; 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, JABO, LLC, the owner, and RVI, as agent for the property located at 275/322 Estero blvd., 200 Estero blvd., 192 Estero blvd. common element only, 142 Estero blvd., 171-191 Estero blvd., 251-281 Estero blvd., and 309 Estero blvd., generally identified as strap numbers 24-46-23-w1-0070d.028a, 24-46-23-w1-00700.0340, 24-46-23-w1-00700.0290, 24-46-23-w1-00700.0330, 24-46-23-w1-00700.0320, 24-46-23-w1-03700.00ce, & 24-46-23-w1-04100.00ce in the Town of Fort Myers Beach, filed applications to rezone the property from the CPD and Commercial Resort (CR) to CPD with Master Concept Plan (MCP) with certain deviations to the Land Development Code (LDC) in order to amend the approved development to allow a new 40 lodging unit hotel, two (2) new hotel rooms in the White Sands building, and one guest structure gulfside and one on 309 Estero Boulevard, in addition to the existing approved development of 195 resort units, a marina and resort accessory uses ; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on December 3, 2024; and

WHEREAS, at the December 3, 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 Section 34-85 of the Town Land Development Code; and

WHEREAS, at the December 3, 2024 public hearing the LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and Member McLean

made a motion for denial without prejudice that was seconded by Vice Chair Plummer, and the LPA recommended denial without prejudice by a 4-2 vote, with one member absent; and

WHEREAS, on January 8, 2025 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was noticed in the Fort Myers News-Press more than 10 days prior to the Town Council on February 3, 2025; and

WHEREAS, at the February 3, 2025 public hearing, 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 published on the Town's website; and

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

WHEREAS, Exhibit B provides the approved development regulations and the schedule of uses during the development process; and

WHEREAS, Exhibit C provides a list of conditions if this CPD rezoning is approved

WHEREAS, Exhibit D provides a historical summary of approvals for the Pink Shell development; and

WHEREAS, the Town Council finds that this request to rezone the property from the CPD and CR to CPD with MCP with 7 deviations to the LDC in order to develop a resort hotel development with 40 lodging units, 2 guest units and 2 additional hotel units in the place of one floor of the White Sands spa, is a unique application, which does not set precedent for future development or rezoning applications; and

WHEREAS, the requested deviations from the LDC include:

Deviation #1

Area #3: Deviate from LDC §10-416(d)(2) Table 10-8 requiring a Type C buffer with a wall when a proposed commercial parking lot is next to a multifamily residential property; to allow a Type C buffer with no wall to allow visibility to the redesigned public boardwalk.

Deviation #2

Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure shall be placed closer than 20 feet as a rear setback; to allow a 15-foot rear setback.

Deviation #3

Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure shall be placed closer than 20 feet as a side setback; to allow a 10-foot side setback on the western boundary and a 7.5-foot setback on the eastern boundary in CPD Area #3 for the guest unit structure on 309 Estero Boulevard.

Deviation #4

Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure shall be placed closer than 20 feet as a side setback; to allow a 10-foot side setback on the western boundary, abutting Bowditch Point Park, in CPD Area #4 for the new 40-unit hotel/condo building.

Deviation #5

Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure on a waterfront lot shall be placed closer than 25 feet to a waterbody as a rear setback; to allow a 10-foot rear setback in CPD Area #4 for the new 40-unit hotel/condo building.

Deviation #6

Deviate from LDC §34-675(b) that requires a maximum height of 30 feet above base flood elevation and no taller than three stories; to allow a height of:

- 60 feet as measured from one foot over base flood elevation (BFE+1) or
- Five (5) stories (six (6) stories over ground level parking).

Deviation #7

Deviate from LDC §34-1803(a)(1) that establishes hotel and motel guest units to be substituted for the dwelling units setting the allowable intensity by equivalency factors of up to 2.0 per density unit, in this case in the Mixed Residential land use category; to allow an increase in the factor to 6.7 for the entire resort property that is included in the CPD boundary.

WHEREAS, the Town Council 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 previous development on the subject property was destroyed by Ian and adoption of the rezoning with deviations ameliorates longstanding design issues on the site due to the lot's odd shape and orientation.
- c. The rezoning would carry out the policies and requirements of the Comprehensive Plan and Land Development Code.
- d. 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.
- e. The rezoning would be consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses in the Comprehensive Plan.
 - f. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
 - g. Urban services are available and adequate to serve the proposed use.
 - h. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
 - i. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
 - j. 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.
 - k. 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 eight requested deviations 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 24-35 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 24-35 and the conditions of approval for the commercial planned development zoning, 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 the requested application.

Section 3. Town Ordinance 24-35 is adopted and the approved Master Concept Plan set forth in Exhibit A, the schedule of uses found in Exhibit B, the conditions of approval found in Exhibit C, and a summary of historical zoning resolutions for this property found in Exhibit D, attached hereto and incorporated herein by this reference are approved.

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

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

Section 6. 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 7. 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 Council Member___and seconded by Council Member___, and upon being put to a vote, the result was as follows:

DULY PASSED AND ADOPTED on this 3rd day of February 2025.

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 Resolution was filed in the Office of the Town Clerk on this ____ day of February 2025.

Attachments:

- A – Master Concept Plan
- B – Schedule of Uses
- C – Conditions of Approval
- D – Historical Zoning Resolutions



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: CPD Rezoning

CASE NUMBER: DCI 20230090

CASE NAME: Rezoning of 6.02 acres landward of the 1978 Coastal Construction Control Line (CCCL), located at 275/322 Estero, 200 Estero, 192 Estero Common Element only, 142 Estero, 171-191 Estero, 251-281 Estero, and 309 Estero, from Commercial Planned Development (CPD) and Commercial Resort (CR) to CPD.

TOWN COUNCIL HEARING DATE: January 8, 2025 at 9:00 AM
LPA HEARING DATE: December 3, 2024 at 9:00 AM

STAFF RECOMMENDATION: Approval if the proposed public benefits are determined adequate for the deviation for building height

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

I. APPLICATION SUMMARY

Applicant/Owner: Fred Drovdlc, AICP/JABO LLC, Bill Waichulis

Request: To rezone 6.02 acres from CPD and CR to CPD to allow the development of a new 40-unit hotel/condominium, reconstruction of two stand-alone residential units (for short term rental), and conversion of the spa in White Sands to two hotel rooms.

Subject property: Exhibit A – Adopted Master Concept Plan

Physical Address: **309, 275/322, 251-281, 200, 171-191, and 142 Estero Blvd, and 192 Estero Blvd Common Element only**

STRAP #: 24-46-23-W1-0070D.028A (309 Estero Blvd),
24-46-23-W1-00700.0340 (275/322 Estero Blvd),

24-46-23-W1-00700.0290 (251-281 Estero Blvd),
24-46-23-W1-00700.0330 (200 Estero Blvd),
24-46-23-W1-00700.0320 (171-191 Estero Blvd),
24-46-23-W1-03700.00CE (142 Estero Blvd), &
24-46-23-W1-04100.00CE (192 Estero Blvd CE only)

FLU: Mixed Residential

Zoning: Commercial Planned Development & Commercial Resort

Adjacent zoning and land uses:

North: CPD, Mixed Residential

South: ENVIRONMENTALLY CRITICAL (EC), Recreation

East: CPD, RM, & RESIDENTIAL PLANNED DEVELOPMENT (RPD), Mixed Residential

West: RESIDENTIAL MULTIFAMILY (RM), Mixed Residential, and COMMUNITY FACILITY (CF), Recreation

II. BACKGROUND AND ANALYSIS

Background:

JABO LLC, owner or agent of 275/322 Estero Blvd, 200 Estero Blvd, and the common element of 192 Estero Blvd, known as Pink Shell Resort, is requesting a CPD rezoning, to rezone multiple properties from CPD and CR to CPD. This rezoning will combine the existing Pink Shell CPD with new properties for a total of 6.02 acres, all landward of the 1978 CCCL.

The original Pink Shell rezoning was in 1982 (Z-82-170). Several modifications have been adopted since then. This rezoning will add 309 Estero Blvd, which previously contained a single-family residence and is zoned CR. The CPD request proposes a new 40-unit hotel/condominium on the bayside property closest to Bowditch Point Park, reconstruction of two stand-alone guest units, one on 309 Estero Boulevard and another on the easternmost property on the gulfside Pink Shell Resort property, and redevelopment of one level of the spa facility in the White Sands Hotel, to create two new hotel units.

An LPA hearing was held on November 12, 2024. An intervener spoke at the hearing in opposition of the proposed CPD amendment. That hearing was continued to December 3rd, 2024. At the December 3rd LPA hearing the LPA voted to deny the request without prejudice 4-2, with Chair Cereceda not present.

Analysis:

The Pink Shell resort site currently contains several resort developments which

include buildings known as White Sands, Sanibel View, and Captiva Villas. Previously there was also a duplex and a cottage which provided housing for Pink Shell staff, these were destroyed in the storm. There is also a marina with 41 wet slips with 39 allowed as live-aboard slips and a dock master building as well as parking lots for guests and employees. There are 195 hotel/motel resort rooms and prior to Ian there were 3 units in the cottage and a duplex as well as a single-family residence that was not, at that time, owned by Pink Shell but. The first rezoning for this property was approved by Lee County in 1982 by R-82-170, with multiple amendments adopted by the County and the Town since then.

This request proposes several changes that will impact different parts of the resort. The most notable component is the proposal for an additional resort building with 40 resort units. That structure will be on the bay side of Estero Boulevard on the parcel closest to Bowditch Point Park. It is proposed to be a six-story building (5 stories over one story of at-grade parking) and 60 feet over base flood elevation. The building will be 30 feet and three stories over the CR zoning district allowed 30-foot height and three-story limit in the CR zoning district. The applicant has proposed side setbacks of 10 feet abutting Bowditch Point Park and 20 feet abutting the property at 131/133 Estero Blvd, this is a reduction of 10 feet from the previous submitted design. The applicant is proposing a front and rear setback of 10 feet.

The previously approved CPDs included height and setback modifications on each individual building, with the tallest building at 95 feet above BFE. This CPD will include height and setback modifications for the newly proposed buildings that are discussed in the deviations section of this staff report but will not impact the existing structures.

The CPD also proposes several additional but less noticeable changes. The White Sands Resort building currently contains a spa facility on two floors, one level of which will be replaced with two resort units. A single guest unit is proposed on the Gulfshore Court parcel that previously contained a duplex and a cottage. A single guest unit is also proposed on 309 Estero Boulevard, the bayside parcel where a single-family residence was previously constructed. The applicant is proposing setback deviations for both stand-alone guest units, however one of the deviations for side setback reduction on the Gulshore Court property has been removed since the LPA.

Prior to the storm the Pink Shell CPD property included a duplex and a cottage unit, east of Gulfshore Court. An additional property, 309 Estero, was purchased by JABO LLC, and is proposed to be included in the CPD. Of the two single family and one duplex, only two single-family units are proposed for reconstruction, the duplex is not. The lot that previously included the duplex and cottage will also provide seven public parking spaces to provide access to Beach Access #41. The change from pre-storm units to proposed units are shown in Table 1 and 2.

Table 1: Gulfside Parcels Existing and Proposed Uses

Building	Existing Density/Intensity	Proposed Density/Intensity	Parcel(s)
Restaurants	5,450 sf	5,450 sf	24-46-23-W1-00700.0330
Conference	1,150 sf	1,150 sf	

Ballroom	2,104 sf	2,104 sf	
Fitness Facility	900 sf	900 sf	
Spa	6,033 sf	3,000 sf	
Pool Bar	1,000 sf	1,000 sf	
Retail (accessory)	1,400 sf	1,400 sf	
Rooms (White Sands, Captive Villas and Sanibel View Villas)	195 Units	197 Units (2 units per 3,000 sf conversion of spa)	24-46-23-W1-00700.0330 24-46-23-W1-00700.037A 24-46-23-W1-03700.00CE
Duplex and Cottage lot	3 Units	1 Unit	24-46-23-W1-00700.0330

Table 2: Bayside Parcels Existing and Proposed Uses

Building	Existing Density/ Intensity	Proposed Density/ Intensity	Parcel(s)
Boutique hotel/condo	Employee parking lot	40 Units	24-46-23-W1-00700.0340
Boat Slips	41	41	24-46-23-W1-00700.0340
Liveaboards	39	39	24-46-23-W1-00700.0320 24-46-23-W1-00700.0290
Dock Master Building	500 sf	500 sf	24-46-23-W1-0070D.028A
Residential with dock	1 Unit (309 Estero Blvd purchase)	1 Unit	
	Existing dock	Existing Dock (Public water taxi slip)	

The proposed CPD increases the number of units on the combined CPD parcels by 38. Applying the underlying Future Land Use of Mixed Residential and using the maximum allowable equivalency factor of 2 would result in a total of 72 hotel units. The proposed total number of units on the entire CPD property with the proposed amendments is 239. However, the previous approved Pink Shell CPDs allowed the 195 hotel units, the duplex, and the single-family unit. Because the duplex units will not be rebuilt, application of the equivalency factor of 2 results in the creation of 4 units, which can account for the two new units in White Sands. Using this evaluation, the proposed development exceeds the allowed number of hotel units by 38, two less than the number of hotel units proposed for the new boutique hotel.

The previously approved, currently existing Pink Shell Resort units were not subject to the equivalency factor calculations. The by right number of units with an equivalency factor of 2 for the entire property would result in 72 units. The current number of units, 159 units, would require an equivalency factor of 5.4. The request for a 40-unit boutique hotel, would require an addition of 38 units and an equivalency factor of 6.7.

The development currently contains 241,900 square feet of floor area, including the hotel buildings and the dock master building. The proposed boutique hotel would add another 78,000 square feet. This would result in an FAR of 1.2, which is allowed in the Mixed Residential future land use.

Neighborhood Compatibility:

The existing buildings in this portion of the Town are mostly the Pink Shell Resort buildings which are allowed a maximum height of 95 feet above BFE. The existing Pink Shell resort buildings are 11 stories, six stories, and eight stories tall.

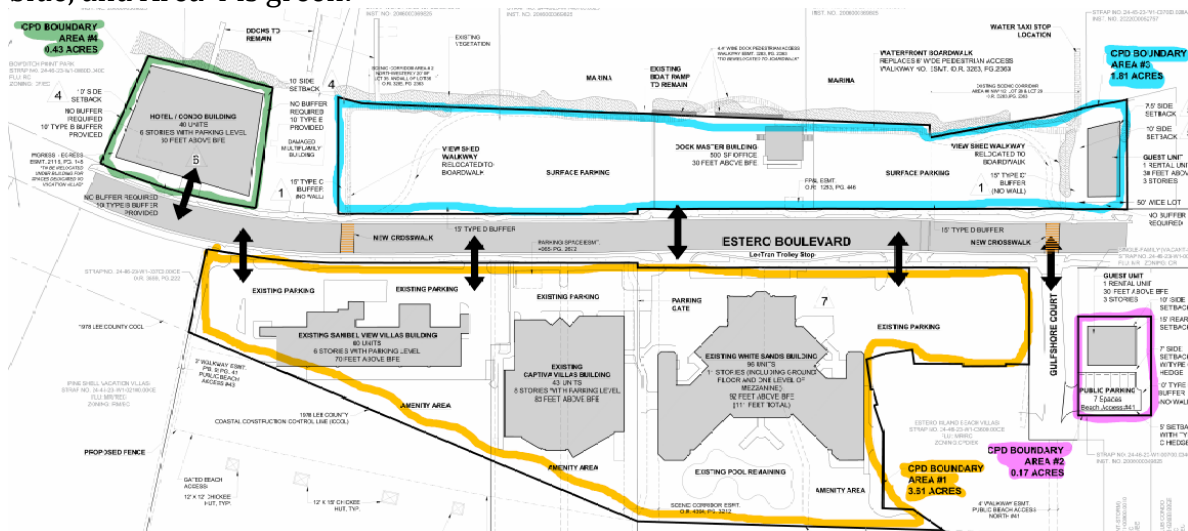
The nearby uses that are not part of the Pink Shell CPD include Pink Shell Vacation Villas which is seven stories tall, including parking on the ground floor, and Estero Island Beach Villas which is eight stories. Adjacent to the proposed new hotel building, there is also an uninhabited triplex. There are no approved plans for that property at this time.

Uses in the neighborhood are condominium, resort, and marina, as well as the park at Bowditch Point Park.

Changes since the LPA hearing:

The following changes have been made since the LPA hearing: The applicant has reduced the width of the proposed boutique hotel to provide a 20-foot side setback abutting 131/133 Estero Blvd. The applicant has removed the use request to provide public parking, to accommodate a neighboring property request. The proposed guest unit proposed on Gulfshore Court will meet the required side yard setbacks.

Requested Deviations: Several deviations refer to numbered areas. The map below shows the areas in color for clarification. Area 1 is orange, Area 2 is pink, Area 3 is blue, and Area 4 is green:



- 1) Area #3: Deviate from LDC §10-416(d)(2) Table 10-8 requiring a Type C buffer with a wall when a proposed commercial parking lot is next to a multifamily residential property; to allow a Type C buffer with no wall to allow visibility to the redesigned public boardwalk.**

JUSTIFICATION: Placing a wall where a public boardwalk that is to be park-like and a public fishing pier would take away from the from the public access easement that is meant to be a well landscaped, enticing walk to the boardwalk along Matanzas Pass on the back of the building. A wall would not enhance this experience but detract.

Staff Comment: This deviation is for the parking lot on the bayside marina parcel

and applies to the western property line (in blue above). The type C buffer is 15 feet wide and requires 5 trees and 18 shrubs per 100 linear feet

- 2) Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure shall be placed closer than 20 feet as a rear setback; to allow a 15-foot rear setback.**

JUSTIFICATION: The CPD boundary Area #2 is only 0.17 acres and previously housed three units. The new request is for two units and meeting the required rear and side setbacks would make the lot unbuildable for two units. The 15-foot rear setback will provide enough room for typical Type B plantings regardless of the 5-foot reduction of side setback.

Staff Comment: This deviation applies to the proposed construction of a single-family structure on the gulfside parcel where a duplex and single-family structure were located (in pink above). The decrease in rear setbacks at this location are unlikely to have an impact on the adjacent properties. It appears that the duplex structure and cottage on that parcel previously were located similarly.

- 3) Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure shall be placed closer than 20 feet as a side setback; to allow a 10-foot side setback on the western boundary and a 7.5-foot setback on the eastern boundary in CPD Area #3 for the guest unit structure on 309 Estero Boulevard.**

JUSTIFICATION: The lot is nonconforming in the CR District. Lots in the CR district have a minimum lot size of 100 feet wide by 100-feet deep. The lot at 309 Estero is nonconforming at 50 feet wide. Allowances for reduced setbacks have been established in the LDC for single-family and two-family homes in the RM zoning district must maintain a 7.5-foot side setback for lots 50 feet wide up to 75 feet wide. The MCP provides a 10-foot setback on the eastern border abutting a neighbor's home and a 7.5 foot setback abutting the surface lot for the resort which provides plenty of room for the boardwalk park area and for public access easement to the dock for the potential public water taxi slip.

Both buffers are significant improvements over the prior dwelling unit's location as shown in the image.

Staff Comment: The deviation seems appropriate based on the size of the parcel. The larger setback will be provided abutting the single-family parcel, with the smaller setback abutting the marina parcel.

- 4) Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure shall be placed closer than 20 feet as a side setback; to allow a 10-foot side setback on the western boundary, abutting Bowditch Point Park, in CPD Area #4 for the new 40-unit hotel/condo building.**

JUSTIFICATION: JUSTIFICATION: The lot in CPD area #4 does not require buffers but does require 20-foot side setbacks per the LDC. Applicant is proposing to meet the side setback abutting the multifamily property to the east and deviate on the western boundary abutting Bowditch Park. We are proposing a hedge row maintained at 60" on both side yards to hide underbuilding parking. Historically there were no setbacks or buffers for the surface parking lot on the east or western boundaries where the new building is proposed.

Staff Comment: This deviation applies to the parcel on the bayside that is closest to Bowditch Point Park (in green above). The decrease in side setback applies to the side of the building closest to Bowditch Point Park, the applicant is proposing to meet the 20-foot side setback for waterlots, on the side abutting the multifamily building property. The current proposed building is ten feet narrower than the design that was proposed at the LPA hearing,

- 5) Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure on a waterfront lot shall be placed closer than 25 feet to a waterbody as a rear setback; to allow a 10-foot rear setback in CPD Area #4 for the new 40-unit hotel/condo building.**

JUSTIFICATION: The lot in CPD area #4 does not require buffers but does require a 25-foot rear setback on a waterbody. We are proposing a Type B buffer along the rear setbacks to offset the request to have a building with only a 10-foot setback. The proposed 10-foot setbacks will provide enough room for typical Type B plantings regardless of the reduction of rear setback. Historically, the lot provided no setback or formal buffer for the surface parking lot where the new building is proposed. To the south is a dilapidated multi-family structure that will be razed, and new multi-family structure is proposed in a CPD that is in progress. To the west is Bowditch Point Park maintenance area and employee parking. The buffer will improve current conditions as will the 10-foot setback.

Staff Comment: The proposed rear setback reduction is proposed for Area 4 (in green above). The current parking lot provides no setback from the seawall, however the parking lot is at grade. Developing a buffer along the rear will reduce any potential runoff from the lot into the water which is a benefit to water quality.

- 6) Deviate from LDC §34-675(b) that requires a maximum height of 30 feet above base flood elevation and no taller than three stories; to allow a height of:**
- **60 feet as measured from one foot over base flood elevation (BFE+1) or**
 - **Five (5) stories (six (6) stories over ground level parking).**

JUSTIFICATION: The permitted height in the CR District is a maximum of 30 feet above base flood elevation. The height is significantly shorter than the condo/hotel and resort buildings across Estero Boulevard.

Staff Comment: This deviation applies to the parcel on the bayside, closest to Bowditch Point Park (shown in green above). The current CPD has a maximum allowed height on the gulf side of the property of 95 feet and one of the existing resort buildings is approximately that tall. This proposed building is on the bayside of the Pink Shell property and will have different impacts. The neighbors across Estero, at Pink Shell Vacation Villas (seven stories) and the adjacent property at 131/133 Estero Blvd, may be impacted by this additional height. Other LDC options to seek additional height are related to public benefits which are currently determined by the Town Council.

7) Deviate from LDC §34-1803(a)(1) that establishes hotel and motel guest units to be substituted for the dwelling units setting the allowable intensity by equivalency factors of up to 2.0 per density unit, in this case in the Mixed Residential land use category; to allow an increase in the factor to 6.7 for the entire resort property that is included in the CPD boundary.

JUSTIFICATION: Density for the CPD area is calculated through the hotel equivalency factors in LDC Sec. 34-1803(1) and can be accomplished through the CPD by increasing the factor.

TABLE 1: PINK SHELL DENSITY EQUIVALENCY

Building	Floor Area SF	LDC Equivalency Factor	Density Units	Current Equivalent Guest Units	Proposed Guest Units	Proposed Equivalency Factor	Proposed Equivalent Guest Units
White Sands	>750	1.0	92	92	94	6.7	14
Captiva	450-750	1.5	43	29	43	6.7	6
Sanibel	<450	2.0	60	30	60	6.7	9
New Boutique Hotel	>750	1.0	-	-	40	6.7	6
Rental Units	>750	1.0	4	4	2	6.7	1
TOTAL			199	159	239	6.7	36

Summary

- *Density in the Pink Shell Marina & Resort is six (6) units per acre, or 36 units over six (6) developable acres.*
- *The maximum equivalency factor for the Mixed Residential FLUC per the LDC is 2.0, or 72 units.*
- *The Resort existing resort is not subject to equivalency calculations per historical approvals but when applied the current overall equivalency factor of the Pink Shell is 5.4.*
- *The zoning seeks to calculate the entire existing and proposed guest units to arrive at an overall equivalency factor is 6.7.*

Justification

Per LDC Section 34-1803(2) guests units exceeding these equivalency factors or

exceeding 1,000 square feet each may be allowed under exceptional circumstances as described in the comprehensive plan if approved as a deviation through a planned development rezoning. Before approving such a deviation, the town council must find that:

- a. All other aspects of the development (height, traffic, intensity of use, etc.) are compatible with the surrounding area;**

The proposed use is hotel/condo as part of the Pink Shell Rental Pool. This use as a vacation rental with ownership is common not only in the Pink Shell but similar to the other buildings across the street from Vacation Villas south to Island Shores south of Pink Shell.

- b. The proposal clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan; and**

Application is consistent with the Comprehensive Plan:

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.

Policy 4-B-4 "MIXED RESIDENTIAL": designed for older subdivisions with mixed housing types on smaller lots, newer high-rise building... commercial activities, such as motels, must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.

Policy 4-C-4 Building Heights: ...where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process... the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.

Policy 7-D-5: 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).

Policy 7-J-2: Traffic impact analyses and potential design improvements that could offset traffic impacts such as employee shuttles as part of the FDOT/Lee Tran – Commute Connect Program, alternatives forms of transportation, and concierge services encouraging public transportation.

- c. In no case can equivalency factor increases exceed the maximum intensities allowed by the Fort Myers Beach Comprehensive Plan.**

The maximum intensity allowed under the Comprehensive Plan for the Mixed

Residential FLUC is 1.2 floor area ratio. This project does not exceed that intensity.

Staff Comment: This deviation applies to the entire CPD property. The proposed development is in compliance with the intensity of 1.2 (including all at-grade, under-building parking areas) that is allowed in the Mixed Residential FLU. The applicant has indicated several ways that the resort encourages guests to not bring a car, decreasing potential traffic impacts. The application also addresses several policies of the comprehensive plan. Several of the surrounding buildings are the same height or taller than the proposed boutique hotel, however, there are no buildings currently adjacent to the boutique hotel site. Other LDC options to seek additional height are related to public benefits which are currently determined by the Town Council.

Existing Deviations on Pink Shell Resort, approved for **Captiva Villas - Resolution 01-26**:

2. Deviation from LDC Section 34-935e(4) which requires buildings be separated a distance of one half the sum of the building heights, to allow separation of 36 feet instead of 82 feet, and to allow a separation 44 feet instead of 59 feet.
3. Deviation from LDC Section 34-802 to allow hotel units with a maximum of 750 square feet and 1300 square feet. At least 14 of the 43 units are limited to a maximum of 750 square feet. In no case will the total area of the 43 units exceed 28,219 square feet.
4. Deviation from LDC Section 34-2175 which states buildings may not exceed 25 feet in height above base flood elevation to allow a building 83 feet in height above base flood elevation. No more than 7 floors over one ground floor of parking only will be developed.
5. Deviation from Land Development Code 34-2017(a) which requires parking lot aisles and spaces have a paved, dust free, all-weather surface, to allow an unpaved surface on parking lots with the following conditions:
 - (a) The alternative parking surface must be a stabilized surface of clean (washed) angular gravel or other similar porous material over a well-drained base. The surface will be continually maintained in a dust free manner. Stabilization may be accomplished by turf blocks, or proprietary cellular or modular porous paving systems installed in accordance with manufacturer's specifications.
 - (b) The disabled parking spaces must be provided with a smooth surface without gaps or holes which would create a danger to the user.
 - (c) Parking stripes will not be required on the alternative surface; however, parking bumpers must be used to identify the required number of parking spaces.

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.

Staff response: No errors or ambiguities exist. However, this is a CPD and the addition of the property owned by JABO LLC and it's subsidiaries, is a reasonable request.

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

Staff response: The duplex and cottage which were part of the Pink Shell Resort and the single-family residence at 309 Estero Blvd were destroyed by Ian. Additionally, properties have been purchased by JABO, LLC, which could be added to the existing CPD.

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

Staff response: No impact on the intent of this chapter will occur.

(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.

Staff response: The proposed development is in compliance with the intensity of the district. The FAR, including ground floor parking, for the property will not exceed the allowed 1.2 FAR. If we were to apply density to the use, it would exceed the density. However, the applicant is requesting 40 additional resort units above the current allowed number of resort units. The new structure will be designed to meet current building and flood requirements which is supported by the comprehensive plan.

The development is consistent with several policies:

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.

POLICY 7-D-5 HIDDEN-PATH SYSTEM. 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.

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

Staff response: The proposed development will meet performance standards set forth in 34-2031. There are no special location standards for hotels.

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

Staff response: The urban services exist in this location.

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

Staff response: The request should not have an impact on environmentally critical areas and natural resources.

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

Staff response: The existing Pink Shell resort has operated successfully for a number of decades, without causing nuisance. The site of the single guest unit and public parking previously contained a duplex and a cottage, without known incidence. It is not expected that this use will cause hazard or nuisance.

(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.

Staff response: This use in this location will not likely place an additional burden on the transportation network or other facilities and services. Impact fees will be required at the time of development order.

(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.

Staff response: The proposed uses and requested deviations for the CPD comply with the Comprehensive Plan.

(2) This chapter.

Staff response: The proposed uses comply with this chapter except in regard to the deviations.

(3) Any other applicable town ordinances or codes.

Staff response: The proposed request complies with the town ordinances and codes, except in regard to the deviations. Those are to be evaluated by additional criteria in 34-216(4), covered below.

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

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

Staff response: The proposed resort use is appropriate in this location, it is in the Mixed Residential Future land use.

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

Staff response: 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;

Staff response: 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.

Staff response: The proposal is in compliance with these policies.

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

Staff response: Not applicable.

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

Staff response: 4-C-4 states, "In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal." Underlines are staff's to draw attention to specific points of discussion.

The request for additional height is proposed as part of the planned development rezoning process, which is the appropriate process. The requested height appears to be similar to the surrounding uses both the Pink Shell Resort and the surrounding resort and condominium buildings. The proposed building is not adjacent to any buildings but is across the street from buildings of similar or greater height. This project provides a permanent view corridor of the bay, through the marina parcel. The proposed application meets all other criteria of the comprehensive plan. Public benefits have been indicated by the applicant, including a pump out facility for the Town's mooring field and use of aquatic facilities until the Town's facilities are rebuilt..

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

Staff response: Not applicable.

5. Policy 4-E-1 on pre-disaster build back.

Staff response: Not applicable.

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

Staff response: The proposed development will be required to pay impact fees at time of development. Additionally, the developer has proposed a variety of policies which will function to decrease the number of vehicles at the hotel.

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

Staff response: The requested deviations allow the development of the site as requested by the applicant. It is unclear if they enhance the development.

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

Staff response: The proposed deviations do not increase risk, hazard, or injury to the public.

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

Staff response: The deviations are not a detriment to the public interest.

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

Staff response: The deviations are consistent with the comprehensive plan.

I. RECOMMENDATION

Staff finds that the CPD with deviations do meet all of the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC. However, the deviation for additional height, which is also tied to the deviation for the equivalency factor increase relies on the provision of public benefit per section 34-632(b)(5) which are currently defined by Town Council and will be clarified and updated in the upcoming Comprehensive Plan Visioning process. Staff recommends the Town Council determine the adequacy of the public benefit proposed by the applicant to accommodate the proposed six-story height of the boutique hotel. If the public benefits are adequate, staff recommends approval of DCI20230090 with the attached conditions.

At the LPA hearing on December 3, 2024 the LPA voted 4-2 to deny the request without prejudice, one member was not present.

II. CONDITIONS OF APPROVAL

1. The terms and conditions of all previous resolutions shall continue in full force except as expressly altered by this amendment.
2. All development must be consistent with the Master Concept Plan (MCP) titled "Pink Shell Resort and Marina CPD" and marked with a revision date of **12/13/2024** attached as Exhibit A.

3. The approved uses are limited to those detailed on the attached Exhibit B, Schedule of Uses.
4. Architectural design of the bayside Boutique Hotel shall be substantially in compliance with Exhibit D, renderings.
5. The applicant must provide a landscaping plan and planting schedule that is in compliance with the approved MCP or the LDC Chapter 10, Division 6 Open Space, Buffering and Landscaping.
6. All vehicles of guests or employees must be parked completely within the property lines of the Pink Shell CPD property.
7. A dune restoration plan must be submitted to the Town of Fort Myers Beach, for approval and will be subject to the following conditions:
 - a. Location of the restoration area will be generally as shown on the MCP.
 - b. Plant species will consist of a mix of sea oats, beach panic grass, railroad vine, cocoplum, seagrasses and beach sunflower in lines planted at 1.5 feet on center
 - c. To allow the plants to become established, the vegetation will be temporarily fenced with ropes and bollards or a similar fencing. Orange construction fence is prohibited.
 - d. No more than the existing dune walkover will be permitted to provide beach access.
 - e. The beach vegetation project will be coordinated with and integrated with any ongoing beach restoration or renourishing project that is underway at the time of development.
 - f. The dune plan must identify the location, behind the dune line, for chickee huts, beach furniture and rental equipment (personal watercraft, chairs etc.) as required by the Town's Sea Turtle Ordinance found in Section 32, Article V, Section 32-113.
8. (Condition 7 of Resolution 10-06, amended as follows) Boat rentals, charter boat, and tour boat operations and all other uses of leased submerged lands are limited in accordance with the most recent submerged land lease from the State of Florida (Recorded in Official Record Book 3718, Page 2242, Public Records of Lee County, Florida). A maximum of forty-one (41) boat slips and 39 live aboards currently are allowed by the state submerged land lease. Use of submerged land must comply with all applicable local, state, and federal regulations. Cruise ships are prohibited as provided by LDC Section 34-620(f). Dock structures located upon leased submerged lands adjacent to the subject property have existed since prior to the adoption of the Fort Myers Beach Comprehensive Plan and its Future Land Use Map. This amendment shall not be interpreted as a finding as to consistency or inconsistency of these docks, and/or their uses, with the Mixed Residential Future Land Use Map category or any other provision of the Fort Myers Beach Comprehensive Plan. Any expansion to the uses of leased submerged lands adjacent to the subject property, including increase to the number of boat slips, and/or the number and/or size of charter boats and/or tour boats, will require an amendment to this planned development and its MCP through the public hearing process for zoning actions.
9. (Condition 6 of Resolution 10-05, amended as follows) Any lawfully existing

dwelling unit, guest unit, or timeshare unit within the subject property may be used as group quarters for employee housing without regard for the occupancy time limitations applicable to guests as set forth in LDC Section 34-1801(b)(4). Occupancy of group quarters is limited solely to bona fide employees of the Pink Shell Resort, including the businesses lawfully operating on the subject property in compliance with this zoning ordinance and all other applicable regulations. Under no circumstances may occupancy of any dwelling unit, guest unit, or timeshare unit exceed the lawful occupancy established by applicable building, fire, and life-safety codes. If no building, fire, or life-safety code provisions are more restrictive, the number of occupants of any individual living unit used for group quarters must not exceed four adults, or one family, whichever is larger. The term "family" is defined in LDC Section 34-2, as may be amended from time to time.

10. (Conditions 3 and 5 of Resolution 13-23, amended as follows) The total number of commercial memberships of recreational amenities is not to exceed 350. Commercial memberships are allowed for use of resort accessory uses, subordinate commercial uses including food and beverage services, fitness facility, pools, beach access and docks.
11. Development of this project must comply with all requirements of the Town of Fort Myers Beach LDC at the time of the development order, except as may be granted by deviation as part of this planned development.

Exhibits:

A – Master Concept Plan

B – Schedule of Uses

C – Conditions of Approval

D – Historical Zoning Resolutions

PINK SHELL RESORT & MARINA CPD

MASTER CONCEPT PLAN

JABO, LLC

FORT MYERS BEACH, FL

PROJECT NO.: 23000471
DATE: 11/19/2024
DRAWN: CH
REVIEWED: FDREVISIONS
05/22/2023
08/10/2023
06/12/2024
07/10/2024
12/13/2024

MATANZAS PASS

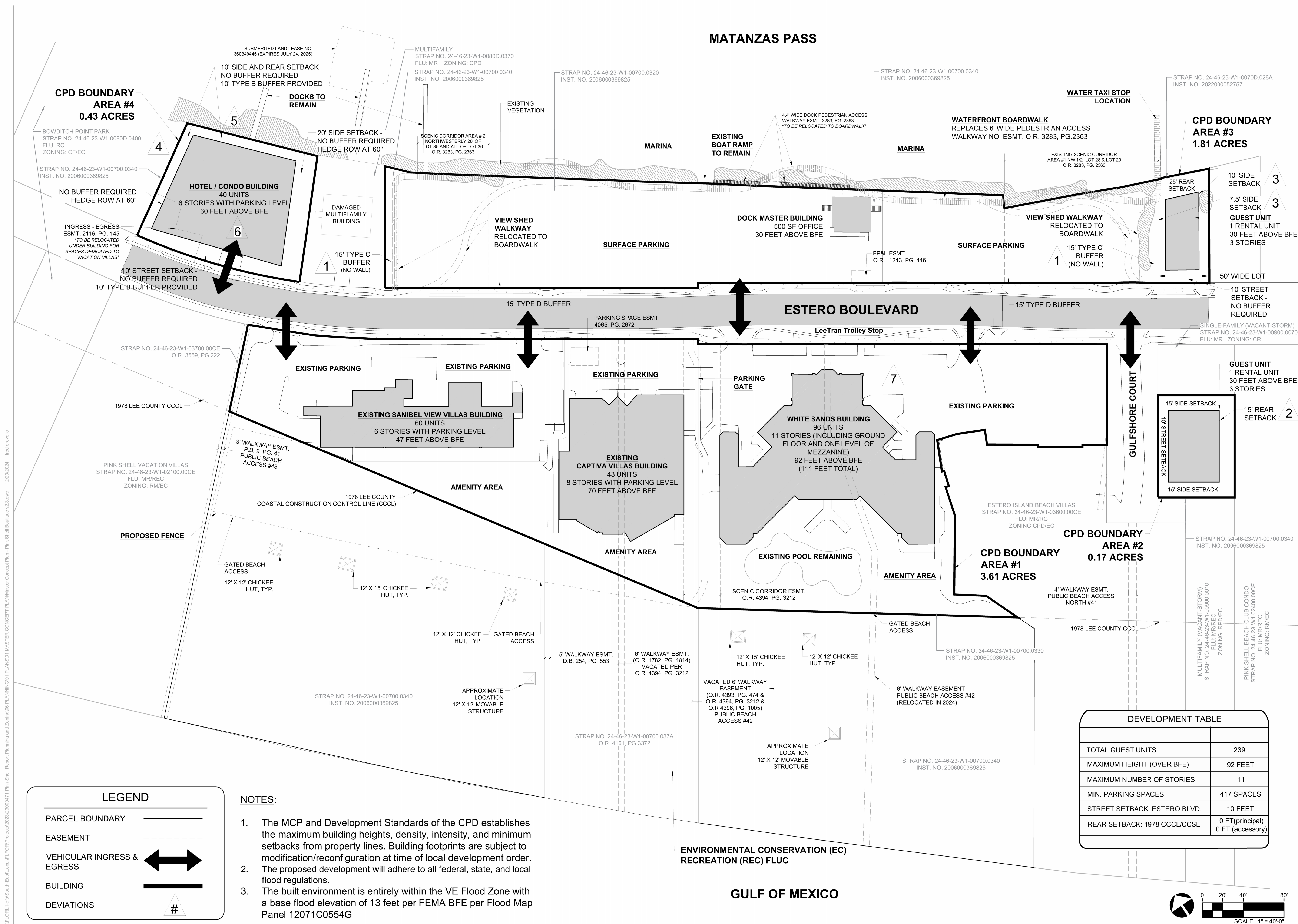


Exhibit B

Pink Shell CPD Schedule of Uses and Site Development Regulations

1. SCHEDULE OF USES: The approved schedule of uses for this CPD is limited to the following:

a. RESIDENTIAL

Principal:

- Dwelling unit, single-family (guest rental only)
- Dwelling unit, multi-family
- Timeshare units (fractional ownership, vacation club)
- Group Quarters
- Sales center/office

Accessory:

- Essential services
- Essential service equipment
- Parking, surface/under building
- Recreation, private on-site and private, off-site
- Residential accessory uses

b. LODGING

Principal:

- Hotel/motel
- Hotel/condo
- Timeshare units (fractional ownership, vacation club)
- Resort
- Rental of any permitted dwelling unit for periods of one day or longer
- Recreational facilities – commercial and private on-site, off-site

Accessory:

- Mini bars (in the hotel rooms)
- Parking: Surface/under building
- Rental of beach furniture and cabanas
- Rental of boats, bicycles, electric scooters, e-bikes and golf carts
- Charter and tour boats
- Personal watercraft operations office
- Parasailing operations office
- Sailing office
- Docks for use by water taxi or water shuttle
- Meeting space
- Conference center
- Business center
- Kids camp and crafts
- Signs
- Sales center/office

- Subordinate commercial uses
- c. RETAIL
- Principal:
- Recreational facilities - commercial. in conjunction with a membership
 - Commercial uses including restaurant, café, personal services, retail store
 - Rental of bicycles, electric scooters, e-bikes and golf carts
 - Bait and Tackle Shop
- Accessory:
- ATM
 - On-premises and package sale for off-premises consumption of alcoholic beverage
- d. OFFICE
- Principal:
- Administrative offices
- Accessory:
- Home occupation (no outside help)
 - Commercial accessory use
- e. MARINE
- Principal:
- Administrative
 - Bait and Tackle Shop
- Accessory:
- Dock (for lease to non-occupants of the principal use)
 - Dock (for use by resort occupants)
 - Liveaboard vessel mooring slips (in compliance with submerged land lease)
 - Bathrooms, showers and laundry facilities
- f. CIVIC
- Principal:
- Public beach access
 - Park, neighborhood
 - Essential services and essential service equipment
 - Licensed fishing pier
- g. COMMERCIAL PARKING
- Principal:
- Public parking, surface/underbuilding

- 2. PROPERTY DEVELOPMENT REGULATIONS:** The approved property development regulations for this CPD will take precedence over and supersede the property development regulations in the Town of Fort Myers Beach LDC that would otherwise apply:

Maximum Floor Area Ratio (FAR):	1.2
Maximum Intensity:	239 guest units
• Short-term rental	• 2 guest units
• Lodging/Hotel/Hotel-Condo	• 237 rooms
Maximum Commercial Intensity:	7,500 square feet total
• Administrative	• 2,500 square feet
• Retail	• 5,000 square feet
Parking:	417 spaces

Conditions of Approval for Ordinance 24-35

1. The terms and conditions of all previous resolutions shall continue in full force except as expressly altered by this amendment.
2. All development must be consistent with the Master Concept Plan (MCP) titled "Pink Shell CPD Gulf Side" or "Pink Shell CPD Bay Side" and marked with a revision date of 12/13/**2024** attached as Exhibit A.
3. The approved uses are limited to those detailed on the attached Exhibit B, Schedule of Uses.
4. Architectural design of the bayside Boutique Hotel shall be substantially in compliance with Exhibit D, renderings.
5. The applicant must provide a landscaping plan and planting schedule that is in compliance with the approved MCP or the LDC Chapter 10, Division 6 Open Space, Buffering and Landscaping.
6. All vehicles of guests or employees must be parked completely within the property lines of the Pink Shell CPD property.
7. A dune restoration plan must be submitted to the Town of Fort Myers Beach, for approval and will be subject to the following conditions:
 - a. Location of the restoration area will be generally as shown on the MCP.
 - b. Plant species will consist of a mix of sea oats, beach panic grass, railroad vine, cocoplum, seagrasses and beach sunflower in lines planted at 1.5 feet on center
 - c. To allow the plants to become established, the vegetation will be temporarily fenced with ropes and bollards or a similar fencing. Orange construction fence is prohibited.
 - d. No more than the existing dune walkover will be permitted to provide beach access.
 - e. The beach vegetation project will be coordinated with and integrated with any ongoing beach restoration or renourishing project that is underway at the time of development.
 - f. The dune plan must identify the location, behind the dune line, for chickee huts, beach furniture and rental equipment (personal watercraft, chairs etc.) as required by the Town's Sea Turtle Ordinance found in Section 32, Article V, Section 32-113.
8. (Condition 7 of Resolution 10-06, amended as follows) Boat rentals, charter boat, and tour boat operations and all other uses of leased submerged lands are limited in accordance with the most recent submerged land lease from the State of Florida (Recorded in Official Record Book 3718, Page 2242, Public Records of Lee County, Florida). A maximum of forty-one (41) boat slips and 39 live aboards currently are allowed by the state submerged land lease. Use of submerged land must comply with all applicable local, state, and federal regulations. Cruise ships are prohibited as provided by LDC Section 34-620(f). Dock structures located upon leased submerged lands adjacent to the subject property have existed since prior to the adoption of the Fort Myers Beach Comprehensive Plan and its Future Land Use Map. This amendment shall not be interpreted as a finding as to consistency or inconsistency of these docks,

and/or their uses, with the Mixed Residential Future Land Use Map category or any other provision of the Fort Myers Beach Comprehensive Plan. Any expansion to the uses of leased submerged lands adjacent to the subject property, including increase to the number of boat slips, and/or the number and/or size of charter boats and/or tour boats, will require an amendment to this planned development and its MCP through the public hearing process for zoning actions.

9. (Condition 6 of Resolution 10-05, amended as follows) Any lawfully existing dwelling unit, guest unit, or timeshare unit within the subject property may be used as group quarters for employee housing without regard for the occupancy time limitations applicable to guests as set forth in LDC Section 34-1801(b)(4). Occupancy of group quarters is limited solely to bona fide employees of the Pink Shell Resort, including the businesses lawfully operating on the subject property in compliance with this zoning ordinance and all other applicable regulations. Under no circumstances may occupancy of any dwelling unit, guest unit, or timeshare unit exceed the lawful occupancy established by applicable building, fire, and life-safety codes. If no building, fire, or life-safety code provisions are more restrictive, the number of occupants of any individual living unit used for group quarters must not exceed four adults, or one family, whichever is larger. The term "family" is defined in LDC Section 34-2, as may be amended from time to time.
10. (Conditions 3 and 5 of Resolution 13-23, amended as follows) The total number of commercial memberships of recreational amenities is not to exceed 350. Commercial memberships are allowed for use of resort accessory uses, subordinate commercial uses including food and beverage services, fitness facility, pools, beach access and docks.
11. Development of this project must comply with all requirements of the Town of Fort Myers Beach LDC at the time of the development order, except as may be granted by deviation as part of this planned development.

	Document	Date	What it Does	Property Description	Notes
LEE COUNTY					
1	Resolution Z-82-170	6/21/1982	Rezoning from RM-2 to PUD as shown on the PUD plan with the removal of the cul-de-sac and parking area and to continue the bike path for a total of \$6,000 donation towards construction together with the following conditions: 1. 17.1 du/acre for a total of 182 units 2. Phased over a minimum of 10 years 3. Maximum height of 6 stories over parking 4. Construction of .25 mile/1350 feet of bike path 5. 3 beach access points, public and semi-public 6. \$8,100 contribution towards curbing or widening of Estero 7. Streetscaping plan 8. 6 additional parking spaces for condominium owners at the end of the resort property	<u>Phase I</u> - Lots 29 and 30, Unit No. 4, Island Shores (PB 9, PG 37) <u>Phase II</u> - The northwesterly 6.5 feet of Lot 40 and Lots 41 & 42 Island Shores Club Section and Lots 38 & 39, Block "D", Island Shores Club Section (PB 9, PG 41). <u>Phase III</u> - The westerly 25 feet of Lot 33 and all of Lots 34 through 36, Island Shores Unit 4, together with Lots 2 through 4 & Lots 8 through 10, Gulf Shore, (PB 9 PG 88). <u>Phase IV</u> - Lot 40 less Northwesterly 6.5 feet and all of Lot 39, Island Shores Club Section. <u>Phase V</u> - The west 1/2 of Lot 29 and all of Lots 30 through 32, Block "D", Island Shores Unit 4, together with Lots 33 & 34 Block "D", Island Shores Club Section.	
2	Resolution ZAB-83-353	11/14/1983	Approval of Final PUD Site Plan for Phase 1 (Island Shores per AA PUD-91-010) - 42 units	Phase I (identified as 394 Estero Boulevard)	
3	Resolutions ZAB-84-196(A) and ZAB-84-196	04/25/1988 and 11/19/1984	Approval of Final PUD Site Plan for Phases II through V with conditions (A) corrects scrivener's error	Phase II, III, IV, and V	
4	Resolution Z-87-076	5/11/1987	Temporary (5 year) approval of consumption on premises, restricted to Pink Shell residents and their guests, limited to 350 sq. ft. recreation room of existing office and model center building located in Phase V until restaurant and minimarket are constructed, at which time the COP can be transferred	Phase V LESS Lots 33 & 34 Block "D", Island Shores Club Section	

PINK SHELL RESORT MARINA CPD HISTORIC ZONING RESOLUTIONS SUMMARY

5	Administrative Approval Amendment PUD-91-010(A) and PUD-91-010	1/29/1992 and 11/15/1991	Administrative amendment approving/confirming the following: 1. Total of 147 units (excluding Phase I and including 7 motel units in Phase V) 2. 42 unit, 6-story (over parking) building in Phase III. 3. Parking deviations for approved building <u>only</u> 4. Conversion of quadraplex (112, 113, 114, and 115) to duplex, with two units being transferred to new building 5. Removal of 6 units (102, 103, 104, 106, 107, and 108) to be transferred to new building 6. Transfer of 7 motel units in Phase V, but for use as administrative offices only	Phase I, Phase II, Phase III, Phase IV, and Phase V LESS Lots 33 & 34 Block "D", Island Shores Club Section	Phase I (42 dwelling units) has been sold and is no longer part of the Pink Shell Resort. Any future development SHALL NOT INCLUDE that portion of the PUD. WHEREAS clauses refer to 2 administrative approvals with no resolution number.
6	Administrative Approval Amendment PUD-93-014A and PUD-93-014	7/9/1993	Relocation of swimming pool and spa previously approved to be located in Phases II and IV to Phase III Confirmation of the following: 1. Parking requirement for residential/hotel/motel units = 1.5/unit 2. Setback between proposed building in Phase III and any other building = 25' 3. Required 5' buffer at south end of property in Phase III	Phase II, III, IV, and V and Lots 5 & 6, Gulfshore	Missing second page of original amendment
7	Z-93-057	10/4/1993	Amends PUD site plan and the following: 1. Maximum height of 42 unit Phase III building increased from 6 to 7 stories with minimum 42' street setback (deviation from 47') from Gulf Shore Court 2. Remaining 6 motel units to be converted to administrative office use 3. Existing quadraplex (112, 113, 114, and 115) to be converted to duplex 4. 7 (instead of previous 6) cottages/units (106-109 and 118-120) to be removed	STRAP Number 24-46-23-07-00000.0350 All of Lots 2, 3, 4 and 8, Gulfshore Lot 33 LESS the Easterly 100 feet thereof and Lot 34 LESS the Northerly 50 feet thereof and the Easterly 100 feet thereof, Island Shores, Unit 4	
8	Z-95-017	11/6/1995	Approval of rezoning from RM-2 and PUD to CPD including creation of 59 hotel/motel units	STRAP Number 24-46-23-07-00000.0350 (portion) and 24-46-23-08-0000D.0370 NW 1/2 of Lots 29 through 32, Block "D", Island Shores Unit 4 (this appears to be a typo and the NW 1/2 should only apply to Lot 29) Lots 33 through 36 and Lots 37 through 39, Block "D", Island Shores Club Section	

9	PUD-95-041	12/22/1995	Removal of Bayside portion of project rezoned to CPD by Z-95-017; applies to Gulfside PUD	Phase I, II, III, IV, and V minus Bayside property as described in Z-95-017	Bayside property rezoned to CPD and removed from PUD
10	PUD-98-029	8/4/1998	Clarification amendment following partial acquisition by Boykin - 144 units built, leaving 15 to be constructed <u>Island Shores Condominium</u> - Phase I, 42 units (no longer a part of PUD) <u>Sanibel View</u> - Lots 39 through 42, Island Shores Club Section, 60 units (5 story over parking) <u>Estero Island Beach Villas</u> - Lots 2 through 4 and Lots 8 through 10, Gulfshore together with a portion of the westerly 25 feet of Lot 33 and part of Lot 34, Unit 4 Island Shores; 42 units (7 story over parking) <u>Cottage Units</u> - Remaining portion of Lots 34 through 36 and westerly 25 feet of Lot 33, Unit 4 Island shores; 30 units <u>Duplexes</u> - Lots 9 and 10, Gulfshore; 2 duplexes/4 units total Single Cottage/Duplex Cottage - Lots 5 and 6 Gulfshore NOT PART OF PUD (per ordinance) NEW APPROVAL : Deletion of 2 5-story buildings, allowing for construction of 6-story over parking building with 45 units, the first 15 of which are already permitted and additional 30 only with removal of existing cottages on 1-to-1 basis; proposed pool and 63 parking spaces; recognized existence of existing swimming pool, 4 existin	Lots 2, 3, 4, 5, 6, 8, 9 and 10, Gulfshore Lots 34, 35 and 36 and Northwesterly 25 feet of Lot 33, Unit No. 4 Island Shores Lots 39, 40, 41 and 42, Island Shores Club Section LESS AND EXEPT legal description New building and improvements mentioned under "NEW APPROVAL" to be built on remaining portion of Lots 34 through 36 and the westerly 25 feet of Lot 33, Unit 4 Island Shores, and Lots 9 and 10, Gulfshore	
TOWN OF FORT MYERS BEACH					
11	Resolution 99-7	2/22/1999	Amend CPD (Bayside) to reduce permitted hotel units from 12 to 5, allowing only 52 units on the Bayside	STRAP Number 24-46-23-W1-0080D.0370	
12	Resolution 99-8	2/22/1999	Amend CPD to permit 7 additional units within existing 2 unit, 7 story Hotel Casa Playa - Abaco Beach CPD	STRAP Number 24-46-23-W1-0060D.020A	Transfers 7 units taken from Pink Shell Bayside to different project (Casa Playa)

PINK SHELL RESORT MARINA CPD HISTORIC ZONING RESOLUTIONS SUMMARY

13	Resolution 00-07A and Resolution 00-07	1/10/2000 and 06/29/2000	Amend CPD (Bayside) to remove 47 units and amend PUD (Gulfside) to add 47 units to a 45 unit building increasing the height from 6 stories over parking to 9 stories over recreation area and lobby/administration area	STRAP Number 24-46-23-W1-0070.0350 Lots 2, 3, 4, 5, 6, 8, 9, and 10, Gulfshore Lots 34, 35, and 36 and Northwesterly 25 feet of Lot 33, Unit 4 Island Shores Lots 29 through 32 and the Northwest 1/2 of Lot 28, Block D, Unit 4 Island Shores Lots 33-36, Block D, Island Shores Club Section Lot 29, Block D, Unit 4 Island Shores LESS AND EXCEPT legal description	
14	Resolution 01-21	6/25/2001	Amend with conditions to White Sands Villas portion of PUD to change the orientation of 9-story building, revise project units from 77 units at 1000 square feet each, and from the approved 15 units at 550 square feet each, to allow 46 2-bedroom units at 1246 square feet each and 46 1-bedroom units at 761 square feet each, and allow shell parking lot	Same as Resolution 00-07A	

PINK SHELL RESORT MARINA CPD HISTORIC ZONING RESOLUTIONS SUMMARY

15	Resolution 01-26	8/27/2001	Approval of rezoning of <u>Captiva Villas</u> from RM-2 to MPD with conditions to permit a maximum of 43 hotel units in 28,219 square feet, accessory uses, and 12,000 square feet of commercial uses (to be transferred from Bayside) with consumption on premises, not to exceed 7 stories over one ground floor of parking (hotel rooms on Floors 2-7)/83 feet in height above based flood elevation	STRAP Number 24-46-23-W1-0070.0350 (referred to as being 1.84 total acres) (nothing more provided)	12,000 square feet of commercial broken down as follows: 1,300 Administrative/Offices 6,000 Restaurant/Deli/Retail 2,500 Guest Services 2,200 Conference/Meeting/Limited Food & Beverage Service Only permitted uses on Bayside accessory parking and uses related to the operation of the boat slips and dockage; existing commercial building to be demolished
16	Administrative Amendment ADD2003-00160	4/5/2004	Amend CPD (<u>Bayside</u>) to eliminate 12,000 sqft of commercial uses transferred to Captiva Villas CPD	Lots 29 through 32 and the Northwest 1/2 of Lot 28, Block D, Unit 4 Island Shores Lots 33-36, Block D, Island Shores Club Section Lots 38 and 39, Block D, Island Shores Club Section (referred to as containing 2.12 acres)	Moves 12,000 square feet as required by Resolution 01-26
17	Resolution 10-05	1/19/2010			
18	Resolution 10-06	1/20/2010	Amend CPD (<u>Bayside</u>) with conditions to replace tennis courts on Lots 38 and 39, Block D, Island Shores Club Section with an accessory parking lot for employee parking only and trash compactor while allowing existing boat ramp to remain with rerouted pedestrian walkway	STRAP Number 24-46-23-W1-0070.0340, 24-46-23-W1-0070.0320, and 24-46-23-W1-0070.0290 NW 1/2 of Lots 29 through 32, Block "D", Island Shores Unit 4 (this appears to be a typo and the NW 1/2 should only apply to Lot 29) Lots 33 through 36 and Lots 38 through 39, Block "D", Island Shores Club Section	Legal description is the same as Z-95-017 except Lot 37 is excluded

PINK SHELL RESORT MARINA CPD HISTORIC ZONING RESOLUTIONS SUMMARY

19	Resolution 13-23	10/21/2013	Amend CPD with conditions to add "Recreation, Commercial with membership" to approved schedule of uses and allow the use of the parking areas on Lots 38 and 39 for parking for employees, guests, and members	STRAP Number 24-46-23-W1-0070.0320, 24-46-23-W1-0070.0330, 24-46-23-W1-0070.0290 and 24-46-23-W1-0070.037A Same as Resolution 00-07A LESS AND EXCEPT Sanibel View Villas and White Sand Villas	
20	Ordinance 23-04	3/6/2023	Amends CPD (Bayside) to remove restriction against liveaboards	200 and 275 Estero STRAP Number 24-46-23-W1-0070.0330, 24-46-23-W1-0070.0340, and 24-46-23-W1-0070.037A (nothing more provided)	Includes condition to clarify existing CPD ownership, addresses, and parcel IDs

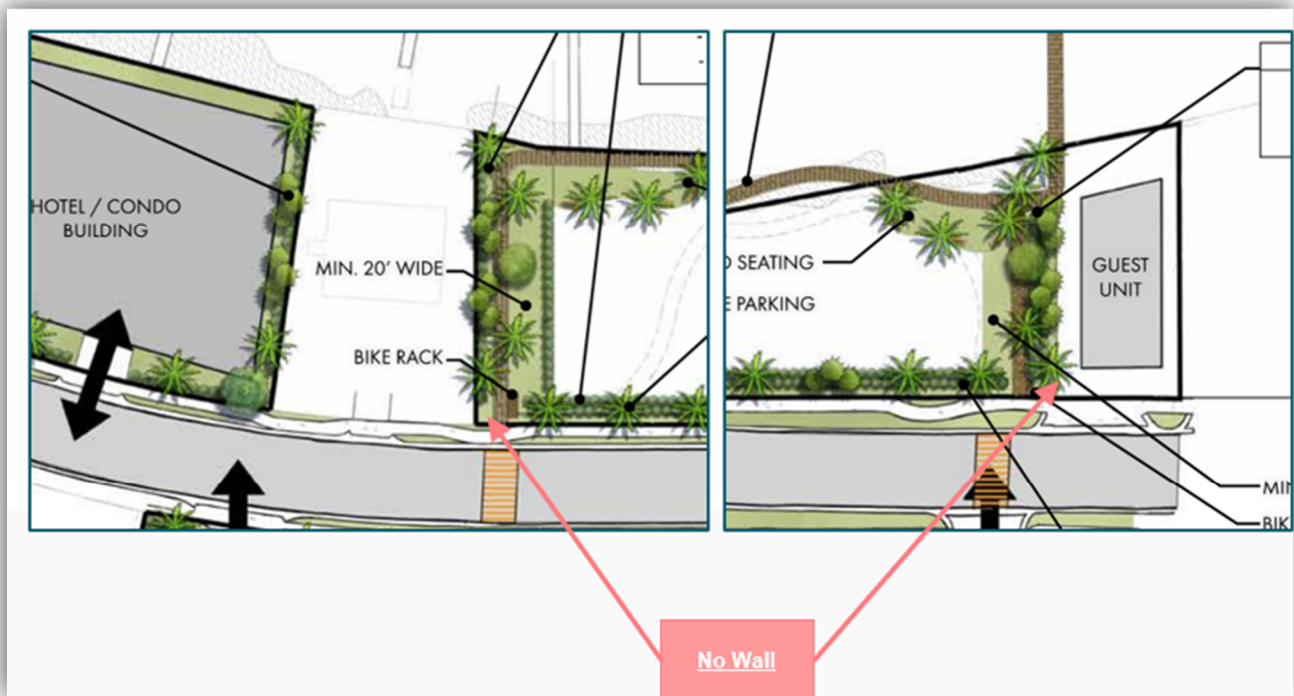
RVi PINK SHELL RESORT & MARINA CPD

Schedule of Deviations and Justifications

PARKING AREA BUFFER IN CPD AREA #3

1. Deviate from LDC §10-416(d)(2) Table 10-8 requiring a Type C buffer with a wall when a proposed commercial parking lot is next to a multifamily residential property; to allow a Type C buffer with no wall to allow visibility to the redesigned public boardwalk.

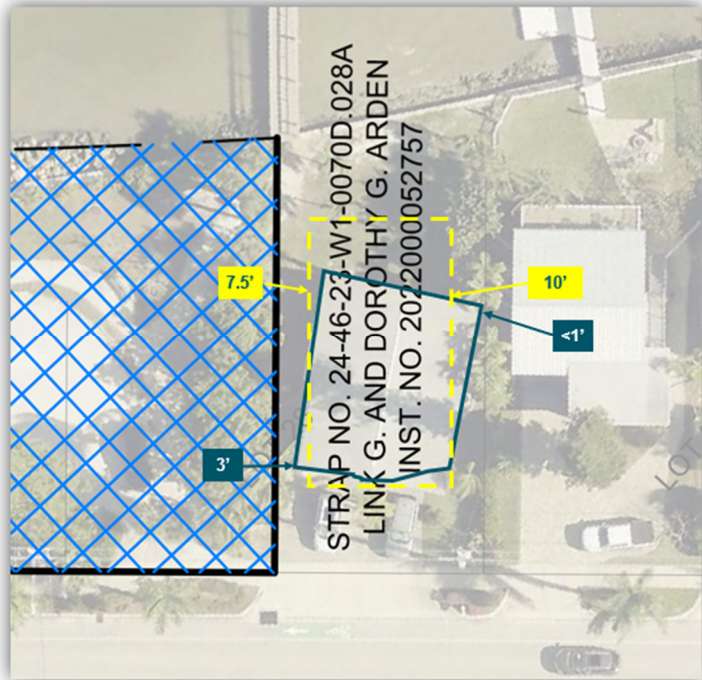
JUSTIFICATION: Placing a wall where a public boardwalk that is to be park-like and a public fishing pier would take away from the from the public access easement that is meant to be a well landscaped, enticing walk to the boardwalk along Matanzas Pass on the back of the building. A wall would not enhance this experience but detract.



BUILDING SETBACKS

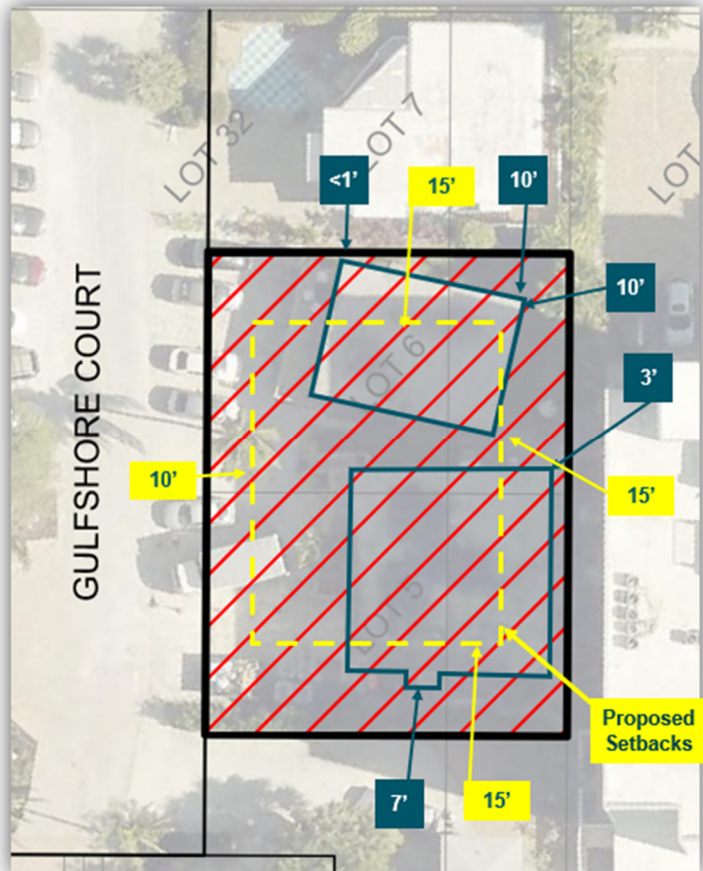
2. Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure shall be placed closer than 20 feet as a rear setback; to allow a 15-foot rear setback.

JUSTIFICATION: The CPD boundary Area #2 is only 0.17 acres and previously housed three units. The new request is for two units and meeting the required rear and side setbacks would make the lot unbuildable for two units. The 15-foot rear setback will provide enough room for typical Type B plantings regardless of the 5-foot reduction of side setback.



3. Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure shall be placed closer than 20 feet as a side setback; to allow a 10-foot side setback on the western boundary and a 7.5-foot setback on the eastern boundary in CPD Area #3 for the guest unit structure on 309 Estero Boulevard.

JUSTIFICATION: The lot is nonconforming in the DR District. Lots in the CR district have a minimum lot size of 100 feet wide by 100-feet deep. The lot at 309 Estero is nonconforming at 50 feet wide. Allowances for reduced setbacks have been established in the LDC for single-family and two-family homes in the RM zoning district must maintain a 7.5-foot side setback for lots 50 feet wide up to 75 feet wide. The



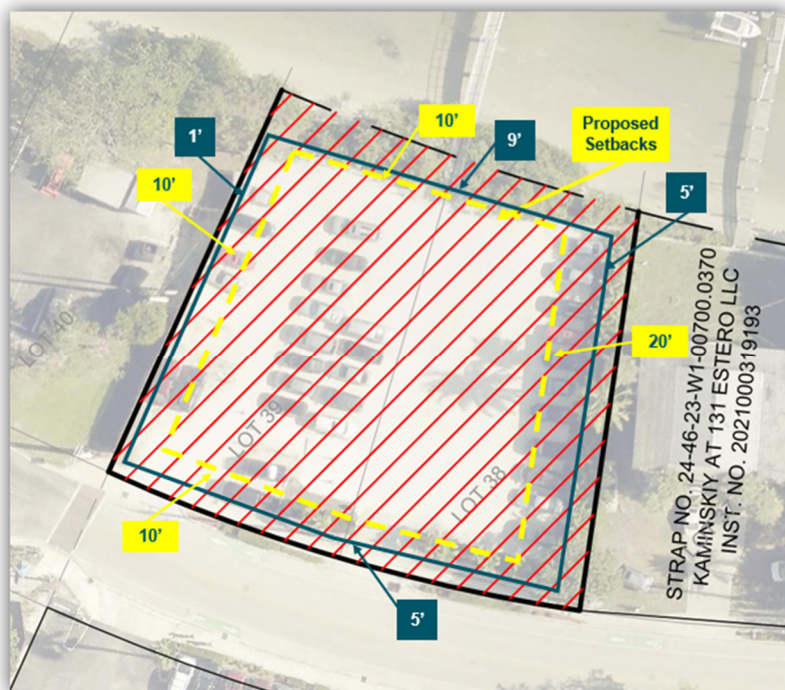
MCP provides a 10-foot setback on the eastern border abutting a neighbor's home and a 7.5 foot setback abutting the surface lot for the resort which provides plenty of room for the boardwalk park area and for public access easement to the dock for the potential public water taxi slip.

Both buffers are significant improvements over the prior dwelling unit's location as shown in the image.

4. Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure on a waterfront lot shall be closer than 20 feet as a side setback; to allow a 10-foot side setback on the western boundary (abutting Bowditch Park property) in CPD Area #4 for the new 40-unit hotel/condo building.

JUSTIFICATION: The lot in CPD area #4 does not require buffers but does require 20-foot side setbacks per the LDC. Applicant is proposing to meet the side setback abutting the multifamily property to the east and deviate on the western boundary abutting Bowditch Park. We are proposing a hedge row maintained at 60" on both side yards to hide underbuilding parking. Historically there were no setbacks or buffers for the surface parking lot on the east or western boundaries where the new building is proposed.

5. Deviate from LDC §34-645 Table 34-2 that specifies in the CR zoning district no building or structure on a waterfront lot shall be placed closer than 25 feet to a waterbody as a rear setback; to allow a 10-foot rear setback in CPD Area #4 for the new 40-unit hotel/condo building.



JUSTIFICATION: The lot in CPD area #4 does not require buffers but does require a 25-foot rear setback on a waterbody. We are proposing a Type B buffer along the rear setbacks to offset the request to have a building with only a 10-foot setback. The proposed 10-foot setbacks will provide enough room for typical Type B plantings regardless of the reduction of rear setback. Historically, the lot provided no setback or formal buffer for the surface parking lot where the new building is proposed. To the south is a dilapidated multi-family structure that will be razed, and new multi-family structure is proposed in a

CPD that is in progress. To the west is Bowditch Point Park maintenance area and employee parking. The buffer will improve current conditions as will the 10-foot setback.

HEIGHT

6. Deviate from LDC §34-675(b) that requires a maximum height of 30 feet above base flood elevation and no taller than three stories; to allow a height of:
- 60 feet as measured from one foot over base flood elevation (BFE+1) or
 - Five (5) stories (six (6) stories over ground level parking).

JUSTIFICATION: The permitted height in the CR District is a maximum of 30 feet above base flood elevation. The height is significantly shorter than the condo/hotel and resort buildings across Estero Boulevard.



EQUIVALENCY FACTOR

7. Deviate from LDC §34-1803(a)(1) that establishes hotel and motel guest units to be substituted for the dwelling units setting the allowable intensity by equivalency factors of up to 2.0 per density unit, in this case in the for the Mixed Residential land use category; to allow an increase in the factor to 6.7 for the entire resort property that is included in the CPD boundary.

JUSTIFICATION: Density for the CPD area is calculated through the hotel equivalency factors in LDC Sec. 34-1803(1) and can be accomplished through the CPD by increasing the factor for this site according to the table below.

Equivalency limitation is by right for conventional zoning yet, “if approved through a planned development rezoning, even higher ratios may be approved, ‘provided all other aspects of the development (height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area.’”

Density in the Pink Shell Marina & Resort is six (6) units per acre, or 36 units over six (6) developable acres.

- The current resort equivalency factor is 5.4.
- The proposed resort-wide equivalency factor is 6.7.

COMPARABLE APPROVED DEVIATIONS

- Margaritaville approved at 9.0
- Pink Shell 6.7 (increase from 5.4)
- Neptune approved at 6.2
- Myerside approved at 5.6

TABLE 1: PINK SHELL DENSITY EQUIVALENCY

Building	Floor Area SF	LDC Equivalency Factor	Density Units	Current Equivalent Guest Units	Proposed Guest Units	Proposed Equivalency Factor	Proposed Equivalent Guest Units
White Sands	>750	1.0	92	92	94	6.7	14
Captiva	450-750	1.5	43	29	43	6.7	6
Sanibel	<450	2.0	60	30	60	6.7	9
New Boutique Hotel	>750	1.0	-	-	40	6.7	6
Rental Units	>750	1.0	4	4	2	6.7	1
TOTAL			199	159	239	6.7	36

Summary

- Density in the Pink Shell Marina & Resort is six (6) units per acre, or 36 units over six (6) developable acres.
- The maximum equivalency factor for the Mixed Residential FLUC per the LDC is 2.0, or 72 units.
- The Resort existing resort is not subject to equivalency calculations per historical approvals but when applied the current overall equivalency factor of the Pink Shell is 5.4.
- The zoning seeks to calculate the entire existing and proposed guest units to arrive at an overall equivalency factor is 6.7.

Justification

Per LDC Section 34-1803(2) guests units exceeding these equivalency factors or exceeding 1,000 square feet each may be allowed under exceptional circumstances as described in the comprehensive plan if approved as a deviation through a planned development rezoning. Before approving such a deviation, the town council must find that:

- All other aspects of the development (height, traffic, intensity of use, etc.) are compatible with the surrounding area;

The proposed use is hotel/condo as part of the Pink Shell Rental Pool. This use as a vacation rental with ownership is common not only in the Pink Shell but similar to the other buildings across the street from Vacation Villas south to Island Shores south of Pink Shell.

- The proposal clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan; and

We are consistent with the Comprehensive Plan:

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.

Policy 4-B-4 "MIXED RESIDENTIAL": designed for older subdivisions with mixed housing types on smaller lots, newer high-rise building... commercial activities, such as motels, must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as de-scribed in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.

Policy 4-C-4 Building Heights: ...where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process... the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.

Policy 7-D-5: 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).

Policy 7-J-2: Traffic impact analyses and potential design improvements that could offset traffic impacts such as employee shuttles as part of the FDOT/Lee Tran – Commute Connect Program, alternatives forms of transportation, and concierge services encouraging public transportation.

c. In no case can equivalency factor increases exceed the maximum intensities allowed by the Fort Myers Beach Comprehensive Plan.

The maximum intensity allowed under the Comprehensive Plan for the Mixed Residential FLUC is 1.2 floor area ratio. This project does not exceed that intensity.

PREVIOUS APPROVALS with Strikethrough where no longer applicable

2001 Captiva Villas - Resolution 01-26

- ~~1. Deviation from LDC Section 34-940 which requires Mixed Use Planned Developments to have at least 300 or more dwelling units and either 100,000 square feet of commercial floor area or be located on a parcel of 10 or more acres, to allow the requested intensities.~~
2. Deviation from LDC Section 34-935e(4) which requires buildings be separated a distance of one-half the sum of the building heights, to allow separation of 36 feet instead of 82 feet, and to allow a separation 44 feet instead of 59 feet.
3. Deviation from LDC Section 34-802 to allow hotel units with a maximum of 750 square feet and 1300 square feet. At least 14 of the 43 units are limited to a maximum of 750 square feet. In no case will the total area of the 43 units exceed 28,219 square feet.
4. Deviation from LDC Section 34-2175 which states buildings may not exceed 25 feet in height above base flood elevation to allow a building 83 feet in height above base flood elevation. No more than 7 floors over one ground floor of parking only will be developed.



5. Deviation from Land Development Code 34-2017(a) which requires parking lot aisles and spaces have a paved, dust free, all-weather surface, to allow an unpaved surface (no parking lots with the following conditions:
 - (a) The alternative parking surface must be a stabilized surface of clean (washed) angular gravel or other similar porous material over a well-drained base. The surface will be continually maintained in a dust free manner. Stabilization may be accomplished by turf blocks, or proprietary cellular or modular porous paving systems installed in accordance with manufacturer's specifications.
 - (b) The disabled parking spaces must be provided with a smooth surface without gaps or holes which would create a danger to the user.
 - (c) Parking stripes will not be required on the alternative surface; however, parking bumpers must be used to identify the required number of parking spaces.

2010 Gulfside - Resolution 10-05

~~Deviation from LDC Sections 10-415 and 10-416 is to allow open space reduction and buffer reductions as indicated on the Landscape Plan prepared by Bellomo Herbert & Co. for case numbers DC12006-0001 and DC12006-0002, stamped received August 1, 2007. This request for a deviation was partially withdrawn by the applicant on September 25, 2009. The remaining reductions in required buffers and open space are depicted on the attached "Exhibit C".~~

2010 Bayside - Resolution 10-06

- ~~1. Deviation from LDC Sections 10-415 and 10-416 is to allow open space reduction and buffer reductions as indicated on the Landscape Plan prepared by Bellomo Herbert & Co. for case numbers DC12006-0001 and DC12006-0002, stamped received August 1, 2007. This request for a deviation was partially withdrawn by the applicant on September 25, 2009. The remaining reductions in required buffers and open space are depicted on the attached "Exhibit C". The Town Council states that its approval does not include the requested 16-foot wide opening in the buffer along the Estero Boulevard right-a-way for access to the proposed trash compactor.~~



PINK SHELL RESORT & MARINA COMMERCIAL PLANNED DEVELOPMENT REQUEST NARRATIVE & COMPREHENSIVE PLAN COMPLIANCE

I. REQUEST

JABO, LLC ("Applicant") is requesting to rezone 6.02+/- acres from Commercial Planned Development (CPD), Commercial Resort (CR) to CPD. The 6.02+/- acres are part of seven (7) parcels located on both the gulfside of Estero Boulevard landward Lee County 1978 Coastal Construction Control Line (CCCL)¹ and the bayside. The land area included as part of the parcels occupy 11+/-acres in total² but only the 6.02 acres is part of the zoning request.

The request is to add a 40 hotel/condominium building, reconstruct two (2) residential units, convert one floor of the White Sands spa to two (2) hotel/condominium units, for a total of 239 guest units Resort wide, and add a host of public benefits. The height for the new hotel/condo building, designated within CPD area #4, is a maximum of 60 feet over Federal Emergency Management Agency (FEMA) design flood elevation (DFE) and a total of six (6) stories including ground level parking. The maximum proposed floor area ratio (FAR) for the entire CPD is 1.2 including ground level parking.

The application also proposes departures from the Land Development Code (LDC) that include height and guest unit equivalency factor deviations and specific setback and buffer deviations.

The development program proposes to meet applicable parking and floor area ratio (FAR) requirements.

II. PROPERTY INFORMATION & CONDITIONS

Entitlements

Pink Shell Resort is in the Mixed Residential and Recreation Future Land Use categories. The proposed CPD requests density above the current Comprehensive Plan and Land Development Code Regulations. Policy 4-C-10 states that, "intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner."

The Property's zoning designation is: CPD (formerly PUD) on the bayside CPD and a designation of CPD for White Sands and Captiva Villas (formerly PUD/MPD). Approvals for additional height have been made through the prior CPDs based on the Town's Comprehensive Plan Policy 4-C-4, which permits approval of such requests and provides that "the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal."

See the proposed development section IV below for details regarding the height, intensity/density, and FAR requested.

¹ Also referred to as the Coastal Construction Setback Line (CCSL) on the survey and in common practice.

² Per The Town of Fort Myer Beach Land Development Code (LDC) and the Town's Comprehensive Plan zoning areas included in a CPD are limited to areas landward of the 1978 Lee County CCCL/CCSL.

Built Environment

The existing built environment on the gulfside includes:

- 1) three resort buildings (White Sands, Captive Villas and Sanibel View Villas);
- 2) a vacant pad previously developed with a duplex and one cottage, both of which were destroyed by Hurricane Ian; and
- 3) associated parking and outdoor amenities, including pools, sundecks, and water sports for the Pink Shell Resort.

The Pink Shell always has been approved for “resort” use. “Resort” is defined by LDC §34-2 as a mixed-use facility that accommodates transient guests or vacationers as well as longer-term residents. Resorts include a combination of dwelling units and guest units, and must contain, at a minimum, the following: (1) one hotel/motel unit; and (2) at least 50 total units, which include a combination of dwelling units and guest units. Resorts may also include timeshare units, and may provide food service, outdoor recreational activities, and/or conference facilities for their guests.

The existing resort infrastructure includes a marina, pools and pool deck, beach and beach chairs, wave runners, skiffs, spa, conference room, and food and beverage services. The resort uses have been found to be consistent with the Comprehensive Plan and the Land Development Code and compatible with the neighborhood of multi-family, hotel, hotel/condo, and resort uses.

The property has been entitled through numerous zoning actions beginning in 1982, long before the Town’s incorporation, and most recently in 2023. Additional actions were taken in 2024 regarding hardscape amenities, fencing and replacement of tiki structures waterward of the CCCL/CCSL. The existing buildings units and non-residential uses are in place primarily as part of PUD, MPD and CPD zoning. The summary of the historical zoning actions is included as *Appendix A* in this document.

Gulfside Parcels

The specific breakdown of the existing uses is as follows with proposed changes in ***RED bold italics***:

Table 1: gulfside Parcels Existing and Proposed Uses

Building	Existing Density/Intensity	Proposed Density/Intensity	Parcel(s)
Restaurants	5,450 sf	5,450 sf	24-46-23-W1-00700.0330
Conference	1,150 sf	1,150 sf	
Ballroom	2,104 sf	2,104 sf	
Fitness Facility	900 sf	900 sf	
Spa	6,033 sf	<i>3,000 sf</i>	
Pool Bar	1,000 sf	1,000 sf	
Retail (accessory)	1,400 sf	1,400 sf	
Rooms (White Sands, Captive Villas and Sanibel View Villas)	195 Units	<i>197 Units (2 new units per 3,000 sf conversion of spa)</i>	24-46-23-W1-00700.0330 24-46-23-W1-00700.037A 24-46-23-W1-03700.00CE
Duplex and Cottage lot	3 Units	<i>1 Unit</i>	24-46-23-W1-00700.0330

Bayside Parcels

The existing built environment on the bayside includes a marina, docks, dock master building, and surface parking. The specific breakdown is as follows with changes and new additions in **RED bold italics**:

Table 2: bayside Parcels Existing and Proposed Uses

Building	Existing Density/ Intensity	Proposed Density/ Intensity	Parcel(s)
Boutique hotel/condo	Employee parking lot	40 Units	24-46-23-W1-00700.0340
Boat Slips	41	41	24-46-23-W1-00700.0340
Liveaboards	39	39	24-46-23-W1-00700.0320
Dock Master Building	500 sf	500 sf	24-46-23-W1-00700.0290
Residential with dock	1 Unit (309 Estero Blvd purchase)	1 Unit	24-46-23-W1-0070D.028A
	Existing dock	Existing dock (public water taxi slip)	

Redevelopment Summary

Four (4) units were destroyed in the storm and available for density – One (1) unit through the purchase of 309 Estero and three (3) units on the former duplex and cottage lot (CPD Area #2).

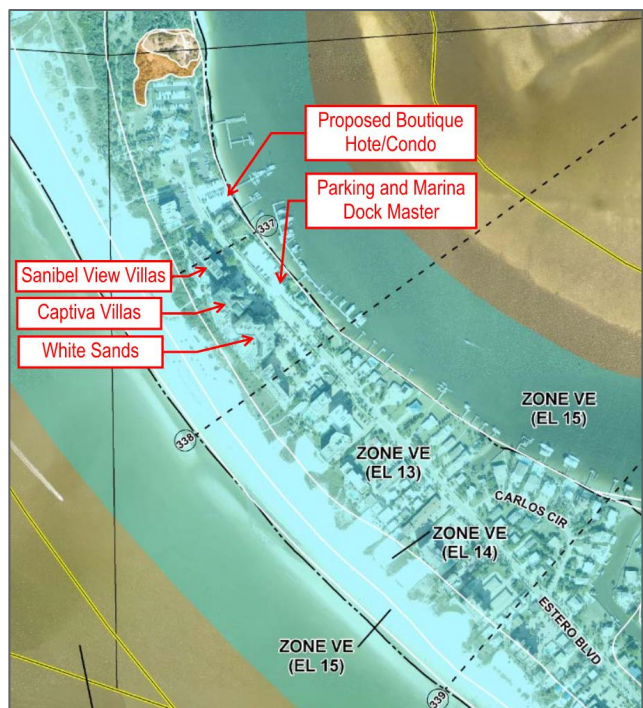
In summary, the development program is proposing 239 total guest units. There are currently 195 units constructed in the White Sands, Captiva and Sanibel buildings.

The redevelopment will construct 44 new units:

- 40 guest units in the boutique hotel (CPD Area #4),
- one (1) unit gulfside (CPD area #2),
- one (1) unit bayside on 309 Estero (CPD Area #3), and
- two (2) in the White Sands building through the conversion of one floor, or 3,000 square feet, of the of the space dedicated to the spa (CPD Area #1).

Flood Elevation

The Pinki Shell Resort properties are entirely within the VE Flood Zone with a base flood elevation (BFE) of 13 feet per Federal Emergency Management Agency (FEMA) Flood Map Panel 12071C0554G.



III. SURROUNDING LAND USES

Current uses of the Pink Shell Resort properties include resorts, guest units, residential dwelling units and assorted accessory and non-residential uses in support of the resort buildings including conference rooms, restaurants, office, marina, and spa.

The Mixed Residential FLUC area of the north end of the island contains several resorts, hotels, and high-rise multi-family units. Immediately north of Pink Shell Resort is the Bowditch Point regional beach park, owned by Lee County, which provides beach access to the Gulf of Mexico and the bay through Matanzas Pass.

Table 3: Surrounding Land Use

	Future Land Use	Zoning	Existing land uses
North	Mixed Residential, then Recreation	Residential Multifamily (RM) then Community Facilities (CF)	Pink Shell Vacation Villas Condo and Bowditch Point Park
South	Mixed Residential	Commercial Resort (CR), Residential Multifamily (RM) and Residential Planned Development (RPD)	High-rise condominiums, rental cottages, residential lot
West:	Recreation	EC (Environmentally Critical)	Gulf of Mexico beach
East:	Tidal Water	None	San Carlos Bay
Enclave (bayside):	Mixed Residential	Commercial Planned Development (CPD)	Abaco Beach Property – Multi-unit

IV. PROPOSED DEVELOPMENT

The development program proposed will add a boutique hotel/condo to the bayside, consistent with the existing development, as well as a substantial number of improvements to the bayside properties and Estero Boulevard, and new features available to the public that are outlined in the next section.

The request will combine all historical zoning actions into a unified CPD that will:

- Establish an accurate zoning history and unify past actions into one CPD.
- Inventory existing development including hotel units, commercial area, amenities, and resort services and parking.
- Bayside: Allow for redevelopment generally limited to a new 40-unit boutique hotel/condo on the northernmost lot, a new guest unit on 309 Estero, a redeveloped parking area that surrounds the Dock Master Building, an improved boardwalk, and access to the potential water taxi.
- Gulfside: establish redesigned amenities of the existing resort property, add two units to White Sands by converting one floor of the spa, and add one guest unit to the former duplex and cottage lot south of White Sands.
- Add a host of public benefits designed to serve the local area and the Town as a whole.

The existing structures on the gulfside parcels – White Sands (Pink Shell Resort), Captiva Villas, and Sanibel View Villas – avoided significant structural damage from Hurricane Ian. The prior existing duplex and rental cottage were damaged in Hurricane Ian and have been razed. The land south of

Gulfshore Court has historically been used as an overflow surface parking lot and would now be available for development or reestablishment as a parking area.

Gulfside Parcels

Redevelopment of the gulfside parcels will be as follows:

- Rebuild one (1) of the three (3) units on the former duplex and cottage lot (CPD Area #2).
- Convert one floor of the spa in the White Sands building to two (2) hotel/condo units (CPD Area #1).
- Rebuild the beachside amenities that were largely destroyed from the hurricane, and much of this is well underway.

Bayside Parcels

Construct a new 40-unit boutique hotel/condo on the northernmost lot (lots 38 and 39) identified as CPD Area #4, redeveloped the surface parking area that surrounds the Dock Master Building, create an improved boardwalk, a new guest unit on 309 Estero, and provide access to a community water taxi.

- *COVENANT: The parcel of the proposed 40-unit hotel/condo parcel was not part of the Covenant Agreement made for density transfer to White Sands building in Resolutions 00-07 and 00-07A. The covenant identifies the areas as lots from the original plat. The covenant covers lots 28-36 only, while the proposed building is on lots 38 and 39.*

General Improvements

There will be general improvements to the properties that are not parcel-specific, such as landscaping enhancements to Estero Boulevard and other benefits outlined in the Public Benefits section.

Development Program Summary

Once complete, the proposed CPD intensity would be:

- 197 hotel and hotel/condo units (2 new hotel rooms from conversion of one floor of the spa in White Sands) – CPD Area #1.
- A new 40-unit boutique hotel/condo building – CPD Area #4.
- One (1) guest unit (former duplex and cottage lot) – CPD Area #2.
- One (1) guest unit (309 Estero) – CPD Area #3.
- 500 square feet in the dock master building – CPD Area #3.
- 41 boat slips with 39 live-aboards – CPD Area #3 *(live-aboards are considered to be living units but not dwelling units as defined by the Fort Myers Beach Comprehensive Plan. Where live-aboards are permitted in accordance with §34-1861 of this chapter, they are not subject to residential density computations.)*.
- Resort amenities such as sundeck and pools and non-residential uses associated with the resort such as restaurant, conference rooms, fitness facilities, pool bar, spa, and water sports.
- TOTAL GUEST UNIT COUNT FOR CPD: 239

Development Parameters

Height

The BFE at this location is 13 feet. The design flood elevation (DFE) is 19'6".

- The maximum permitted height to be established by the Pink Shell Resort and Marina CPD is 92 feet above base flood elevation (BFE) on the gulfside parcels.
- The height of the proposed boutique hotel/condo is 60 feet above DFE or 79'6" from grade.

Stories

The existing buildings are built to the following number of stories:

- 11 stories including the parking and mezzanine level of the White Sands building
- Eight (8) stories including the parking level of the Captiva Villas building
- Six (6) stories including the parking level of the Sanibel View Villas building
- Six (6) including the parking level in new boutique hotel/condo building.

Floor Area Ratio (FAR)

The FAR permitted at this location in the surrounding Commercial Resort (CR) zoning district is 1.2. Per LDC §34-633, the gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is six feet or more in height, plus all stories of covered parking. However, the calculation of the gross floor area does not include any area where the roof is screened rather than solid (such as swimming pool enclosures).

The land area used in the calculation is the gross square footage within the site's private property line, minus wetlands, canals or other waterbodies, and minus any land designated "recreation" on the comprehensive plan's future land use map. The area of the subject property landward of the 1978 Lee County CCCL is 6.02 acres or 262,231 square feet. This land area does not include any property located in the Recreation FLUC or Environmental Conservation zoning district.

The existing White Sands, Sanibel View, Captiva Villas and the dock master building account for 241,900 square feet of floor area. The additional boutique hotel building accounts for 78,000 square feet of floor area. The total floor is 319,900 square feet resulting in an FAR of 1.2.

Density

The proposed development approval would allow a total of 239 guest units over 6.02 acres. Hotel and motel guest units are considered commercial intensity and subject to a density equivalency factor.

The existing and proposed units are comprised of 94 hotel rooms in White Sands (including the two-unit spa conversion), 103 hotel/condo units in the Sanibel View and Captiva Villas, 40 hotel/condo units in the new boutique hotel, and two (2) guest units - one on former cottages/duplex lot gulfside and one on 309 Estero Boulevard bayside.

Density for the CPD area is calculated through the hotel equivalency factors in LDC §34-1803(a)(1) and can be accomplished through the CPD by increasing the factor for this site according to the table below.

Table 4: Pink Shell Density Equivalency

Building	Floor Area (SF)	LDC Equivalency Factor	Density Units	Current Equivalent Guest Units	Proposed Guest Units	Proposed Equivalency Factor	Proposed Equivalent Guest Units
White Sands	> 750	1.0	92	92	94	6.7	14
Captiva	450-750	1.5	43	29	43	6.7	6
Sanibel	< 450	2.0	60	30	60	6.7	9
New Boutique Hotel	> 750	1.0	-	-	40	6.7	6
Guest Units	> 750	1.0	4	4	2	6.7	1
TOTAL			199	159	239	6.7	36

Density Summary

- Density in the Pink Shell Marina & Resort is six (6) units per acre, or 36 units over six (6) developable acres.
- The maximum equivalency factor BY RIGHT for the Mixed Residential FLUC per the LDC is 2.0, or 72 units.
- The existing resort is not subject to equivalency calculations per historical approvals, but when applied the current equivalency factor permitted through planned development zonings of the Pink Shell is 5.4.
- The CPD zoning seeks a deviation to calculate the resort-wide existing and proposed guest units to arrive at an overall equivalency factor is 6.7.

Justification

Per LDC §34-1803(a)(2) guests units exceeding these equivalency factors or exceeding 1,000 square feet each may be allowed under exceptional circumstances as described in the comprehensive plan if approved as a deviation through a planned development rezoning. Before approving such a deviation, the town council must find that:

- All other aspects of the development (height, traffic, intensity of use, etc.) are compatible with the surrounding area;

The proposed use is hotel/condo as part of the Pink Shell Rental Pool. This use as a vacation rental with ownership is common not only in the Pink Shell but similar to the other buildings across the street from Vacation Villas south to Island Shores south of Pink Shell.

- The proposal clearly exceeds all standards of the Fort Myers Beach Comprehensive Plan; and
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.

Policy 4-B-4 "MIXED RESIDENTIAL": designed for older subdivisions with mixed housing types on smaller lots, newer high-rise building... commercial activities, such as motels, must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to

the public realm as de-scribed in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code.

Policy 4-C-4 Building Heights: ...where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process... the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.

Policy 7-D-5: 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).

Policy 7-J-2: Traffic impact analyses and potential design improvements that could offset traffic impacts such as employee shuttles as part of the FDOT/Lee Tran – Commute Connect Program, alternatives forms of transportation, and concierge services encouraging public transportation.

- c. In no case can equivalency factor increases exceed the maximum intensities allowed by the Fort Myers Beach Comprehensive Plan.

The maximum intensity allowed under the Comprehensive Plan for the Mixed Residential FLUC is 1.2 floor area ratio. This project does not exceed that intensity.

The applicant believes the proposed development meets these criteria.

Parking Analysis

The project intends to meet the parking requirements. Below is a breakdown of the required parking in the worst-case scenarios.

Table 5: Existing and Proposed Parking

Location		Existing Spaces	Proposed Spaces
Gulfside	Sanibel View Villas	92	92
	Captiva Villas	24	24
	White Sands	64	64
	Former Duplex and Cottage (Lot 5 and 6)	15	3
Bayside	Marina and Dock Master lot (surface parking)	143	185
	309 Estero Blvd Lot (surface parking)	5	2
	Employee Parking lot (lots 38 & 39)	49	-
	Boutique hotel/condo (lots 38 & 39)	-	46
Total		392	415

Table 6: LDC Parking Requirements

Use	Ratio	Existing Intensity	Proposed Intensity	Required Parking
Restaurant ¹	None per LDC 34-2020	5,450 sf	5,450 sf	0
Conference ¹	2/1000 sf	1,150 sf	1,150 sf	2
Ballroom ¹	8/1000 sf	2,104 sf	2,104 sf	16
Fitness Facility ¹	Non-Public	900 sf	900 sf	0
Spa ¹	5/1000 sf	6,033 sf	3,000 sf	15³
Pool Bar ¹	8/1000 sf	1,000 sf	1,000 sf	8
Retail ¹	3/1000 sf	1,400 sf	1,400 sf	2
Hotel/Condo Units ¹ (White Sands, Sanibel View and Captiva Villas)	1.5 per Room	195	197 (2 units per 3,000 sf spa conversion)	295.5
Duplex and Cottage Lot ¹	2.0 per Unit	3	1	3
390 Estero Blvd. Lot ²	1.5 per Unit	1	1	2
Boat Slips ²	1/2 per slip	41	41	20.5
Dock Master Building ²	2/1000 sf	500 sf	500 sf	1
Boutique hotel/condo ²	1.5 per Room	-	40 Units	60
Total Required Spaces				420³
Total Spaces Provided (Table 5)				416

1 gulfside parcels and/or accessory to resort buildings

2 bayside parcels

3 Not applying trip capture for the majority of the spa use by guests already accounted for.

V. PUBLIC BENEFITS

The proposed zoning requests density above the minimum provided in the current Comprehensive Plan and Land Development Code Regulations. According to the Town's Comprehensive Plan FLU Policy 4-C-10 states that, "intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner."

Likewise, FLU Policy 4-C-4 states that requests for additional height can be made and "the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal."

Below are the proposed public benefits to the residents and visitors to the Beach and the Town for Fort Myers Beach overall. Based on such benefits, approval of additional guest units requested herein is appropriate.

- 1. Redesign the walkways through the view corridor easements to north and south end of the bayside Dock Master building area and surface parking lot by creating a public boardwalk and park with features along Matanzas Pass.**

- As part of prior development of the Pink Shell Resort and Marina, easements were established for public view corridors and accessways on the bayside parcels north and south end according to a recorded covenant agreement. Prior to the hurricane, the area included surface parking and a pathway that provided access to the marina and other requirements. The Resort proposes to amend the original covenant by redeveloping and enhancing the original extent and requirements to improve the accessibility and overall public experience. The proposal includes a formal landscaped walkway that connects to Estero Boulevard on the north and south ends of the view corridor easements, wrapping the lot with an improved meandering boardwalk with view along the water of Matanzas Pass. The boardwalk connects to the water taxi slip and contains park-like features such as shaded seating, bike racks and greenspace.
- The landscaping, seating, bike racks, and boardwalk construction, as shown on the conceptual plan, is estimated to cost between \$250,000 and \$500,000 plus ongoing maintenance. The improvements are to maintenance in perpetuity by the Resort and perpetually open to the public.

2. Landscaping improvements to the bayside and gulfside buffers and right-of-way plantings along Estero Boulevard for the length of the CPD.

- The landscaping and improvements to Estero Boulevard have been important and substantially improved the look and feel of the northern part of the Island. Hurricane Ian and subsequent storms have damaged or removed much of the landscaping. The Pink Shell Resort proposes to restore prior improvements and additionally to substantially enhance what was previously provided per the conceptual landscape plan that is part of the zoning application. This zoning request includes a landscape plan for Estero Boulevard. The improvements will be paid for in full and maintained in perpetuity by the Resort. Simply put, the Town would be benefitted by such improved landscaping and pedestrian oriented infrastructure that would come at no cost to the Town now or in the future.
- The estimated cost of the improvements is approximately \$150,000 plus ongoing maintenance. Additionally, each storm that floods the landscaped areas with seawater requires replacement of much of the planting, all of which will also be replaced by the Resort at no cost to the Town.

3. Barge pump out for Town's mooring fields.

- Since Hurricane Ian the resort has offered the marinas dock and pump to empty the Town's barge from the mooring fields. It will continue to offer the service in perpetuity ending only if the Town would choose to build its own facilities in the future.
- The value to the Town is substantial. The equipment is \$40,000 but that is only a small portion of the costs. The Town would need waterfront property that would abut a dock in a place that would not be controversial to the neighbors, have employee time dedicated to the service, and maintain the equipment.

4. Stormwater storage and flood control under surface parking on the bayside.

- The Resort provided an easement to the Town at the north end of the surfacer parking lot on the bayside for the construction of a series of catacombs under the parking area that stores stormwater for the north end of the island. The chamber system solved a long running flood problem for the entire northern portion of the island.

5. Resort provided employee transportation through the FDOT/Lee Tran – Commute Connect Program.

- The Resort operates two 15-passenger vans as a program thru LeeTran and Enterprise Vans for transport of employees in Lehigh Acres and North Fort Myers areas. The vans take approximately 30 employees to and from work on a daily basis with options to expand services in the future.
- The vans costs \$3,700 per a month for fees, maintenance of vehicles, fuel and pay to the drivers.

6. Improved transportation circulation and options for alternative modes of travel.

- The Resort offers bicycles for use by guests as well as access to golf carts for rent. Additionally, the proposed additions of the intercoastal water taxi stop, the LeeTran trolley system with a stop in front of the Resort, redesigned walkway and boardwalk around the bayside property, enhanced crosswalks on Estero Boulevard, improved shading and landscaping along Estero Boulevard, and additional seating along sidewalks, will create a cohesive, connected, and complete alternative transportation solution at no cost to the Town.

7. Drop off/pick up location for the proposed intercoastal water taxi route connecting visitors to San Carlos Island.

- The marina has ample slip and docking areas to provide a slip open to the public for drop-off and pickup as part of the park features and enhanced boardwalk on the south end of the bayside property. The water taxi would also provide alternative transportation to cars, alleviating traffic on Estero Boulevard, furthering the intent of Comprehensive Plan Policies T-1-D-1 through T-1-D-3. Further, the exit point from the water taxi is walking distance to the Bowditch Point Park pedestrian access, and therefore is located at a uniquely convenient spot for the public.

8. Pre-arrival Concierge encouraging alternative transportation.

- The Resort provides pre-arrival concierge. As a program, the resort emails incoming guests 3 days out and 7 days out to encourage airport transportation and presell golf carts that are available as road ready alternatives to vehicles at White Sands with charging stations. The resort also has bike rentals available as another means of getting around the island without vehicles.

9. Community support for Bay Oaks Summer Camp.

- Since Hurricane Ian damaged the Bay Oaks the community swimming pool Pink Shell has offered its pool for the Bay Oaks summer camp while the pool is being reconstructed. If, in the future, damage from natural disasters would render the Town's pool inoperable the Resort is willing to provide use of its facility in support of the summer program at no cost to the Town.

10. Community day passes to pool amenities.

- Use of the Pink Shell Resort pool amenities are available to the public via day passes.

11. Florida Green Lodging Program, 4 Palm Certification, through FDEP

- As stated in a letter from FDEP, the Pink Shell Resort is a certified green lodging facility and one of the few such facilities in the State of Florida. The Resort intends to keep being environmentally conscious and maintain the certification relative to both the existing and proposed development.

12. Turtle Conservancy Certified Maintained Property

- The Beach belongs to all walks of life, including sea turtles. The Resort is currently taking the necessary steps to address lighting concerns for the nesting sea turtles at significant expense to the Applicant. They will meet or exceed said requirements such as installing tinted windows and directed outdoor lighting to be certified by the Conservancy pending completed work programs.

VI. INFRASTRUCTURE

As outlined in the enclosed application, and more thoroughly in the companion CPA, the subject property is currently serviced, or will be serviced, by public infrastructure that can accommodate the proposed density and intensity associated with the CPD request.

Letters of service availability have been received from the Lee County Utilities (Sewer), Town of Fort Myers Beach Utilities (Water), Lee County Sheriff, Fort Myers Beach Fire Control & Rescue District, Fort Myers Beach Public Works Department, Lee County School District, and Lee County Transit. Based on the capacity letters all agencies and services have adequate capacity to meet the demand for the additional units proposed in this application.

VII. DESIGN STANDARDS COMPLIANCE (LDC §§34-991 - 34-997)

§34-992

(a) Applicability. Except where this code specifically provides otherwise, these commercial design standards apply to all commercial and mixed-use buildings or portions thereof that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405 of this LDC, on properties that are zoned in any of the following zoning districts:

(6) CPD (commercial planned development) (§§34-951—34-960).

Applicant: The proposed redevelopment of the northern most bayside parcel property with a hotel/condo building of 40 units is new construction for which approval is requested through CPD zoning. The commercial standards within these sections will be applied to the design and conditioned appropriately by the zoning resolution.

(b) Commercial buildings on properties with a zoning resolution that incorporated specific architectural elevations shall be required to comply with these standards to the extent that the standards are not inconsistent with the approved elevations.

Applicant: Architectural renderings will be part of the Commercial Planned Development zoning package for conceptual compliance review by staff and the LPA and Town Council during public hearings.

(c) Commercial buildings such as hotels that will not contain commercial uses below base flood elevation shall not be required to comply with the ground-floor window and retail standards except along Old San Carlos Boulevard (see § 34-676(b)(2) of this chapter. However, the principal facades of these buildings must screen under-building parking areas in a manner acceptable to the town manager or designee.

Applicant: The 40-unit building on the bayside will be constructed above base flood elevation, and therefore does not propose ground floor commercial.

The building includes under-building parking on the first floor, which will be screened. This first-floor parking area will also be designed to create a pedestrian level scale with opening for light and building treatments that create the look and feel of windows and interesting facades.

(d) Compliance determinations. Compliance with these standards shall be determined as follows:

(1) An applicant may seek conceptual or final approval of a specific building and site design during the commercial planned development rezoning process (see § 34-931 of this chapter). The resolution approving a commercial planned development may include specific site plans and building elevations and shall specify the extent to which these plans and elevations have or have not been determined to meet these commercial design standards and whether any deviations to these standards have been granted.

Applicant: The Pink Shell Resort & Marina CPD application seeks conceptual approval of a Master Concept Plan (MCP) and conceptual approval of the 40-unit building that will be shown in the forthcoming renderings as part of the application.

The project proposes previously approved deviations to be carried over from all prior zoning approvals in addition to seven new deviations.

VIII. DECISION-MAKING COMPLIANCE (LDC §34-85)

Town council shall find that the requested zoning district complies with:

(1) The Fort Myers Beach Comprehensive Plan.

Applicant: The CPD zoning application meets the goals objectives and policies of the Comprehensive Plan.

Town council shall consider the following, whenever applicable:

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

Applicant: The rezoning of the Pink Shell managed properties solves the long-standing confusion that has resulted from the piecemeal zoning approvals. Adding to the confusion is the adoption of zoning approvals by Lee County prior to Town incorporation, and transition to the Town after incorporation. The requested CPD will codify streamlined development parameters and rectify any remaining discrepancies by placing all properties under one approved zoning resolution.

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

Applicant: The island has been changed by Hurricane Ian. Approval of this request would address substantial public benefits to the town while meeting floor area ratio permitted in the current FLUC.

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

Applicant: None.

(4) The testimony of any applicant.

Applicant: As a quasi-judicial process, the CPD zoning will allow for competent substantial evidence to be presented to and considered by the Local Planning Agency for recommendation and Town Council for a decision or conditions for approval. The testimony presented will demonstrate that the request is consistent with the goals, objective and policies of the Comprehensive Plan, as proposed to be amended by the companion CPA, and with all applicable development regulations.

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

Applicant: The Town Council will consider the staff report and recommendation as well as the LPA's report and recommendation rendered after a public hearing where the staff and applicant will present evidence, the public will speak, and the LPA is permitted to ask questions of all parties.

(6) The testimony of the public.

Applicant: During the quasi-judicial process, the hearing will be advertised to the public and they will be entitled to present evidence, concerns, or issues with the proposed development pursuant to the Florida Sunshine Law and principles of procedural due process. In addition, the applicant intends to hold one or more public outreach events where public input will be received and considered by the Applicant.

(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.

Applicant: The proposed development includes public benefits, as discussed above. The Applicant respectfully requests consideration of these benefits in relation to its requests to exceed the standard density and intensity ranges for height and density under the current Comprehensive Plan. It is also for this reason that the Applicant has proposed the companion Comprehensive Plan Amendment to create a Pink Shell Mixed Use FLUC.

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

Applicant: The requested rezoning proposes to affirm both the existing Resort and new similar uses following those parameters already deemed to meet or exceed performance and locational standards. The public benefits will increase the performance of not only the Resort but the entire north end of the island by addressing safety, services, beauty, and alternative forms of transportation.

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

Applicant: Letters of availability have been requested and received regarding the adequate urban services for the proposed project. In short, the resort largely exists today with adequate infrastructure and services provided. The expansion will not exceed those capabilities.

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

Applicant: The request does not propose new development within environmentally sensitive areas, and will be required to develop according to the Town's LDC and applicable state requirements.

(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.

Applicant: The proposed development on the bayside is compatible with the existing gulfside resort in size, height, stories, function, and services.

(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.

Applicant: The proposed development should serve to decrease traffic issues by providing: (1) access to a water taxi as alternative transportation; (2) improved pedestrian circulation; and (3) enhanced shade and landscaping along pedestrian walkways.

LPA Recommendation Criteria Per LDC §34-85

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

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

Applicant: We respectfully assert that the use and location is appropriate. It has long been a commercial use and marina, and the proposed new development is consistent with the existing scheme of development. The buildings in the area are of similar height and size as that proposed by this request.

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

Applicant: Staff and applicant will discuss safeguards to be proposed as special conditions.

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

Applicant: Staff and applicant will discuss conditions that are reasonably related to the public interest, as impacted by this request.

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.

Applicant: The proposed development meets the intent of the FLUC.

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

Applicant: Not applicable

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

Applicant: See the Comprehensive Plan Consistency Section below.

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

Applicant: Not applicable

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

Applicant: Not applicable

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

Applicant: See the traffic study report by TR Transportation and the Master Concept plan.

IX. COMPREHENSIVE PLAN CONSISTENCY NARRATIVE

The following is an analysis of how the proposed Comprehensive Plan Amendment is consistent with the goals, objectives, and policies (GOPs) of the Town of Fort Myers Beach Comprehensive Plan. The adopted GOP headings are listed below, and the Applicant's compliance analysis is shown in **bold**.

Future Land Use Element

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.

The proposed CPD rezone and companion CPA include commitments that will provide enhanced pedestrian safety and streetscape aesthetics, in direct compliance with this policy. The CPD master concept plan reflects sidewalk connectivity throughout the development, relocated public accessways, and improved/redesigned public boardwalk along Matanzas Pass. Additionally, public streetscape improvements are proposed along Estero Boulevard to create an enhanced pedestrian environment along the roadway and general improvement to aesthetics.

POLICY 1-B-2: Improve the appearance of the town throughout by landscaping public property and rights-of-way with native vegetation.

The CPD proposes landscaping improvements in the Estero Boulevard ROW for the length of the project, redesigned and maintained in perpetuity by the Applicant with no cost to the Town, to provide a comfortable walking environment in conformance with this Policy.

POLICY 1-B-3: Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special landscape projects.

The CPD proposes landscaping improvements in the Estero Boulevard ROW for the length of the project, redesigned to provide a comfortable walking environment and maintained in perpetuity by the Applicant, in conformance with this Policy.

POLICY 4-A-1: Maintaining the town's current "human scale" is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.

The CPD master concept plan and development parameters propose ground floor screening and landscaping according to the LDC for the new 40-unit building. The new structure proposed within CPD Area #4 has been designed to encourage both use and admiration by pedestrians, as discussed above. Further, the provision of two (2) pedestrian access easements, ROW landscaping improvements, free bicycles to resort guests, access to golf carts for rent, trolley stop, and water taxi encourage the public to experience the north end of the Island from outside a car from the time they arrive on the Island until their departure.

POLICY 4-A-2: The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian oriented public realm.

The proposed CPD provides for a mix of uses in support of this policy.

POLICY 4-A-4: Easy walking access to the beach is a key element of the town's human scale. Development trends that inhibit this access are undesirable (including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians).

The proposed CPD rezone seeks to further enhance the pedestrian environment and multi-modal transportation network that is critical to Fort Myers Beach's success, quality of life and public safety. Specifically, supportive zoning conditions will contain the following bicycle/pedestrian elements in direct compliance with the above policy:

- ***Relocated public accessways at north and south end of building (bayside) and improved/redesigned public boardwalk along Matanzas Pass.***
- ***Landscaping improvements in Estero Boulevard for the length of the CPD, redesigned and maintained in perpetuity by the Applicant, to provide a comfortable walking environment.***
- ***A drop off/pick up location for the proposed intercoastal water taxi route connecting visitors to San Carlos Island.***

POLICY 4-A-5: The town contains many important natural resources despite its urbanized character. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan.

Uses and development in the areas waterward of the 1978 Coastal Construction Control Line (CCCL) will continue to comply with the above policy. Other portions of the Property are disturbed/developed. The development program will be designed and constructed to the

latest South Florida Water Management and Department of Environmental Protection standards to ensure high-quality development that protects natural resources.

As stated above, the Pink Shell Resort is one of the few certified green lodging facilities in the State of Florida, and has obtained the highest classification of 4 Palm, demonstrating the Applicant's ongoing commitment to natural resource preservation.

Additionally, following Hurricane Ian, the Applicant partnered with local and state agencies regarding beach renourishment. On May 15, 2023, the Pink Shell Resort & Marina executed the Temporary Beach Management and Access Easement agreement as shown in Exhibit C in the application.

POLICY 4-B-4 "MIXED RESIDENTIAL": designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 dwelling units per acre (except where the Future Land Use Map's "platted overlay" indicates a maximum density of 10 units per acre for legally existing dwelling units). Commercial activities are limited to lower impact uses such as offices, motels, churches, and public uses, and must be sensitive to nearby residential uses, complement any adjoining commercial uses, contribute to the public realm as described in this comprehensive plan, and meet the design concepts of this plan and the Land Development Code. These qualities and overall consistency with this comprehensive plan shall be evaluated by the town through the planned development rezoning process. Non-residential uses (including motels and churches) now comprise 7.9% of the land in this category, and this percentage shall not exceed 12%.

The above policy describes the portions of the Property that are outside of the area currently assigned a Recreation FLU which is accurate for the CPD area. The resort use as hotel/condominiums for rent is an appropriate use. The density is permitted to be exceeded by increasing the equivalency factor while the project meets the intensity permitted with a floor area ratio of below 1.2 including ground level parking for the entire resort.

POLICY 4-B-8 "RECREATION": applied to public parks, schools, undevelopable portions of Bay Beach, and those parts of Gulf beaches that lie seaward of the 1978 coastal construction control line. Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the 1978 control line). The maximum density of residential development here is 1 dwelling units per 20 acres, with all dwelling units to be constructed outside this category. Allowable uses are parks, schools, libraries, bathing beaches, beach access points, and related public facilities. Non-recreational uses (such as the elementary school) now comprise 2.7% of the land in this category; additional school sites and public buildings shall not increase this percentage beyond 6%.

The zoning does not impact the Recreation FLUC. It is not part of the CPD boundary.

POLICY 4-C-3 COMMERCIAL LOCATIONS: When evaluating proposals for new or expanded commercial uses in categories where they are permitted, the several principles shall apply.

The proposed District/CPD is not located within the Low-Density category and is proposed for inclusion in a site-specific Mixed-Use District based on existing and proposed levels of development at an established node in the west side of Fort Myers Beach.

The proposed District requires the approval of a Planned Development rezoning to ensure conditions and site-specific concept plans are attached to the district in perpetuity.

The proposed District is currently within the Mixed Residential FLUC and proposes lower intensity uses such as hotel/lodging, recreation, and retail uses.

The proposal is sensitive to surrounding properties and provides enhanced public access to the Property and surrounding public amenities including Fort Myers Beach Accesses and Bowditch Point Park.

The physical scale has been carefully planned to remain consistent with the current development form and soften new building via landscaping and architectural details.

Transportation Element

POLICY 7-D-4 ENCOURAGE WATER TAXIS.

The CPD zoning includes a water taxi stop/drop-off at the south end of the bayside property connected to the public boardwalk and park area, in direct compliance with this policy.

POLICY 7-D-5 HIDDEN-PATH SYSTEM.

The proposed pathway, located on the bayside of the project, provides a hidden pathway that is open to public and provides a comfortable waterside pedestrian environment that connects the proposed buildings to the water taxi, fishing pier and greater Fort Myers Beach sidewalk system along Estero Boulevard.

OBJECTIVE 7-E UPGRADE ESTERO BOULEVARD.

The proposed enhanced landscape improvements will improve the walking environment and additional street trees, such as those to be provided, are proven to slow traffic and enhance public safety.

OBJECTIVE 6-E DUNES AND BEACHES

The property will contribute to the beach renourishment efforts by the Town and state agencies, as well as implement localized dune renourishment. On May 15, 2023 the Pink Shell Resort signed the Temporary Beach Management and Access Easement to allow the Town to administer the Estero Island Beach Renourishment Project post-lan. See Exhibit C.

POLICY 6-H-5 WATER QUALITY

The implementing development plans, through CPD conditions and the adopted master concept plan, will be reviewed by the FDEP and SFWMD to ensure water quality is maintained and the project meets the current standards, which are more stringent compared to the existing permits.

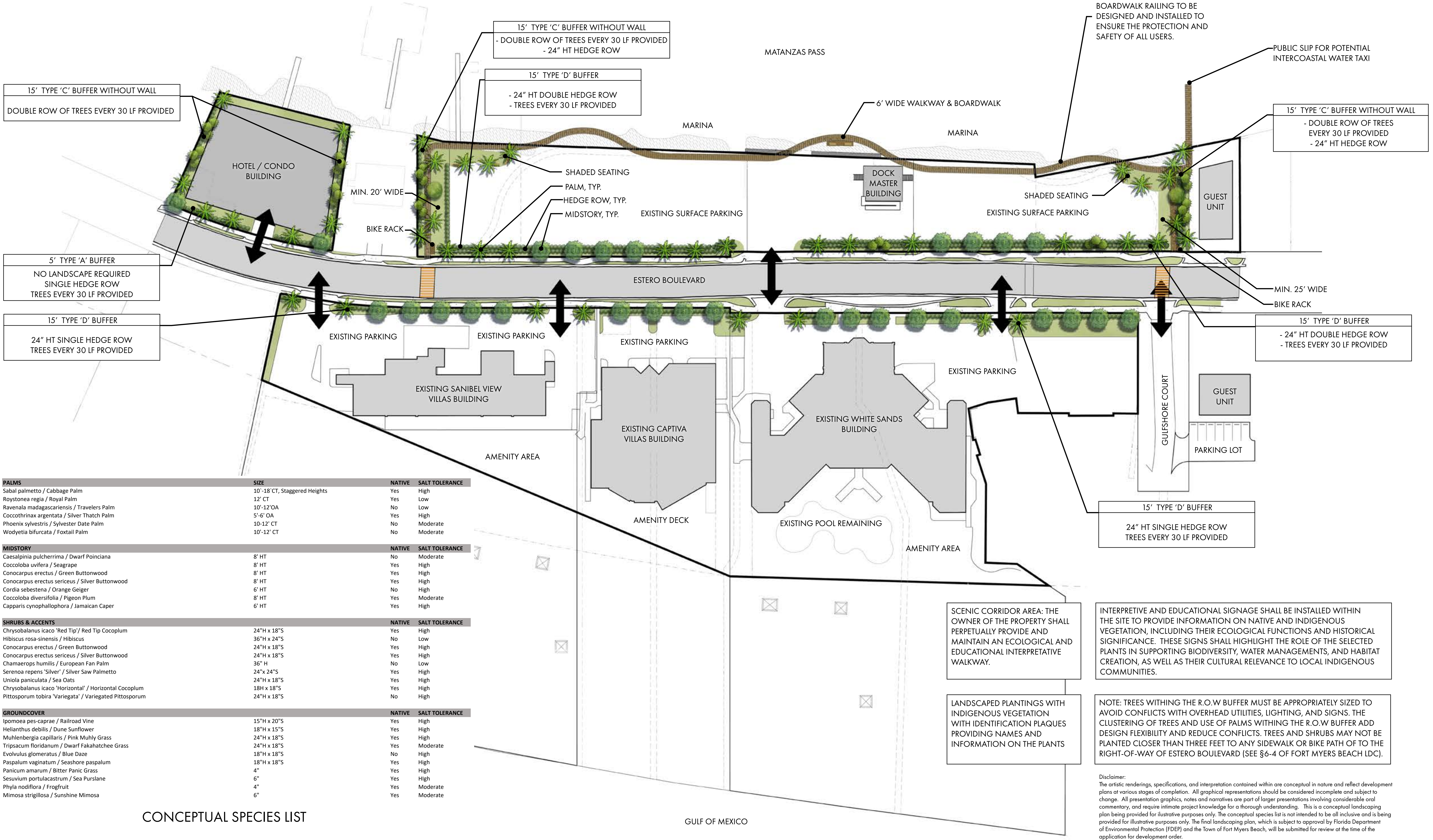
X. CONCLUSION

In sum, the Pink Shell Resort & Marina CPD will allow for the expansion of resort-oriented uses at an established activity node in the north end of Estero Island, between Times Square and Bowditch Point Park. The expansion is largely contributing to the public benefit of Fort Myers Beach, including Estero Boulevard landscaping to improve aesthetics and the pedestrian environment, public fishing pier and new boardwalk that are fully open to the public, and recreational amenities.

As proposed through the Pink Shell Resort & Marina CPD will be consistent with the vision and implementing goals, objectives and policies of the Town's Comprehensive Plan and Land Development Code Regulations. For these reasons, the Applicant respectfully requests approval of this amendment.

APPENDIX A

Historical Zoning Summary



PALMS	SIZE	NATIVE	SALT TOLERANCE
Sabal palmetto / Cabbage Palm	10'-18' CT, Staggered Heights	Yes	High
Roystonea regia / Royal Palm	12' CT	Yes	Low
Ravenea madagascariensis / Travelers Palm	10'-12' OA	No	Low
Coccothrinax argentata / Silver Thatch Palm	5'-6' OA	Yes	High
Phoenix sylvestris / Sylvester Date Palm	10-12' CT	No	Moderate
Wodyetia bifurcata / Foxtail Palm	10'-12' CT	No	Moderate

MIDSTORY	SIZE	NATIVE	SALT TOLERANCE
Caesalpinia pulcherrima / Dwarf Poinciana	8' HT	No	Moderate
Coccoloba uvifera / Seagrape	8' HT	Yes	High
Conocarpus erectus / Green Buttonwood	8' HT	Yes	High
Conocarpus erectus sericeus / Silver Buttonwood	8' HT	Yes	High
Cordia sebestena / Orange Geiger	6' HT	No	High
Coccoloba diversifolia / Pigeon Plum	8' HT	Yes	Moderate
Capparis cynophallophora / Jamaican Caper	6' HT	Yes	High

SHRUBS & ACCENTS	SIZE	NATIVE	SALT TOLERANCE
Chrysobalanus icaco 'Red Tip' / Red Tip Cocoplum	24"H x 18"S	Yes	High
Hibiscus rosa-sinensis / Hibiscus	36"H x 24"S	No	Low
Conocarpus erectus / Green Buttonwood	24"H x 18"S	Yes	High
Conocarpus erectus sericeus / Silver Buttonwood	24"H x 18"S	Yes	High
Chamaerops humilis / European Fan Palm	36" H	No	Low
Serenoa repens 'Silver' / Silver Saw Palmetto	24"x 24"S	Yes	High
Uniola paniculata / Sea Oats	24"H x 18"S	Yes	High
Chrysobalanus icaco 'Horizontal' / Horizontal Cocoplum	18H x 18"S	Yes	High
Pittosporum tobira 'Variegata' / Variegated Pittosporum	24"H x 18"S	No	High

GROUNDCOVER	SIZE	NATIVE	SALT TOLERANCE
Ipomoea pes-caprae / Railroad Vine	15"H x 20"S	Yes	High
Helianthus debilis / Dune Sunflower	18"H x 15"S	Yes	High
Muhlenbergia capillaris / Pink Muhly Grass	24"H x 18"S	Yes	High
Tripsacum floridanum / Dwarf Fakahatchee Grass	24"H x 18"S	Yes	Moderate
Evolvulus glomeratus / Blue Daze	18"H x 18"S	No	High
Paspalum vaginatum / Seashore paspalum	18"H x 18"S	Yes	High
Panicum amarum / Bitter Panic Grass	4"	Yes	High
Sesuvium portulacastrum / Sea Purslane	6"	Yes	High
Phyla nodiflora / Frogfruit	4"	Yes	Moderate
Mimosa strigillosa / Sunshine Mimosa	6"	Yes	Moderate

CONCEPTUAL SPECIES LIST



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: Various, See attached List of Owners-STRAPS-Address document

STRAP Number: Various, See attached List of Owners-STRAPS-Address document

Applicant: JABO, LLC Phone: _____

Contact Name: Bill Waichulis Phone: (239) 463-8601

Email: bwaichulis@boykin.com Fax: _____

Current Zoning District: CPD, CR and EC

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

FLUM Density Range: 6 du/acre Platted Overlay: ☐ YES ☒ NO

*Companion CPA submitted to amend FLUM to Pink Shell Mixed Use District

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

☐ Special Exception

PH-A

☐ Variance

PH-B

☐ Conventional Rezoning

PH-C

☒ Planned Development ☒ Commercial ☐ Residential

PH-D

☐ Master Concept Plan Extension

PH-E

☐ Appeal of Administrative Action

PH-F

☐ Vacation of Platted Right-of-way and Easement

PH-G

☐ Other – cite LDC Section: _____

attach on separate sheet

PART I – General Information

A. Applicant*: JABO, LLC Phone: (239) 463-8601

**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: 275 Estero Boulevard, Fort Myers Beach, FL 33901

Email: bwaichulis@boykin.com Fax: (239) 463-8640

Contact Name: Bill Waichulis Phone: (239) 463-8601



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: Fred Drovdlc, AICP, RVI Planning + Landscape Architecture Phone: (239) 318-6707
Address: 1514 Broadway, Suite 201, Fort Myers, FL 33901
Email: fdrovdlc@rviplanning.com Fax: _____

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

Name: Amy Thibaut, Esq., Roetzel & Andress, LPA Phone: (239)338-4213
Address: 2320 First Street, Suite 1000
Email: sspector@ralaw.com Fax: (239)337-0970

Name: Ted Treesh, TR Transportation Consultants, Inc. Phone: (239)278-3090
Address: 2726 Oak Ridge Court, Suite 503, Fort Myers, FL 33901
Email: TBT@trtrans.net Fax: (239)278-1906

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 CPD, EC and CR to ☒ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: See request Request Narrative & Comp Plan Compliance
- ☐ 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: Rezoning from CPD, EC and CR to CPD and EC
- _____
- _____

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: NA Description: _____

Code Section: NA Description: _____

Code Section: NA Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: NA 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

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

JABO, LLC

Robert Boykin and John Boykin

100%

275 Estero Boulevard, Fort Myers Beach, FL 33901

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

Name and Address

Percentage of Interest

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

Name and Address

Percentage of Ownership

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

Name, Address and Office

Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

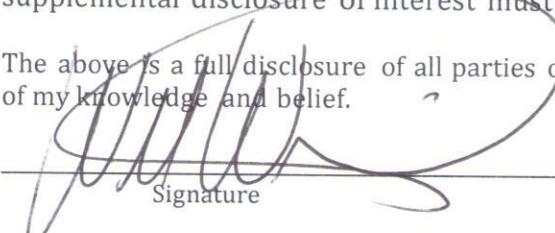
Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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



Signature

William Waichulis, Officer JABO, LLC

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, William Waichulis (name), as General Manager of Pink Shell (title) of JABO, 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

JABO, LLC

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

Signature

WILLIAM WAICHULIS, GENERAL MANAGER

Typed or Printed Name

Manager

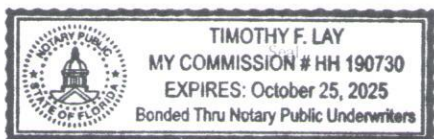
Title

Date

5/12/23

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 12th day of May, 2023, by William Waichulis ☒ who is personally known to me OR ☐ who has produced _____ as identification.



Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: Various, See attached Exhibit A

Property Address: Various, See attached Exhibit A

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

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) varies feet
Depth (please provide an average width if irregular in shape) 200 to 450 feet
Frontage on street: 1,050 (Estero Blvd) feet. Frontage on waterbody: 1,000+ feet
Total land area: 11 ☒ acres ☐ square feet

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

from Sky Bridge go north on Estero Boulevard 1+/- mile. Pink Shell Resort is
located on both sides of Estero Boulevard.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☐ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☒ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

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

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

- | | |
|---|--|
| ☐ Low Density | ☐ Marina |
| ☒ Mixed Residential | ☒ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

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

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

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

Explanatory Notes – Part I

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

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

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

Explanatory Notes – Part IV

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

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

Explanatory Notes – Part VI

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

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

Explanatory Notes – Part IV & V

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

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: Pink Shell CPD
Authorized Applicant: Bill Waichulis, JABO, LLC
STRAP Number(s): See attached List of Owners, Addresses and STRAPS

Current Property Status: Pink Shell Resort and amenities, surface parking, marina
Current Zoning: Various CPD's, CR and EC
Future Land Use Map (FLUM) Category: Mixed Residential and Recreation*
Platted Overlay? ☐ yes, ☐ no FLUM Density Range:

Requested Action:

☐	DRI (with rezoning)
☒	Planned Development (also check below)
☐	Rezoning from: CPD, CR and EC to: CPD and EC
☐	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)
	from the Mixed Residential and Recreation to Mixed Residential and Recreation to the
	Pink Shell Mixed Use District and Recreation Future Land Use Category

B. Phasing of Construction

☐	The development is to be constructed in a single phase.
☒	The development is to be constructed in phases as follows: (describe proposed phasing below)
	Phase 1 - Bayside parking gagarge and multifamily units, Estero landscaping, Resort amenities
	Phase 2 - Workforce Housing building



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

[illegible]

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

[illegible]



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

from Sky Bridge go north on Estero Boulevard 1+/- mile. Pink Shell Resort is located on both sides of Estero Boulevard.

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]



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.

[illegible]

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

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

3/30/2021

Guide to Filing Supplement PH-D for Planned Developments

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

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

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

Case Number will be inserted by Community Development staff.

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

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

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

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

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

Part 1 Narrative Statements:

Comprehensive Plan Amendments

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

Construction Phasing

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

Comprehensive Plan Compliance

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

Design Standards Compliance

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

Decision-making compliance

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

Schedule of deviations and written justification

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

Administrative amendments

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

Part 2 Submittal Requirements

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

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

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

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

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

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

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

1. **Request:**

Meeting Date: January 8, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20240186 FOR USE OF AN EXISTING LOT TO PROVIDE COMMERCIAL PARKING SPACES IN THE DOWNTOWN ZONING DISTRICT OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 1479 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Why the action is necessary:

The applicant must receive approval from Town Council to engage in commercial parking on their site

What the action accomplishes:

Allows the Lani Kai to charge visitors for beach parking

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Jason Smalley, Senior Planner

5. **Background:**

Following a Town code compliance case, the applicant requested to formalize approval for paid parking on their parcel on the Bay side of Estero Blvd. The applicant states that they have been engaged in commercial parking for many years.

At its December 10th, 2024 meeting, the LPA voted 6-1 to approve with conditions this Special Exception application. However, this application was to be considered concurrently with a Variance application that would permit the applicant to maintain the current site conditions and parking plan. The LPA voted to "continue to a date uncertain" the review of that request. Staff will be presenting the Variance application to the LPA again on January 9th, 2025. Approval of the Special Exception application must be conditioned on the approval of the Variances.

Attachments:

1. Resolution 25-28; SEZ20240186, 1479 Estero, Lani Kai
2. TC Staff Report ns
3. Exhibit A: (Historical) Response for LDO Application #20200045
4. Exhibit B: SEZ Application
5. Exhibit C: SEZ20240186- 1479 Estero Blvd- Insufficiency letter
6. Exhibit D: Applicant Response to Insufficiency Letter

Financial Impact:

N/A

6. **Alternative Action**

Approve with conditions

7. **Management Recommendations:**

N/A

8. Recommended Approval:

Judith Frankel, Principal Planner
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/19/2024
Approved - 12/19/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

RESOLUTION NUMBER 25-28

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20240186 FOR USE OF AN EXISTING LOT TO PROVIDE 43 COMMERCIAL PARKING SPACES IN THE DOWNTOWN ZONING DISTRICT OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 1479 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

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

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

WHEREAS, Applicant Robert Burandt on behalf of LKLB of Florida Inc. is requesting use of an existing lot to provide 43 commercial parking spaces in the Downtown zoning district per Sections 34-2011(2)(a) and 34-2019(a) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-0060B.0100; and

WHEREAS, the Property is located in the “Pedestrian Commercial” category of the Future Land Use Map of the Comprehensive Plan; and

WHEREAS, the Property is located in the “Downtown” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was noticed and held before the Local Planning Agency (LPA) on December 10, 2024, and at the hearing the LPA gave full and complete consideration to the request of the Applicant recommendations of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted 6 to 1 recommending approval with conditions of the Special Exception; and

WHEREAS, on the ____ day of _____, 2025 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

WHEREAS, the Town Council determined it is/ is not in the best interest of the Town to approve/approve with conditions/deny the request for a Special Exception.

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

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

Section 2. The Town Council determines the Applicant did/ did not meet its burden of proof that the requested Special Exception does/ does not meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception is/ is not in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council **APPROVES/APPROVES WITH CONDITIONS/DENIES** the Special Exception to allow reconstruction of a major accessory structure in the EC zoning district per section 6-366.

Section 3. In approving the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

- A. Changed or changing conditions which make approval of the request appropriate.
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request meets all performance and locational standards for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code; and

Section 4. If the Town Council approves/denies the requested Special Exception and the following conditions of approval are imposed on the Applicant and the subject property:

1. The Special Exception shall not be valid without the approval of necessary variances (as stated in VAR 20240233) from landscape and parking lot design requirements.
2. Applicant shall create a parking plan for all three of their parking areas with the size/square footage and number of lodging uses of the associated uses identified per LDC sec. 34-2018
3. A new special exception must be applied for each time an LDO/ DO is applied for, or any structures are developed/ reconstructed.
4. Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development 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.

5. The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.
6. Any violation of the conditions of approval shall render the special exception null and void.
7. Property owners shall develop a plan to engage with customers of the commercial lot no less than 40-feet into the property to allow for stacking that approximates requirements for lots which are developing gates within 100-feet of Estero Blvd.
8. Two-way drive aisles must meet minimum Fire Department widths, this will be assessed during an LDO/ DO as required by the LDC.
9. The applicant must obtain an approved lighting plan as outlined in LDC Sec. 34-1834.

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	_____
Karen Woodson, Council Member	_____
Scott Safford, Council Member	_____

ADOPTED this ____ day of _____, 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of January 2025.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: SPECIAL EXCEPTION -- PARKING

CASE NUMBER: SEZ20240186

CASE NAME: Special Exception for use of an existing lot to provide 43 commercial parking spaces in the Downtown zoning district.

LPA

HEARING DATE: December 10th 2024, at 9:00 AM

TOWN COUNCIL

HEARING DATE: January 8th, at 9:00 AM

STAFF

RECOMMENDATION: Denial/Approval with Conditions

**PREPARED/
SUBMITTED BY:** Jason Smalley, Senior Planner

I. APPLICATION SUMMARY

Applicant/Owner: Robert Burandt, Esq./ LKLB Of Florida Inc.

Requests: Special exception to allow for the use of 43 parking spaces in an existing parking lot located within the Downtown zoning district.

Physical Address: 1479 Estero Blvd

STRAP #: 19-46-24-W4-0060B.0100

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North: CANAL

South: DOWNTOWN
Commercial Parking Lot

East: DOWNTOWN
Multi-Family Condominium

West: DOWNTOWN
Commercial Parking Lot

II. BACKGROUND AND ANALYSIS

Background:

The applicant is proposing to allow all 43 parking spaces currently located at 1479 Estero Blvd ("Lani Kai") to be utilized for commercial parking purposes. The lot exists in the Downtown zoning district and is adjacent to other complimentary uses, including at least three parking lots, two of which are known to be used exclusively for commercial parking purposes, including a parking lot approximately 200-feet west of the subject property and owned by "Lani Kai LP."

The applicant has stated in their submission that the lot has been used for commercial parking for many years, even prior to the Town's incorporation. Staff cannot verify this claim since the Town has no approved Special Exceptions or prior approvals for seasonal parking lots in its records. The Land Development Code (LDC) allows for the use of 13 of the existing space for a commercial parking lot, although a Special Exception is required. The LDC requires the remaining 30 spaces be dedicated to supporting the 25 hotel/ motel units which exist in the building at 1479 Estero Blvd.

At its December 10th, 2024 meeting, the LPA voted 6-1 to approve the Special Exception application with the conditions listed in this staff report. Staff and attorney have included an additional condition, #1 The approval is conditioned on obtaining several variances to allow the applicant to maintain the current site conditions and parking plan, which does not currently comply with the LDC. The LPA voted to "continue to a date uncertain" the review of that request. Staff will be presenting the Variance application to the LPA again on January 9th, 2025. If the Town Council votes to approve the Special Exception application, it must be subject to obtaining the needed variances.

Analysis:

The hotel/ motel structure at 1479 Estero Blvd was built on or around 1984, per the publicly available LEEPA records. Per the applicant there are 25 units in the building on this lot, the provided 43 parking spaces serve that use. The hotel/motel use requires 30 parking spaces and leaves 13 parking spaces available for commercial parking. The applicant has concurrently requested four variances (VAR20240233)

under a separate application. The requested variances need to be approved to allow the applicant to dedicate the 13 spaces to a commercial use.

The LDC Sec. 34-2011(2)(a) and 34-2019(a) allow for an applicant to propose commercial parking on a site where they have at least 10 parking spaces, through the Special Exception process.

Neighborhood Compatibility:

The subject property is within the Downtown zoning district and is generally surrounded by other parking lots, hotels, condominiums and residential uses. It does not seem that approval of the Special Exception would measurably change the character or intensity of the neighborhood. It should be noted that the adjacent lot (1397 Estero Blvd.; “Norm’s Lot”) has been granted a Special Exception to operate a similar commercial parking lot. The requirements of that approval included a stormwater retention area and landscaping buffers.

Findings and Conclusions:

Special Exception Findings

LDC Sec. 34-88(b) sets forth the required findings and conclusions for the approval of a special exception:

- 1) *Whether there exist changed or changing conditions which make approval of the request appropriate.*

The applicant claims that they have been utilizing the subject property for commercial parking for years, staff cannot confirm this assertion but if approved they would continue much as they had prior to the storm. Staff does not assess that approval would change the conditions that existed prior to Hurricane Ian.

- 2) *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

Policy 1-A-2 states: 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. The applicant is proposing to remove LDC requirements which would support “streetscaping” adjacent to the property or landscape improvements to the property itself.

LDC Sec. 34-2019(a) states that a special exception may be approved for “Parking spaces that are not in daily use and are located in parking lots having ten or more parking spaces and meeting the other requirements of this division may be rented to the general public during peak periods.” The subject parcel existed pre-Hurricane Ian and contains more than 10 parking spaces.

- 3) *Whether the request meets or exceeds all performance and locational standards for the proposed use.*

The request will comply with local, state, and federal air, noise and water pollution standards. It will not adversely affect water quality and it will not create a nuisance to adjacent properties.

- 4) *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The request will maintain what was previously constructed on this property. It will not have an additional negative impact.

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

There is no anticipated additional negative impact or injury to surrounding properties.

- 6) *Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.*

The applicant is requesting 4 variances through a separate Variance application (VAR20240233) to waive minimum parking count requirements, drainage compliance, landscaping and internal circulation design standards. If both the Special Exception and Variances are approved this plan would not be in compliance with Town’s LDC.

III. RECOMMENDATION

Staff finds that the special exception to approve the use of 43 parking spaces for commercial parking is not in compliance with item 6 of Sec. 34-88(b) or the Comprehensive Plan’s for “streetscaping” on Estero Blvd. Therefore, staff

recommends **DENIAL** of **SEZ20240186** for the approval of the lot to be used for commercial parking activities. Should the Town Council desire to approve the Special Exception, it must be subject to the conditions which follow below.

IV. CONDITIONS OF APPROVAL

1. The Special Exception shall not be valid without the approval of necessary variances (as stated in VAR 20240233) from landscape and parking lot design requirements.
2. Applicant shall create a parking plan for all three of their parking areas with the size/square footage and number of lodging uses of the associated uses identified per LDC sec. 34-2018
3. A new special exception must be applied for each time an LDO/ DO is applied for, or any structures are developed/ reconstructed.
4. Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development 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.
5. The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.
6. Any violation of the conditions of approval shall render the special exception null and void.
7. Property owners shall develop a plan to engage with customers of the commercial lot no less than 40-feet into the property to allow for stacking that approximates requirements for lots which are developing gates within 100-feet of Estero Blvd.
8. Two-way drive aisles must meet minimum Fire Department widths, this will be assessed during an LDO/ DO as required by the LDC.
9. The applicant must obtain an approved lighting plan as outlined in LDC Sec. 34-1834.

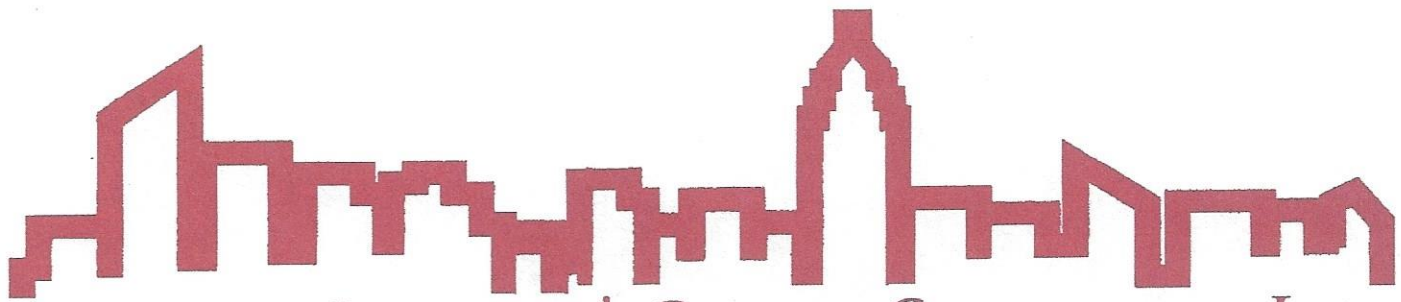
Staff Report Exhibits:

Exhibit A - Previously Approved LDO/Site Plan

Exhibit B- Public Hearing Application

Exhibit C – Insufficiency Letter

Exhibit D – Applicant Response to Insufficiency Letter



CONIDARIS BUILDERS & GENERAL CONTRACTORS, INC.

St. Lic. #CGC 059201 CUC 046019
15645 Pine Ridge Road • Fort Myers, FL 33908
Phone: 239-415-7671 • Fax: 239-415-2886
ConidarisBuilder@aol.com

Town of Fort Myers Beach
Building Department
Attention: Kelly Bhutada
August 12, 2020
Ref: Application for Limited Development Order #20200045
1479 Estero Blvd. Fort Myers Beach, FL 33931

In response to your letter dated 07-29-2020, listed below is the additional information provided please see attached revised site plan.

Zoning:

1. Total number of parking spaces: There is a total of 51 parking spots. (2 Handicap spots plus 49 parking spots)
2. Please see site plan showing signage and marking details.
3. (Part 1) All Parking spots will be delineated with all-weather paint not less than 4" in width. Additional Handicap spots will be outlined with blue paint with a posted above grade sign per code.

(Part 2) The existing storm water drainage water system on this property will not be affected by this job.
4. How many uses does this parking lot serve? One, it is for Lani Kai Guests parking only.
5. This project does not include additional impervious surface.

Building Comments:

1. Please provide ADA Space with FBC Accessibility. (Please see site plan)

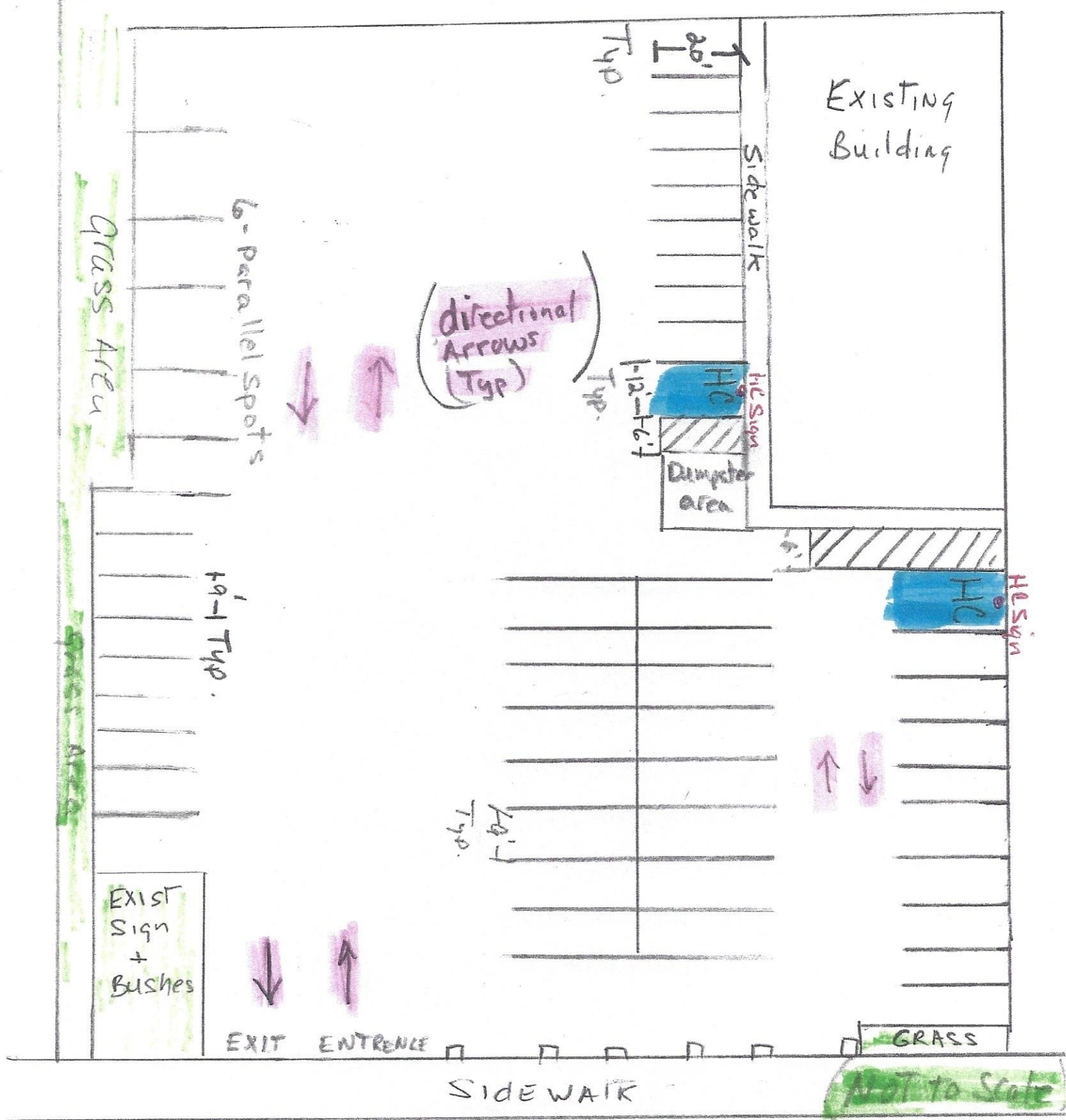
If you have any questions or concerns please feel free to contact us at 239-415-7671.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Conidaris", written in a cursive style.

Michael Conidaris

43 parking Spots
 6 parallel Spots
 2 H/C spots



1479 ESTERO Blvd.



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: 1479 Estero Blvd, Fort Myers Beach, FL 33931

STRAP Number: 19-46-24-W4-0060B.0070

Applicant: LKLB of Florida Inc. Phone: 239-463-3111

Contact Name: Robert B. Burandt, Esq. Phone: 239-542-4733

Email: robert@capecoralattorney.com Fax: 239-542-9203

Current Zoning District: Hotel/Motel

Future Land Use Map (FLUM) Category: Mixed Use

FLUM Density Range: _____ 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*: LKLB of Florida Inc., Robert B. Burandt, Esq. Phone: 239-542-4733

**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: 1714 Cape Coral Parkway East, Cape Coral, FL 33904

Email: robert@capecoralattorney.com Fax: 239.542.9203

Contact Name: Robert B. Burandt Phone: 239-542-4733



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: Robert B. Burandt, Esq. Phone: 239-542-4733
Address: 1714 Cape Coral Parkway East, Cape Coral, FL 33904
Email: robert@capecoralattorney.com Fax: 239.542.9203

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

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

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☒ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ 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: Special Exception to allow paid public parking.

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Robert B. Burandt, Esq. 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

Robert Burandt

Printed Name

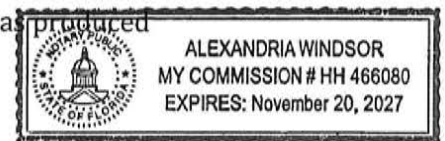
STATE OF FLORIDA COUNTY OF Lee

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

presence OR _____ online notarization, this 5 day of June, 2024, by

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

_____ as identification.



(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

Robert Conidaris

100%

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

Name and Address

Percentage of Interest

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

Name and Address

Percentage of Ownership

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

Name, Address and Office

Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

AFFIDAVIT

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

I, Robert B. Burandt, Esq. (name), as Attorney (title) of LKLB of Florida Inc. (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

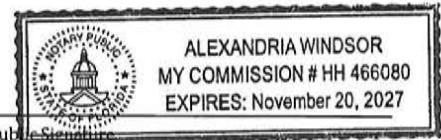
LKLB of Florida Inc.
Name of Entity (corporation, partnership, LLP, LLC, etc)
[Signature]
Signature
Robert B. Burandt, Esq.
Typed or Printed Name
Attorney
Title
6/5/24
Date

STATE OF FLORIDA COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ☐ online notarization, this 5 day of June, 2024, by [Signature] ☒ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public



PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0060B.0070

Property Address: 1479 Estero Blvd., Fort Myers Beach, FL 33931

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

☒ Yes. Property identified in subdivision: Venetian Gardens

Book: 6 Page: 70 Unit: _____ Block: B Lot(s): 7+8+E 1/2

of Lot 9+28+29+ VAC RD R/W OR 553 PG 797

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) Front 125' Back 100' feet

Depth (please provide an average width if irregular in shape) 270 feet

Frontage on street: 125 feet. Frontage on waterbody: _____ feet

Total land area: 30,725 ☐ acres ☒ square feet

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

Go over the bridge and turn left, go down 1/6 of a mile on your left-hand side.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

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

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

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

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

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

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

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

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

☐ Low Density

☒ Mixed Residential

☐ Boulevard

☐ Pedestrian Commercial

☐ Marina

☐ Recreation

☐ Wetlands

☐ Platted Overlay



Case# _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

This is the second part of a two-part application. This part requests specific information for a special exception. Include this form with the Request for Public Hearing form.

Project Name: Lani Kai Bay Front
Authorized Applicant: Robert B. Burandt, Esq.
LEEPA STRAP Number(s): 19-46-24-W4-0060B.0070

Current Property Status:			
Current Zoning: Hotel/Motel			
Future Land Use Map (FLUM) Category: Proposed mixed use			
Platted Overlay?	☐ yes	☐ no	FLUM Density Range:

Requested Action:

☐	Use of premises in the EC (Environmentally Critical) zoning district for:
☒	Use of premises in the _____ zoning district for:
The Property is a 25-unit Motel with 43 parking spaces which are 18 x 9 feet. The drive aisle width is 20 feet with one handicapped parking space see Exhibit #1 attached hereto and incorporated herein.	

PART I Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

Applicant is requesting to continue to use the parking lot for the Bayside Hotel for public paid parking,
without modifications to the parking lot, landscaping or other requirements.

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:

This property has been used for public paid parking since before the town was incorporated and will have no adverse effect on the surrounding property on their use.

The Times Square area of the Beach needs more public parking. Traffic is very congested because visitors have no place to park.



There is a canal to the right of the property and a Condominium to the South. This property has continually been used as public parking since the late 80s early 90s.

Page 256 of 843

10/26/23, 10:00 AM

LDO20230196- Approved job site

Lani Kai permit 1.jpg

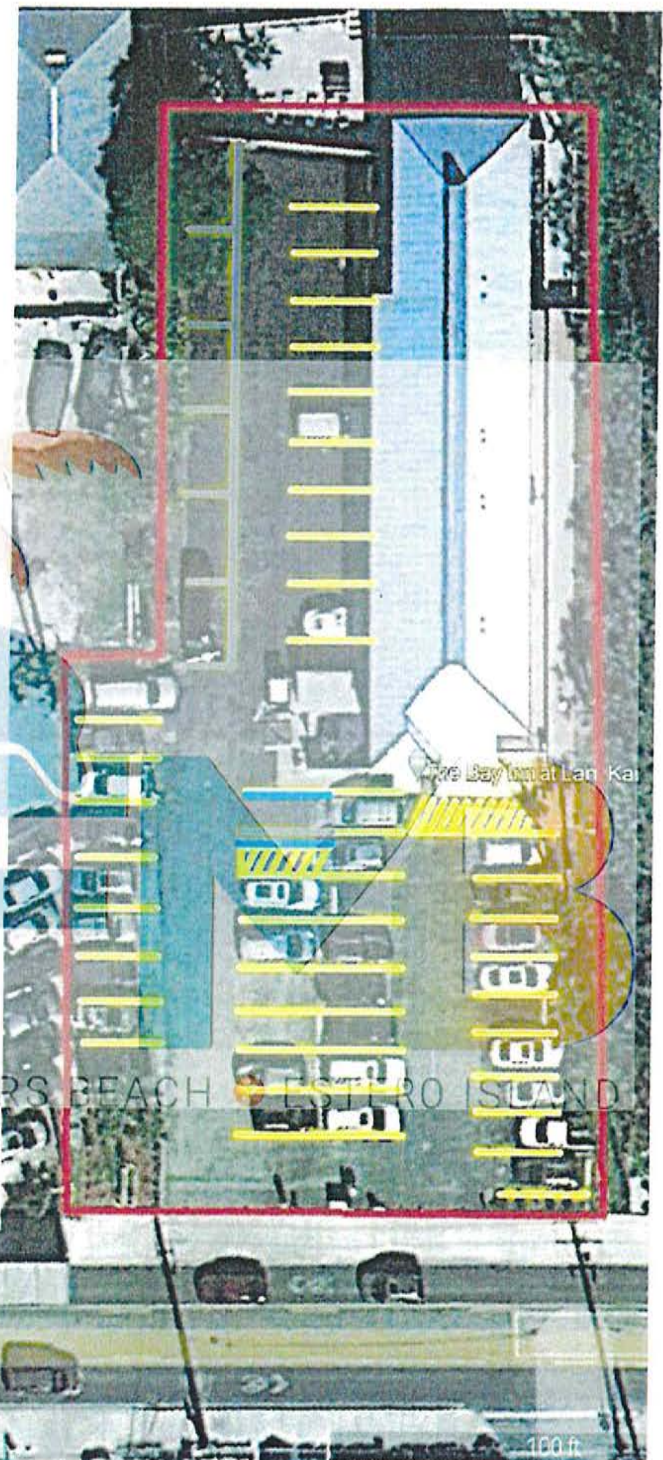
Lani Kai

Address:

1401 Estero Blvd
Fort Myers, FL

Work Description:

- Sealcoat parking lot within the red boundary line. Restripe all existing parking stall lines (yellow) and 6" linear line (yellow).
- No changes to parking lot, strictly sealcoating and restriping only. Each parking stall has the dimensions of 18' x 9'.
- The drive aisle width is 20 feet. There are a total of 43 regular parking spaces and no handicap spaces.
- We are adding zero pole mounted or building mounted lights on site.
- Parallel parking spaces will be removed to accommodate a wide enough drive aisle for the nearby parking.
- One (1) handicap stall will be striped. The dimensions are 18' x 12' with 5' access aisle (ADA compliant).





Simon Holmes

November 10, 2023

RE: 1479 Estero Blvd, Fort Myers Beach
Strap # 19-46-24-W4-0060B.0070
LDO Application 20230196- Type 8- Resub 2

Dear Mr. Holmes,

Your application for a Limited Development Order has been **approved** by the Town of Ft. Myers Beach for the modifications proposed on the property located at 1479 Estero Blvd.

Request: request to reseal/ restripe of the parking lot and add 1 handicap stall will be striped.

THIS LIMITED DEVELOPMENT ORDER WILL BE VALID FOR A PERIOD OF UP TO THREE (3) YEARS AND IS SCHEDULED TO EXPIRE ON 11/10/2026.

Please contact the Town's Planning Department to schedule a final inspection once the job is complete by emailing zoningpermits@fmbgov.com.

This approval does not relieve the development from the responsibility to obtain all necessary Federal, State and Local permits. If you have any questions concerning this matter, please contact the Community Development Department office at (239) 765-0202.

Sincerely,
Sakshi
Planner
Town of Fort Myers Beach
Community Development Department



Property Data

STRAP: 19-46-24-W4-0060B.0070 Folio ID: 10477703

[Hurricane Ian Tax Roll Value Letter](#) [Tax Refund Status](#)

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Owner Of Record - Sole Owner

[\[Change Mailing Address\]](#)

LKLB OF FLORIDA INC
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931



[\[Tax Map Viewer\]](#) [\[View Comparables\]](#)



[\[Pictometry Aerial Viewer\]](#)

Site Address

Site Address maintained by [E911 Program Addressing](#)

1479 ESTERO BLVD
FORT MYERS BEACH FL 33931

ALTERNATE ADDRESS INFORMATION:

1401 ESTERO BLVD

Property Description

Do not use for legal documents!

VENETIAN GARDENS BLK B PB 6 PG 70 LOTS 7 + 8 + E 1/2
OF LOT 9 + 28 + 29 + VAC RD R/W OR 553 PG 797

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official
Records search on the Lee County Clerk of Courts website, using 6 and
70 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	0 / 24.0
Gross Building Area	11,128
1st Year Building on Tax Roll	1984
Historic Designation	No

Township	Range	Section	Block	Lot
46	24E	19	0060B	0070
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.45186	-81.95067		

Image of Structure



◀ Photo Date March of 2023 ▶ ☐ View other photos

Last Inspection Date: 01/30/2024

[View Parcel on Google Maps](#)

Property Values / Exemptions / TRIM Notices

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No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
	Current	3,385,424	2,422,703	3,385,424	1,786,318	0	0	1,786,318
2023 Values / Additional Info	2023	2,422,713	2,422,703	2,422,713	1,623,925	0	0	1,623,925
2022 Values / Additional Info	2022	1,931,798	1,247,740	1,931,798	1,476,295	0	0	1,476,295
2021 Values / Additional Info	2021	1,430,992	968,123	1,430,992	1,342,086	0	0	1,342,086
2020 Values / Additional Info	2020	1,418,708	803,480	1,418,708	1,220,078	0	0	1,220,078
2019 Values / Additional Info	2019	1,192,733	632,550	1,192,733	1,109,162	0	0	1,109,162
2018 Values / Additional Info	2018	1,149,876	650,705	1,149,876	1,008,329	0	0	1,008,329
2017 Values / Additional Info	2017	1,232,621	697,531	1,232,621	916,663	0	0	916,663

2016 Values	2016	1,232,461	696,837	1,232,461	833,330	0	0	833,330
2015 Values	2015	1,159,494	533,520	1,159,494	757,573	0	0	757,573
2014 Values	2014	996,101	531,765	996,101	688,703	0	0	688,703
2013 Values	2013	1,096,712	650,000	1,096,712	626,094	0	0	626,094
2012 Values	2012	569,176	303,852	569,176	569,176	0	0	569,176
2011 Values	2011	521,836	278,579	521,836	521,836	0	0	521,836
2010 Values	2010	777,169	550,285	777,169	675,532	0	0	675,532
	2009	893,360	681,490	893,360	893,360	0	0	893,360
	2008	1,090,900	860,910	1,090,900	1,090,900	0	0	1,090,900
	2007	1,418,620	1,115,680	1,418,620	1,418,620	0	0	1,418,620
	2006	1,747,370	1,369,520	1,747,370	1,747,370	0	0	1,747,370
	2005	1,632,800	1,465,440	1,632,800	1,632,800	0	0	1,632,800
	2004	991,690	885,670	991,690	991,690	0	0	991,690
	2003	988,290	885,250	988,290	988,290	0	0	988,290

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce and is dated as of January 1st of the tax year in question ([F.A.C. 12D-1.002](#)).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard ([F.S. 193.011](#)). For *Agriculturally Classified* parcels (or parts thereof), only agricultural uses are considered in the assessment ([F.S. 193.461 \(6\) \(a\)](#)).

The difference between the *Highest and Best Use/Present Use* and the *Agricultural Use* is often referred to as the *Agricultural Exemption*.

(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes.
(i.e. Taxable = Capped Assessed - Exemptions)

Property Details (Current Working Values)

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Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
3900	Motel	30753.00	Square Feet
2016	Boat Units - B	4.00	Units

Land Features

Description	Year Added	Units
SEAWALL - CONCRETE	1984	100
BLACK TOP - IMPROVED	1984	10,200
DOCK - BOAT - WOODEN	1984	1,000

Buildings

Building 1 of 1

Building Characteristics

Improvement Type	Model Type	Stories	Living Units
47 - Hotel/Motel - High Rise	7 - APT/HOTEL/CLUBS	3.0	0
Bedrooms	Bathrooms	Year Built	Effective Year Built
0	24.0	1984	1986

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	3,627
FOF - FAIR OFFICE	Y	247

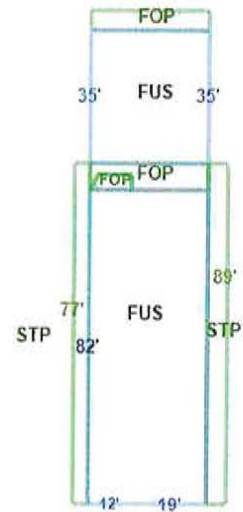
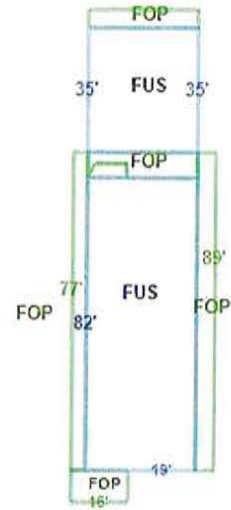
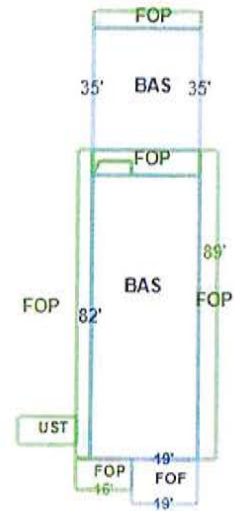
FOP - FINISHED OPEN PORCH	N	1,277
FOP - FINISHED OPEN PORCH	N	1,317
FOP - FINISHED OPEN PORCH	N	372
FUS - FINISHED UPPER STORY	Y	3,627
FUS - FINISHED UPPER STORY	Y	3,627
STP - STOOP	N	801
UST - UNFINISHED UTILITY	N	176

Building Front Photo



Photo Date: March of 2023

Building Footprint





Property Details (2023 Tax Roll)



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Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
3900	Motel	30753.00	Square Feet
2016	Boat Units - B	4.00	Units

Land Features

Description	Year Added	Units
SEAWALL - CONCRETE	1984	100
BLACK TOP - IMPROVED	1984	10,200
DOCK - BOAT - WOODEN	1984	1,000

Buildings

Building 1 of 1

Building Characteristics

Improvement Type	Model Type	Stories	Living Units
47 - Hotel/Motel - High Rise	7 - APT/HOTEL/CLUBS	3.0	0
Bedrooms	Bathrooms	Year Built	Effective Year Built
0	24.0	1984	1986

Building Subareas

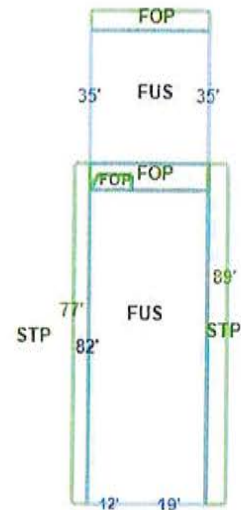
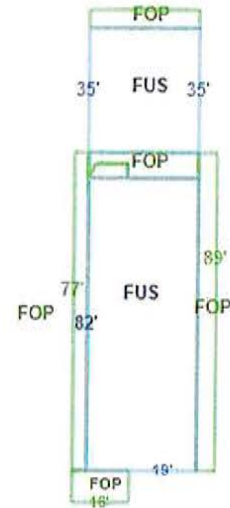
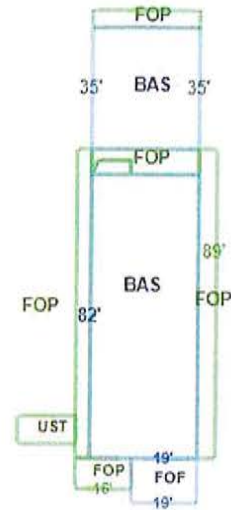
Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	3,627
FOF - FAIR OFFICE	Y	247
FOP - FINISHED OPEN PORCH	N	1,277
FOP - FINISHED OPEN PORCH	N	1,317
FOP - FINISHED OPEN PORCH	N	372
FUS - FINISHED UPPER STORY	Y	3,627
FUS - FINISHED UPPER STORY	Y	3,627
STP - STOOP	N	801
UST - UNFINISHED UTILITY	N	176

Building Front Photo



Photo Date: March of 2023

Building Footprint



Taxing Authorities

Generated on 5/17/2024 3:44 PM

TOWN OF FM BCH / FM BCH DOWNTOWN REDEV / 277

Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
FORT MYERS BEACH FIRE CONTROL DIST / 032	Independent District	FORT MYERS BEACH FIRE CONTROL DIST 100 VOORHIS ST FORT MYERS BEACH FL 33931
FORT MYERS BEACH MOSQUITO CONTROL / 035	Independent District	FORT MYERS BEACH MOSQUITO CONTROL PO BOX 2837 FORT MYERS BEACH FL 33932-2837
FORT MYERS BEACH PUBLIC LIBRARY DIST / 033	Independent District	FORT MYERS BEACH PUBLIC LIBRARY DIST 2755 ESTERO BLVD FORT MYERS BEACH FL 33931
LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
TOWN OF FORT MYERS BEACH FLORIDA / 118	Municipal	TOWN OF FORT MYERS BEACH 2523 ESTERO BLVD FORT MYERS BEACH FL 33931
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions ⓘ

Generated on 5/17/2024 3:44 PM

Sale Price	Date	Clerk File Number	Type	Notes	Vacant/ Improved
618,400.00	08/22/2002	3711/181	03		I
100.00	07/01/1983	1679/972	04		I

[View Recorded Plat at LeeClerk.org](#)

Use the above link to do a search on the Lee County Clerk of Courts website, using **553** and **70** for the book and page numbers and **Official Records** for the book type.

Help safeguard your home against property fraud. Sign up for the Lee Clerk's free [Property Fraud Alert](#).

Building / Construction Permit Data

Generated on 5/17/2024 3:44 PM

Permit Number	Permit Type	Date
231283	AC New / Change out	02/10/2023
224696	Electric	12/06/2022
221248	Electric	08/05/2022
ROF17-0048	Roof	06/07/2017
SGN15-0023	Building Miscellaneous	09/09/2015

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building / Construction permit data displayed here represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding that in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the [appropriate permit issuing agency](#).

Parcel Numbering History

Generated on 5/17/2024 3:44 PM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
19-46-24-W4-0060A.0280	10477702	Split (From another Parcel)	05/09/2003
19-46-24-W4-03600.2040	10228544	Combined (With another parcel-Delete Occurs)	05/09/2003
19-46-24-W3-03600.2050	N/A	Combined (With another parcel-Delete Occurs)	05/09/2003
19-46-24-W4-03600.1010	10228543	Combined (With another parcel-Delete Occurs)	05/09/2003

Solid Waste (Garbage) Roll Data

Generated on 5/17/2024 3:44 PM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
001 - Service Area 1	C - Commercial Category	D	11855	1,248.75
Collection Days				
Garbage	Recycling	Horticulture		
Thursday	Thursday	Thursday		

Flood and Storm Information

Generated on 5/17/2024 3:44 PM

Community	Panel	Version	Date	Evacuation Zone
071C	0554	G	11/17/2022	A

Generated on 5/17/2024 3:44 PM

SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
TOWN OF FORT MYERS BEACH, LEE COUNTY FLORIDA

NOTES

SURVEY BASED ON THE RECORD PLAT OF VENETIAN GARDENS, THE LANI KAI AND BEACH RESORT DECLARATION OF CONDOMINIUM, RECORDED IN OFFICIAL RECORD BOOK 1879 AT PAGE 972, THE RIGHT-OF-WAY CONTROL SURVEY MAPS OF ESTERO BOULEVARD (COUNTY ROAD 865) PREPARED BY BEAN, WHITAKER, LUTZ AND KAREH, DATED APRIL 2010, AND FOUND MONUMENTATION.

BEARINGS ARE BASED ON THE RIGHT-OF-WAY CONTROL SURVEY MAPS OF ESTERO BOULEVARD (COUNTY ROAD 1985) PREPARED BY BEAN, WHITAKER, LUTZ AND KARGA, DATED APRIL 2010 WITH THE NORTHEASTERLY BRIGHT-OF-WAY LINE OF ESTERO BOULEVARD AS BEARING 570°27'31"E. NO BEARINGS ARE SHOWN ON THE RECORD PLAT OF VENETIAN GARDENS.

COORDINATES SHOWN HEREON ARE STATE PLANE GRID FOR THE FLORIDA WEST ZONE (NORTH AMERICAN DATUM PRECISION GEODETIC NETWORK HOLDING NATIONAL GEODETIC SURVEY CONTROL MONUMENT "8008-2".

ALL DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS- OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

PARCEL LIES IN FLOOD ZONE AE WITH BASE FLOOD ELEVATIONS OF 11' AND 12' PER FLOOD INSURANCE RATE MAP NUMBER 120710054G. COMMUNITY NAME: TOWN OF FORT MYERS BEACH AND COMMUNITY NUMBER: 120473 WITH EFFECTIVE DATE AND INDEX DATE BEING 11-17-2022.

THE F.E.M.A. FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.

UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.
METLANDS, IF ANY, WERE NOT LOCATED.

THIS PLAN PREPARED AS A BOUNDARY SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

PARCEL CONTAINS 0.67 ACRES (28,967 SQUARE FEET). MORE OR LESS.

SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URBAN SURVEY (1:15,000).

SITE ADDRESS: 1479 ESTERO BOULEVARD, FORT MYERS BEACH FL 33931.

PARCEL STRAP NO.: 19-46-24-W4-0050B.0070

DATE OF LAST FIELD WORK: 01-30-2023.

Stephen F.
Shawles II, P.S.M.

*NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

HALEY BIRD, INC.
Haley Bird

STURDIVANT J. SHAWLES, P.E., NO. L38418
PROFESSIONAL SURVEYOR & MAPPER
STATE OF FLORIDA

- IT IS NOT A CONTRIBUTION OF MILK, FOOD, SERVICES, OR FREEDOM OF DOCUMENTS.
- THIS SUBJECT WAS PROVIDED WITHOUT RIGHTS OF DISCLOSED NOTICE.

- BOUNDARY SURVEY

YARD

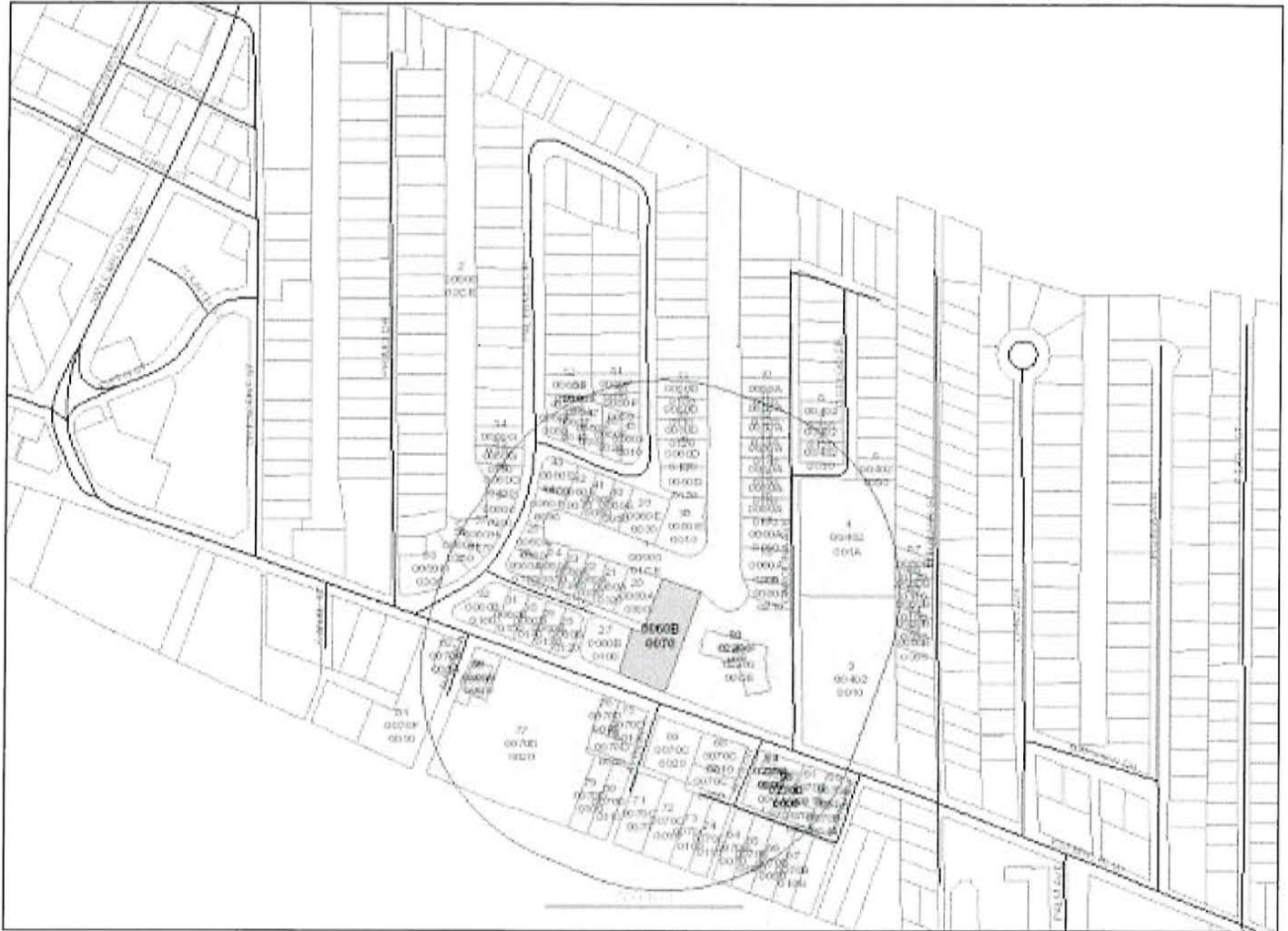
Outgoing

U.S. FLORIDA 33979 PH (335) 481-1231
 DEPARTMENT OF AGRICULTURE WASHINGTON (872544 & 488243)
 FILE NO. (3-1-8)

1021	19-46-24
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Date of Report: June 04, 2024

Buffer Distance: 500 feet

Parcels Affected: 165

Subject Parcel: **19-46-24-W4-0060B.0070**

[Click here to download the map image, mailing labels \(Avery 5161\) and CSV formatted information.](#)

To change, add or remove subject parcels please change the parcel selection in [GeoView](#)

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
VENETIAN GARDENS CANAL PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-00000.01CE SUBMERGED FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6 PG 70 RIO DEL LIDO CANAL	1
VENETIAN GARDENS CANAL PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-00000.02CE SUBMERGED FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6 PG 70 CANAL GRANDE CANAL	2
KEY ESTERO SHOPS LLC 3220 PINE CONE CT MILFORD MI 48381	19-46-24-W4-00402.0010 1661 ESTERO BLVD FORT MYERS BEACH FL 33931	HILLS T P SUBD PB 3 PG 84 PT LT 11 DESC OR 1468 PG 1697 LESS N 275 FT	3
REALBOOK LLC 12 SEQUOIA DR DAYTON NJ 08810	19-46-24-W4-00402.001A 200 CAROLINA AVE FORT MYERS BEACH FL 33931	HILLS T P SUBD PB 3 PG 84 PT LT 11 N 275 FT OF OR 1468 PG 1697	4
GH3 RB CAPITAL LLC 1700 MEDICAL LN #101 FORT MYERS FL 33907	19-46-24-W4-00402.0030 211 OSTEGO DR FORT MYERS BEACH FL 33931	HILLS T P SUBD PB 3 PG 84 PT LOT 11 DESC OR 1352 PG 613 AKA BLK J LOT 13 1ST EDITION VENETIAM GARDENS	5
AMBERJACK PROPERTIES LLC PO BOX 446	19-46-24-W4-00402.0050 210 OSTEGO DR	HILLS T P SUBD PB 3 PG 84 PT LOT 11	6

OTTOVILLE OH 45876	FORT MYERS BEACH FL 33931	DESC IN OR 1351 PG 1680	
PIEC DANIEL J & JOYCE A TR 230 CAROLINA AVE FORT MYERS BEACH FL 33931	19-46-24-W4-00402.0120 230 CAROLINA AVE FORT MYERS BEACH FL 33931	HILLS TP SUBD PB 3 PG 84 PT LOT 11 DESC OR 1365 PG 760	7
MOORE ERIK & SUSAN + 8136 KRONLOKKEN LANE LAFAYETTE IN 47909	19-46-24-W4-00402.0200 231 OSTEGO DR FORT MYERS BEACH FL 33931	PARL IN S 1/4 AS DESC IN OR 1361 PG 1551 AKA BLK J LOT 15 VENETIAN GARDENS	8
EE44 LLC 1951 PINE RIDGE DR JENISON MI 49428	19-46-24-W4-00600.Y000 125/127 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK Y PB 6 PG 70 ALL BLK Y EXC NLY 11 FT	9
COLLIN JAMES GROUP LLC 15 CARROTWOOD CT FORT MYERS FL 33919	19-46-24-W4-0060A.0110 259 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 11	10
COLLIN JAMES GROUP LLC 15 CARROTWOOD CT FORT MYERS FL 33919	19-46-24-W4-0060A.0120 257 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 12	11
RATISBONA INC 3665 BONITA BEACH RD SW #1-3 BONITA SPRINGS FL 34134	19-46-24-W4-0060A.0130 251/255 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 13	12
ZIEGLER MICHAEL W & NANCY A 437 AUBURN ST ALLEN TOWN PA 18103	19-46-24-W4-0060A.0140 249 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 14	13
CANTRELL JASON ALAN & DEBRA 620 GREENFORD TRAIL W CARMEL IN 46032	19-46-24-W4-0060A.0150 245 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 15	14
PETERSON DAVID CHARLES 85 LAKEVIEW AVE EXCELSIOR MN 55331	19-46-24-W4-0060A.0160 239 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 16	15
WIDMEIER INVESTMENTS LLC 4390 DODGE ST DUBUQUE IA 52003	19-46-24-W4-0060A.0170 237 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 17	16
MALONEY JAMES P TR 235 CAROLINA AVE FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0180 233/235 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 18 + N 25 FT LOT 19	17
ESH ANDREW CHARLES + 15833 SUNSET RD MINNETONKA MN 55345	19-46-24-W4-0060A.0200 223 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 20 + S 1/2 OF LOT 19	18
SZYPERSKI KEITH P 219 CAROLINA AV FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0210 219 CAROLINA AVE FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 21	19
LANI KAI LP 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0300 1403 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOTS 30 31 LESS W 12 FT	20
LANI KAI LP 1400 ESTERO RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0320 1401 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOTS 32 + W 12 FT LOT 31	21
AULLS PATRICIA E L/E 7241 BERGAMO WAY UNIT 101 FORT MYERS FL 33966	19-46-24-W4-0060A.0330 1351 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 33	22
WILCOX LANCE 1339 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0340 1339 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 34	23
PARILLA DAVID R TR 1335 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0350 1335 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70 LOT 35	24
CONNER CHARLES R & GAIL D 53 POMPAÑO ST FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0360 126 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK A PB 6 PG 70	25

		LOT 36 + S 1/2 OF BLK X LESS THE N 20 FT	
PARILLA DAVID R TR 1335 SANTOS RD FORT MYERS BEACH FL 33931	19-46-24-W4-0060A.0370 1321 SANTOS RD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.A PB 6 PG 70 LOT 37	26
KLC SURF LLC CHRISTOPHER PRIMEAU 4625 W EUCLID AVE TAMPA FL 33629	19-46-24-W4-0060B.0100 1397 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 W 1/2 LOT 9 LOTS 10 + 11	27
KLC SURF LLC CHRISTOPHER PRIMEAU 4625 W EUCLID AVE TAMPA FL 33629	19-46-24-W4-0060B.0120 1365/1375 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 12	28
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0130 1345 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 13	29
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0140 1331 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOT 14	30
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0060B.0150 1325 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK B PB 6 PG 70 LOTS 15	31
7-ELEVEN INC CORP INCOME TAX DEPT 3200 HYACKBERRY RD IRVING TX 75063	19-46-24-W4-0060B.0160 1301 ESTERO BLVD FORT MYERS BEACH FL 33931	VENETAIN GARDENS BLK B PB 6 PG 70 LOTS 16 + 17	32
455 PALERMO CIRCLE LLC 1421 EAST LAKE SHORE DR SPRINGFIELD IL 62712	19-46-24-W4-0060D.0100 455 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.D PB 6 PG 70 LOT 10	33
VAN FAM PROPERTIES LLC 7323 INDIGO RIDGE SW BYRON CENTER MI 49315	19-46-24-W4-0060D.0110 459 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK D PB 6 PG 70 LOT 11	34
DAR LAND HOLDINGS LLC 3487 COUNTY LINE RD LUXEMBURG WI 54217	19-46-24-W4-0060D.0120 461 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.D PB 6 PG 70 LOT 12	35
463 PALMERO LLC 1421 E LAKE SHORE DR SPRINGFIELD IL 62712	19-46-24-W4-0060D.0130 463 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK D PB 6 PG 70 LOT 13 + N 1/2 OF LOT 14	36
499 PALERMO LLC 1421 E LAKE SHORE DR SPRINGFIELD IL 62712	19-46-24-W4-0060D.0150 499 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK D PB 6 PG 70 PT LOT 15 + S 1/2 LOT 14 DESC IN OR BK 3404 PG 4545	37
MILLER JONATHAN T PO BOX 80490 FORT WAYNE IN 46898	19-46-24-W4-0060E.0010 501 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOTS 1 + 2 + PT LOT 15 + 20 FT STRIP N OF AND ADJ TO LTS 1 + 2 DESC IN OR BK 3404 PG 4545	38
TEZAK HELEN C TR 50 CHAPEL ST APT 4 FORT MYERS BEACH FL 33931	19-46-24-W4-0060E.0030 505 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOTS 3 + 4	39
R & D ENTERPRISES OF 3436 CHURCH ST STEVENS POINT WI 54481	19-46-24-W4-0060E.0050 551 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOT 5	40
WEIGERT ANTJE & MARTIN 415 CAPE CORAL PKWY W	19-46-24-W4-0060E.0060 561 PALERMO CIR	VENETIAN GARDENS BLK E PB 6 PG 70	41

CAPE CORAL FL 33914	FORT MYERS BEACH FL 33931	LOT 6	
JAMES R BRATLEY & JOAN E BRATL 15120 W ILIFF PL LAKEWOOD CO 80228	19-46-24-W4-0060E.0070 571 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK E PB 6 PG 70 LOT 7	42
GNIRCK RAPHAEL + AM MUEHLBERG 39A BAD HOMBURG VD HOEHE 61348 GERMANY	19-46-24-W4-0060E.0080 581 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.E PB 6 PG 70 LOT 8 + LOT PT 9	43
STRICK RICHARD A & 5804 PARK RIDGE CT FORT COLLINS CO 80528	19-46-24-W4-0060E.0090 130 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS PB 6/70 BLK E S 1/2 OF LOT 9 + ALL OF BLK X LESS S 20 FT	44
HENNESSEY PATRICIA J & 460 PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-0060F.0010 460 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.F PB 6 PG 70 LOT 1	45
NORTH KEY INC 7150 RED LION FIVE POINTS RD SPRINGBORO OH 45066	19-46-24-W4-0060F.0020 552 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.F PB 6 PG 70 LOT 2	46
DONNA M BYRD TRUST + 5701 BLUNK KNOB RD ELIZABETH IN 47117	19-46-24-W4-0060F.0030 580 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.F PB 6 PG 70 LOT 3	47
RELAAX LLC 2201 E WILLOW ST STE D 363 SIGNAL HILL CA 90755	19-46-24-W4-0060F.0040 584/586 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK F PB 6 PG 70 LOT 4	48
RELAAX LLC 2201 E WILLOW ST STE D 363 SIGNAL HILL CA 90755	19-46-24-W4-0060F.0050 588/590 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK F PB 6 PG 70 LOT 5	49
DEL BUSTO GEORGE & 2212 EVEREST PKWY CAPE CORAL FL 33904	19-46-24-W4-0060F.0060 456 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.F PB 6 PG 70 LOT 6	50
450 PALERMO LLC 1421 E LAKE SHR SPRINGFIELD IL 62712	19-46-24-W4-0060F.0070 450 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK F PB 6 PG 70 LOT 7	51
LUSSIER TARA CORBISHLEY & 745 BIMINI LN PUNTA GORDA FL 33950	19-46-24-W4-0060F.0280 212 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK F PB 6 PG 70 PORTION OF LOT 28 DESC IN INSTRUMENT 2020000115871	52
RELAAX LLC 2201 E WILLOW ST STE D 363 SIGNAL HILL CA 90755	19-46-24-W4-0060F.028A ACCESS UNDETERMINED FORT MYERS BEACH FL	VENETIAN GARDENS BLK F PB 6 PG 70 REMAINING PORTION OF LOT 28 DESC IN INSTRUMENT 2020000115871	53
DAY BILLY WAYNE 3708 SHANNON RUN TRL LOUISVILLE KY 40299	19-46-24-W4-0060G.0170 155 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK G PB 6 PG 70 LOT 17	54
LUMP THOMAS F & ANN C 145 PALERMO CIR FORT MYERS BEACH FL 33931	19-46-24-W4-0060G.0180 145 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.G PB 6 PG 70 LOT 18	55
SLOMSKI STEVEN A & PO BOX 2428 PMB 25382 PENSACOLA FL 32513	19-46-24-W4-0060G.0190 139 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK G PB 6 PG 70 LOT 19 NLY 11 FT BLK Y	56
ARLINGTON GREEN HOMES LLC LARRY SMITH 434 SPINNAKER DR MARCO ISLAND FL 34145	19-46-24-W4-0060H.0270 121 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK.H PB 6 PG 70 LOT 27	57
KALIDINDI RAMA USHA + 44354 APACHE CIR ASHBURN VA 20147	19-46-24-W4-0060H.0280 117 PALERMO CIR FORT MYERS BEACH FL 33931	VENETIAN GARDENS BLK H PB 6 PG 70 LOT 28 + PT LOTS 26 + 29	58
1249 ESTERO ADVENTURES LLC 290 BAHIA VIA	19-46-24-W4-0060H.0300 1249 ESTERO BLVD	VENETIAN GARDENS BLK H PB 6 PG 70 LOTS 30 31+32	59

FORT MYERS BEACH FL 33931	FORT MYERS BEACH FL 33931	+ PT LT 29 OR2414/2433	
NAUTICAL MARKETING LLC 189 SABAL DR FORT MYERS BEACH FL 33931	19-46-24-W4-0070B.001A 1698 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 E 1/2 OF LT 1 + N 1/2 OF E 1/2 OF LT 4	60
MOFFA ROBERT H 37728 LOIS DR STERLING HEIGHTS MI 48310	19-46-24-W4-0070B.001B 1660 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 W 1/2 LOTS 1 + 4	61
WEIT MARTIN & DAWN + 275 TROPICAL SHORES WAY FORT MYERS BEACH FL 33931	19-46-24-W4-0070B.004A 71 AVENUE E FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 S 1/2 OF E 1/2 OF LOT 4 + E 1/2 OF LOT 5	62
BLODHAHL LEASING LLC 3538 TIMBER RIDGE TRAIL CEDAR RAPIDS IA 52411	19-46-24-W4-0070B.005A 1667 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 W 1/2 OF LOT 5	63
CROWLEY THERESA M 60 ALVA DR FORT MYERS BEACH FL 33931	19-46-24-W4-0070B.0070 60 ALVA DR FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.B PB 4 PG 45 LOT 7	64
BERTSCHINGER INVESTMENTS LLC SEEBLICK 13 WOLLERAU 8832 SWITZERLAND	19-46-24-W4-0070B.0080 1662 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 LOT 8	65
BERTSCHINGER INVESTMENTS LLC SEEBLICK 13 8832 WOLLERAU SWITZERLAND	19-46-24-W4-0070B.0090 1664 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 LOT 9 + LOT PT 10	66
CGRT LLC + 573 LONGWOOD AVE GLENCOE IL 60022	19-46-24-W4-0070B.010B 1666 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK B PB 4 PG 45 LOT PT 10	67
MAUHI ENTERPRISES INC 4411 CLEVELAND AV FORT MYERS FL 33901	19-46-24-W4-0070C.0010 1560 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.C PB 4 PG 45 LOTS 1 + 4	68
SMART PARK OF FMB LLC 11330 LONG WATER CHASE COURT FORT MYERS FL 33908	19-46-24-W4-0070C.0020 1510 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LOTS 2 3 6	69
WATERFRONT PROPERTIES LLC 4411 CLEVELAND AVE FORT MYERS FL 33901	19-46-24-W4-0070C.0050 71/73 ALVA DR FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LOT 5	70
HASSELHOFF LLC 414 MARKET ST IOWA CITY IA 52245	19-46-24-W4-0070C.0070 60/64 AVENUE C FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LOTS 7 + PT LOT 8 W 1/2 OF	71
1560 I STREET 62 LLC 4705 LELAND DR CUMMING GA 30041	19-46-24-W4-0070C.0090 1560 I ST #62 FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LT9 + E1/2 LT 8+ VAC ALLEY	72
UNDERWOOD LLC 414 MARKET ST IOWA CITY IA 52245	19-46-24-W4-0070C.0100 1550 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LOT 10	73
HOY MARSHA L/E 61 ALVA DR FORT MYERS BEACH FL 33931	19-46-24-W4-0070C.0110 61 ALVA DR FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK C PB 4 PG 45 LOT 11	74
GANIM GEORGE W & JOSEPHINE TR 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0070D.001A 1478 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK D PB 4 PG 45 LOTS 1 + 4 LESS WLY 43 FT	75
GANIM GEORGE W & JOSEPHINE TR 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0070D.001B 1450 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.D PB 4 PG 45 WLY 43 FT LOTS 1 + 4	76
LANI KAI LP ROBERT G CONIDARIS 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-0070D.0020 1400 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH PB 4 PG 45 BLKS D + E + VAC R/W DESC OR 1293 PG 1208	77

STEPNEY LLC 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0070D.0050 71 AVENUE C FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.D PB 4 PG 45 LOT 5	78
GANIM GEORGE W SR & 4666 MAIN ST BRIDGEPORT CT 06606	19-46-24-W4-0070D.0100 1480 I ST FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK.D PB 4 PG 45 LOT 10	79
ATWATTER LLC WALTER RAY SIMMONS 12711 CHATHAM DR FORT MYERS FL 33908	19-46-24-W4-0070D.0110 61/65 AVENUE C FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK D PB 4 PG 45 LOT 11	80
RIGHT CHOICE INVESTMENTS LLC 13500 TELEGRAPH RD TAYLOR MI 48180	19-46-24-W4-0070F.0010 1250 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT PARK LTS 1 + 2 + ESTRY 2.5 FT LT 3 + CRESCENT BEACH LTS 1-5 BLK F LESS ESTRLY 45FT OF NRTHLY 2.7 LT 3	81
OUR BEACH SAND LLC 12483 SUMMERWOOD DR FORT MYERS FL 33908	19-46-24-W4-0070F.001A 1270 ESTERO BLVD FORT MYERS BEACH FL 33931	CRESCENT BEACH BLK F PB 4 PG 45 PT LOTS 1 2 & 3 DESC IN OR 1319 PG 1459	82
PE RENTALS LLC 1107 KANE ST LA CROSSE WI 54603	19-46-24-W4-0080B.0080 157 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK B PB 6 PG 31 LOT 8	83
BARKER JOHN + 5262 OLYMPIA DR INDIANAPOLIS IN 46228	19-46-24-W4-0080B.0090 159 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK B PB 6 PG 31 LOT 9	84
VALAZQUEZ TIMOTHY + 163 MIRAMAR ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080B.0100 163 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK.B PB 6 PG 31 LOT 10	85
RUSK CHRISTOPHER J & 193 MIRAMAR ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080B.0110 193 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK B PB 6 PG 31 LOT 11	86
KOSTER RODNEY A & THERESE A 880 3RD ST FORT MYERS BEACH FL 33931	19-46-24-W4-0080B.0120 201 MIRAMAR ST FORT MYERS BEACH FL 33931	MIRAMAR BLK B PB 6 PG 31 LOT 12	87
BATIKI WEST CONDO ASSN INC SUITOR MIDDLETON COX + ASSOC 15751 SAN CARLOS BLVD STE 8 FORT MYERS FL 33908	19-46-24-W4-02200.00CE BATIKI WEST CONDO C/E FORT MYERS BEACH FL 33931	BATIKI WEST CONDO DESC OR BK 1055 PG 1455 COMMON ELEMENTS POOL/DOCK	88
TROPICAL CENTER CONDO ASSOC 1300 ESTERO BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-02300.00CE TROPICAL CENTER C/E FORT MYERS BEACH FL 33931	CONDO IN SW 1/4 SEC 19 TWP 46 R 24 RECORDED IN OR 1123 P 323 THRU 364 COMMON ELEMENTS	89
CRESCENT SHORE CONDO ASSOC PO BOX 2990 FORT MYERS BEACH FL 33932	19-46-24-W4-02600.00CE CRESCENT SHORE C/E FORT MYERS BEACH FL 33931	A CONDO LOCATED IN SEC 19 TWP 46 RGE 24 AS DESC IN OR 1464 PG 445 COMMON ELEMENTS	90
PARKER HARRY W & BEVERLY J 17858 US HIGHWAY 61 SIKESTON MO 63801	19-46-24-W4-02200.2000 1511 ESTERO BLVD #200 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 200	91
PETRICH PAUL E & GAY G TR 860 HENN HYDE RD WARREN OH 44484	19-46-24-W4-02200.2010 1511 ESTERO BLVD #201 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 201	91
WILLIAM L & JOYCE J HENDREN T 28033 N 1850 EAST RD GRIDLEY IL 61744	19-46-24-W4-02200.2020 1511 ESTERO BLVD #202 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 202	91
WILLIAMS JEANNE L TR 1511 ESTERO BLVD # PHH FORT MYERS BEACH FL 33931	19-46-24-W4-02200.2030 1511 ESTERO BLVD #203 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 203	91
HANY JOHN A TR 3405 STEPHANIE RD	19-46-24-W4-02200.2040 1511 ESTERO BLVD #204	BATIKI WEST CONDO OR 1055 PG 1455	91

BLOOMINGTON IL 61704	FORT MYERS BEACH FL 33931	UNIT 204	
BUTLER JAMES H & TERESA A 1511 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.2050 1511 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 205	91
LAY DANIEL F TR 7583 N 1300 E ROAD SHIRLEY IL 61772	19-46-24-W4-02200.2060 1511 ESTERO BLVD #206 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 206	91
FRANKLIN JAY STAHAN TRUST 1511 ESTERO BLVD #207 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.2070 1511 ESTERO BLVD #207 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 207	91
FILM CAROLYN A 64 CARROLLS GROVE RD TROY NY 12180	19-46-24-W4-02200.2080 1511 ESTERO BLVD #208 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 208	91
BROWN JOANNE M TR PO BOX 96 OMENA MI 49674	19-46-24-W4-02200.2090 1511 ESTERO BLVD #209 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 209	91
JONES MALINDA ETZLER 2445 S FILLMORE ST DENVER CO 80210	19-46-24-W4-02200.3000 1511 ESTERO BLVD #300 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 300	91
FENN CYNTHIA TR 14248 FOUNTAIN HILLS CT NE PRIOR LAKE MN 55372	19-46-24-W4-02200.3010 1511 ESTERO BLVD #301 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 301	91
FRANA THERESA L 2789 TRAILWOOD LN LEXINGTON KY 40511	19-46-24-W4-02200.3020 1511 ESTERO BLVD #302 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 302	91
1511 ESTERO 303 LLC MICHELLE YOUKHANA 495 THOMAS DR NORTH BARRINGTON IL 60010	19-46-24-W4-02200.3030 1511 ESTERO BLVD #303 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 303	91
OBRIEN CAROL & WINSTON 1511 ESTERO BLVD #304 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.3040 1511 ESTERO BLVD #304 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 304	91
DANIELSON BRIAN 1300 WILD ROSE TRAIL EDMOND OK 73034	19-46-24-W4-02200.3050 1511 ESTERO BLVD #305 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 305	91
KARBLER LARRY L L/E 6558 OHENRY CIR NORTH RIDGEVILLE OH 44039	19-46-24-W4-02200.3060 1511 ESTERO BLVD #306 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 306	91
JOHNSTON DALE MICHAEL & 118 MEADOW CREEK CT LEXINGTON IL 61753	19-46-24-W4-02200.3070 1511 ESTERO BLVD #307 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 307	91
SEXTON MICHAEL ZEPH & 1511 ESTERO BLVD # 308 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.3080 1511 ESTERO BLVD #308 FORT MYERS BEACH FL 33931	BARIKI WEST CONDO OR 1055 PG 1055 UNIT 308	91
RAPP DALE A & RUTH ANN 104 PRAIRIE DR LEXINGTON IL 61753	19-46-24-W4-02200.3090 1511 ESTERO BLVD #309 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 309	91
LAW MICHAEL M & SHEILA K PO BOX 584 HEYWORTH IL 61745	19-46-24-W4-02200.4000 1511 ESTERO BLVD #400 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 400	91
MEZERA CHRISTINA M TR 5229 W 62ND ST EDINA MN 55436	19-46-24-W4-02200.4010 1511 ESTERO BLVD #401 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 401	91
QUARTELLO BETTY A TR 1511 ESTERO BLVD # 402 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.4020 1511 ESTERO BLVD #402 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 402	91
SUNSET VIEWS LLC PO BOX 70	19-46-24-W4-02200.4030 1511 ESTERO BLVD #403	BATIKI WEST CONDO OR 1055 PG 1455	91

AUBURN IN 46706	FORT MYERS BEACH FL 33931	UNIT 403	
DARIANO KELLI R TR 79 SUNNY LN TIFFIN OH 44883	19-46-24-W4-02200.4040 1511 ESTERO BLVD #404 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 404	91
MOORE ROBERT J & CYNTHIA S 1511 ESTERO BLVD #405 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.4050 1511 ESTERO BLVD #405 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 405	91
STRIBLING MARK TR PO BOX 408 ASHLAND IL 62612	19-46-24-W4-02200.4060 1511 ESTERO BLVD #406 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 406	91
STOCKER REBECCA L & JAMES A APT 407 1511 ESTERO BLVD JACKSONVILLE IL 62650	19-46-24-W4-02200.4070 1511 ESTERO BLVD #407 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 407	91
SMITH GARY B & ROXY R 3734 WESLEY CHAPEL RD ZANESVILLE OH 43701	19-46-24-W4-02200.4080 1511 ESTERO BLVD #408 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 408	91
HOLZAPFEL CHARLES JOHN & 801 S 4TH CIR BRANDON SD 57005	19-46-24-W4-02200.4090 1511 ESTERO BLVD #409 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 409	91
GREEN BURLEY & TAMMY PO BOX 44 OWENSVILLE MO 65066	19-46-24-W4-02200.5000 1511 ESTERO BLVD #500 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 500	91
SUNSET VIEWS LLC PO BOX 70 AUBURN IN 46706	19-46-24-W4-02200.5010 1511 ESTERO BLVD #501 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 501	91
CHARLES DANNY TR 9751 EASTERN AVE BYRON CENTER MI 49315	19-46-24-W4-02200.5020 1511 ESTERO BLVD #502 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 502	91
DOUGLAS RAYMOND & JENNIFER 3 PELHAM RD BARGATE GRIMSBY LINCOLNSHIRE DN34 4SU UNITED KINGDOM	19-46-24-W4-02200.5030 1511 ESTERO BLVD #503 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 503	91
41 DEVOE STREET CORP 26 UPLAND RD GREAT NECK NY 11020	19-46-24-W4-02200.5040 1511 ESTERO BLVD #504 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 504	91
GLACKIN BARBARA Q TR 1673 MOUNT EVEREST LN TOMS RIVER NJ 08753	19-46-24-W4-02200.5050 1511 ESTERO BLVD #505 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 505	91
SPIDEL LYNN R & DEANNA J TR 700 LAKESIDE DR ROME CITY IN 46784	19-46-24-W4-02200.5060 1511 ESTERO BLVD #506 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 506	91
SPIDEL LYNN R & DEANNA J TR 700 LAKESIDE DR ROME CITY IN 46784	19-46-24-W4-02200.5070 1511 ESTERO BLVD #507 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 507	91
GUILES JON R TR PO BOX 2706 FORT MYERS BEACH FL 33932	19-46-24-W4-02200.5080 1511 ESTERO BLVD #508 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 508	91
STERNER RACHEL V TR 2803 KINGS CROSSING DR # 321 KINGWOOD TX 77345	19-46-24-W4-02200.5090 1511 ESTERO BLVD #509 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 509	91
WOOD SAMUEL L PO BOX 342 PETERSBURG IL 62675	19-46-24-W4-02200.6000 1511 ESTERO BLVD #600 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 600	91
SMITH BRIAN T + PO BOX 235 HEYWORTH IL 61745	19-46-24-W4-02200.6010 1511 ESTERO BLVD #601 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 601	91
WOOD SAMUEL L + PO BOX 342	19-46-24-W4-02200.6020 1511 ESTERO BLVD #602	BATIKI WEST CONDO OR 1055 PG 1455	91

PETERSBURG IL 62675	FORT MYERS BEACH FL 33931	UNIT 602	
HANSEN LOUISE E TR 1511 ESTERO BLVD #603 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.6030 1511 ESTERO BLVD #603 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 603	91
RICCIO JOSEPH MICHAEL 26 SECLUDED HOLLOW RD CAPE MAY COURT HOUSE NJ 08210	19-46-24-W4-02200.6040 1511 ESTERO BLVD #604 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 604	91
NELSON BRADLEY A TR 803 IRONWOOD CC DR NORMAL IL 61761	19-46-24-W4-02200.6050 1511 ESTERO BLVD #605 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 605	91
FOUR P INVESTMENTS LTD 1511 ESTERO BLVD APT 606 FORT MYERS BEACH FL 33931	19-46-24-W4-02200.6060 1511 ESTERO BLVD #606 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 606	91
WOLOS MICHAEL C & SHAREN A PO BOX 381 FLUSHING MI 48433	19-46-24-W4-02200.6070 1511 ESTERO BLVD #607 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 607	91
TMS INVESTMENTS 185 HIGH ST NE WARREN OH 44481	19-46-24-W4-02200.6080 1511 ESTERO BLVD #608 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 608	91
SUNSET VIEWS LLC PO BOX 70 AUBURN IN 46706	19-46-24-W4-02200.6090 1511 ESTERO BLVD #609 FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT 609	91
SMITH JULIA V TR 1511 ESTERO BLVD #PHA FORT MYERS BEACH FL 33931	19-46-24-W4-022PH.00A0 1511 ESTERO BLVD #PHA FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE A	92
CALHAN FLP 189 SADDLEBROOK DR OAK BROOK IL 60523	19-46-24-W4-022PH.00B0 1511 ESTERO BLVD #PHB FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE B	92
CALHAN LEO D & JOAN C 1511 ESTERO BLVD #PHC FORT MYERS BEACH FL 33931	19-46-24-W4-022PH.00C0 1511 ESTERO BLVD #PHC FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE C	92
LADWIG MARY TR 10019 ISOLA WAY MIROMAR LAKES FL 33913	19-46-24-W4-022PH.00D0 1511 ESTERO BLVD #PHD FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE D	92
MALAGOTTA PROPERTIES LLC ANTHONY MIRAGLIOTTA 31 JOHN ALDEN ST CLIFTON NJ 07013	19-46-24-W4-022PH.00E0 1511 ESTERO BLVD #PHE FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE E	92
LONI RODGER J + 2054 N NORDICA AVE CHICAGO IL 60707	19-46-24-W4-022PH.00F0 1511 ESTERO BLVD #PHF FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE F	92
RICCIO NICHOLAS J & 1511 ESTERO BLVD #PHG FORT MYERS BEACH FL 33931	19-46-24-W4-022PH.00G0 1511 ESTERO BLVD #PHG FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE G	92
WILLIAMS JEFFREY M TR 1511 ESTERO BLVD #PHH FORT MYERS BEACH FL 33931	19-46-24-W4-022PH.00H0 1511 ESTERO BLVD #PHH FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE H	92
LOIZZO DIANE L TR 8453 ROB ROY DR ORLAND PARK IL 60462	19-46-24-W4-022PH.00I0 1511 ESTERO BLVD #PHI FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE I	92
BUTLER WILLIAM PATRICK 732 OKUMA DR CHESTER VA 23836	19-46-24-W4-022PH.0J00 1511 ESTERO BLVD #PHJ FORT MYERS BEACH FL 33931	BATIKI WEST CONDO OR 1055 PG 1455 UNIT PENTHOUSE J	92
MAUHI ENTERPRISES INC 4411 CLEVELAND AV FORT MYERS FL 33901	19-46-24-W4-0230A.0000 1600 ESTERO BLVD #A FORT MYERS BEACH FL 33931	TROPICAL CENTER COND OR 1123 PG 323 UNIT A	93
MAUHI ENTERPRISES INC 4411 CLEVELAND AV	19-46-24-W4-0230B.0000 1600 ESTERO BLVD #B	TROPICAL CENTER COND OR 1123 PG 323	94

FORT MYERS FL 33901	FORT MYERS BEACH FL 33931	UNIT B	
MAUHI ENTERPRISES INC 4411 CLEVELAND AV FORT MYERS FL 33901	19-46-24-W4-0230C.0000 1600 ESTERO BLVD #C FORT MYERS BEACH FL 33931	TROPICAL CENTER CONDO OR 1123 PG 323 UNIT C	95
MAUHI ENTERPRISES INC 4411 CLEVELAND AV FORT MYERS FL 33901	19-46-24-W4-0230D.0000 1600 ESTERO BLVD #D FORT MYERS BEACH FL 33931	TROPICAL CENTER COND OR 1123 PG 323 UNIT D	96
MAUHI ENTERPRISES INC 4411 CLEVELAND AV FORT MYERS FL 33901	19-46-24-W4-0230E.0000 1600 ESTERO BLVD #E FORT MYERS BEACH FL 33931	TROPICAL CENTER CONDO OR 1123 PG 323 UNIT E	97
1300 ESTERO BLVD LLC 32 BAYVIEW BLVD FORT MYERS BEACH FL 33931	19-46-24-W4-02600.1010 1300 ESTERO BLVD #101 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNITS 101 102 + 103	98
BEYER TAMMY E TR 9656 HALYARDS CT # 24 FORT MYERS FL 33919	19-46-24-W4-02600.1040 1300 ESTERO BLVD #104 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 104	98
ANDRESEN EDWIN TR 7960 PRESERVATION DR INDIANAPOLIS IN 46278	19-46-24-W4-02600.1050 1300 ESTERO BLVD #105 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 105	98
BOCCELLA SALVATORE 4 POINT VIEW CT SICKLERVILLE NJ 08081	19-46-24-W4-02600.1060 1300 ESTERO BLVD #106 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 106	98
JOHNSON NANCY ANN L/E 9 NANCY LN FORT MYERS BEACH FL 33931	19-46-24-W4-02600.2010 1300 ESTERO BLVD #201 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 201	98
HECK LLC 15561 CATALPA COVE DR FORT MYERS FL 33908	19-46-24-W4-02600.2020 1300 ESTERO BLVD #202 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 202	98
CONANT DONNA TR 8122 S FOREST HILL CIR FRANKLIN WI 53132	19-46-24-W4-02600.2030 1300 ESTERO BLVD #203 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 203	98
DENNIS R + CYNTHIA L LOKEN TRU 106 ICHABOD LN MANKATO MN 56001	19-46-24-W4-02600.2040 1300 ESTERO BLVD #204 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 204	98
LANDOLFI STEVEN J 22 VETO ST PROVIDENCE RI 02908	19-46-24-W4-02600.2050 1300 ESTERO BLVD #205 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 205	98
NIEMEIER RYAN & SUMMER 106 S WALNUT ST LA CRESCENT MN 55947	19-46-24-W4-02600.2060 1300 ESTERO BLVD #206 FORT MYERS BEACH FL 33931	CRESCENT SHORE CONDO OR 1464 PG 445 UNIT 206	98

VENETIAN GARDENS CANAL
PALERMO CIR
FORT MYERS BEACH FL 33931

VENETIAN GARDENS CANAL
PALERMO CIR
FORT MYERS BEACH FL 33931

KEY ESTERO SHOPS LLC
3220 PINE CONE CT
MILFORD MI 48381

REALBOOK LLC
12 SEQUOIA DR
DAYTON NJ 08810

GH3 RB CAPITAL LLC
1700 MEDICAL LN #101
FORT MYERS FL 33907

AMBERJACK PROPERTIES LLC
PO BOX 446
OTTOVILLE OH 45876

PIEC DANIEL J & JOYCE A TR
230 CAROLINA AVE
FORT MYERS BEACH FL 33931

MOORE ERIK & SUSAN +
8136 KRONLOKKEN LANE
LAFAYETTE IN 47909

EE44 LLC
1951 PINE RIDGE DR
JENISON MI 49428

COLLIN JAMES GROUP LLC
15 CARROTWOOD CT
FORT MYERS FL 33919

COLLIN JAMES GROUP LLC
15 CARROTWOOD CT
FORT MYERS FL 33919

RATISBONA INC
3665 BONITA BEACH RD SW #1-3
BONITA SPRINGS FL 34134

ZIEGLER MICHAEL W & NANCY A
437 AUBURN ST
ALLENTOWN PA 18103

CANTRELL JASON ALAN & DEBRA
620 GREENFORD TRAIL W
CARMEL IN 46032

PETERSON DAVID CHARLES
85 LAKEVIEW AVE
EXCELSIOR MN 55331

WIDMEIER INVESTMENTS LLC
4390 DODGE ST
DUBUQUE IA 52003

MALONEY JAMES P TR
235 CAROLINA AVE
FORT MYERS BEACH FL 33931

ESH ANDREW CHARLES +
15833 SUNSET RD
MINNETONKA MN 55345

SZYPERSKI KEITH P
219 CAROLINA AV
FORT MYERS BEACH FL 33931

LANI KAI LP
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931

LANI KAI LP
1400 ESTERO RD
FORT MYERS BEACH FL 33931

AULLS PATRICIA E L/E
7241 BERGAMO WAY UNIT 101
FORT MYERS FL 33966

WILCOX LANCE
1339 SANTOS RD
FORT MYERS BEACH FL 33931

PARILLA DAVID R TR
1335 SANTOS RD
FORT MYERS BEACH FL 33931

CONNER CHARLES R & GAIL D
53 POMPAÑO ST
FORT MYERS BEACH FL 33931

PARILLA DAVID R TR
1335 SANTOS RD
FORT MYERS BEACH FL 33931

KLC SURF LLC
CHRISTOPHER PRIMEAU
4625 W EUCLID AVE
TAMPA FL 33629

KLC SURF LLC
CHRISTOPHER PRIMEAU
4625 W EUCLID AVE
TAMPA FL 33629

LANI KAI LP
ROBERT G CONIDARIS
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931

LANI KAI LP
ROBERT G CONIDARIS
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931

LANI KAI LP
ROBERT G CONIDARIS
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931

7-ELEVEN INC
CORP INCOME TAX DEPT
3200 HYACKBERRY RD
IRVING TX 75063

455 PALERMO CIRCLE LLC
1421 EAST LAKE SHORE DR
SPRINGFIELD IL 62712

VAN FAM PROPERTIES LLC
7323 INDIGO RIDGE SW
BYRON CENTER MI 49315

DAR LAND HOLDINGS LLC
3487 COUNTY LINE RD
LUXEMBURG WI 54217

463 PALMERO LLC
1421 E LAKE SHORE DR
SPRINGFIELD IL 62712

499 PALERMO LLC
1421 E LAKE SHORE DR
SPRINGFIELD IL 62712

MILLER JONATHAN T
PO BOX 80490
FORT WAYNE IN 46898

TEZAK HELEN C TR
50 CHAPEL ST APT 4
FORT MYERS BEACH FL 33931

R & D ENTERPRISES OF
3436 CHURCH ST
STEVENS POINT WI 54481

WEIGERT ANTJE & MARTIN
415 CAPE CORAL PKWY W
CAPE CORAL FL 33914

JAMES R BRATLEY & JOAN E BRATL
15120 W ILIFF PL
LAKEWOOD CO 80228

GNIRCK RAPHAEL +
AM MUEHLBERG 39A
BAD HOMBURG VD HOEHE 61348
GERMANY

STRICK RICHARD A &
5804 PARK RIDGE CT
FORT COLLINS CO 80528

HENNESSEY PATRICIA J &
460 PALERMO CIR
FORT MYERS BEACH FL 33931

NORTH KEY INC
7150 RED LION FIVE POINTS RD
SPRINGBORO OH 45066

DONNA M BYRD TRUST +
5701 BLUNK KNOB RD
ELIZABETH IN 47117

RELAAX LLC
2201 E WILLOW ST STE D 363
SIGNAL HILL CA 90755

RELAAX LLC
2201 E WILLOW ST STE D 363
SIGNAL HILL CA 90755

DEL BUSTO GEORGE &
2212 EVEREST PKWY
CAPE CORAL FL 33904

450 PALERMO LLC
1421 E LAKE SHR
SPRINGFIELD IL 62712

LUSSIER TARA CORBISHLEY &
745 BIMINI LN
PUNTA GORDA FL 33950

RELAAX LLC
2201 E WILLOW ST STE D 363
SIGNAL HILL CA 90755

DAY BILLY WAYNE
3708 SHANNON RUN TRL
LOUISVILLE KY 40299

LUMP THOMAS F & ANN C
145 PALERMO CIR
FORT MYERS BEACH FL 33931

SLOMSKI STEVEN A &
PO BOX 2428 PMB 25382
PENSACOLA FL 32513

ARLINGTON GREEN HOMES LLC
LARRY SMITH
434 SPINNAKER DR
MARCO ISLAND FL 34145

KALIDINDI RAMA USHA +
44354 APACHE CIR
ASHBURN VA 20147

1249 ESTERO ADVENTURES LLC
290 BAHIA VIA
FORT MYERS BEACH FL 33931

NAUTICAL MARKETING LLC
189 SABAL DR
FORT MYERS BEACH FL 33931

MOFFA ROBERT H
37728 LOIS DR
STERLING HEIGHTS MI 48310

WEIT MARTIN & DAWN +
275 TROPICAL SHORES WAY
FORT MYERS BEACH FL 33931

BLOCD AHL LEASING LLC
3538 TIMBER RIDGE TRAIL
CEDAR RAPIDS IA 52411

CROWLEY THERESA M
60 ALVA DR
FORT MYERS BEACH FL 33931

BERTSCHINGER INVESTMENTS LLC
SEEBLICK 13
WOLLERAU 8832
SWITZERLAND

BERTSCHINGER INVESTMENTS LLC
SEEBLICK 13
8832 WOLLERAU
SWITZERLAND

CGRT LLC +
573 LONGWOOD AVE
GLENCOE IL 60022

MAUHI ENTERPRISES INC
4411 CLEVELAND AV
FORT MYERS FL 33901

SMART PARK OF FMB LLC
11330 LONG WATER CHASE COURT
FORT MYERS FL 33908

WATERFRONT PROPERTIES LLC
4411 CLEVELAND AVE
FORT MYERS FL 33901

HASSELHOFF LLC
414 MARKET ST
IOWA CITY IA 52245

1560 I STREET 62 LLC
4705 LELAND DR
CUMMING GA 30041

UNDERWOOD LLC
414 MARKET ST
IOWA CITY IA 52245

HOY MARSHA L/E
61 ALVA DR
FORT MYERS BEACH FL 33931

GANIM GEORGE W & JOSEPHINE TR
4666 MAIN ST
BRIDGEPORT CT 06606

GANIM GEORGE W & JOSEPHINE TR
4666 MAIN ST
BRIDGEPORT CT 06606

LANI KAI LP
ROBERT G CONIDARIS
1400 ESTERO BLVD
FORT MYERS BEACH FL 33931

STEPNEY LLC
4666 MAIN ST
BRIDGEPORT CT 06606

GANIM GEORGE W SR &
4666 MAIN ST
BRIDGEPORT CT 06606

ATWATER LLC
WALTER RAY SIMMONS
12711 CHATHAM DR
FORT MYERS FL 33908

RIGHT CHOICE INVESTMENTS LLC
13500 TELEGRAPH RD
TAYLOR MI 48180

OUR BEACH SAND LLC
12483 SUMMERWOOD DR
FORT MYERS FL 33908

PE RENTALS LLC
1107 KANE ST
LA CROSSE WI 54603

BARKER JOHN +
5262 OLYMPIA DR
INDIANAPOLIS IN 46228

VALAZQUEZ TIMOTHY +
163 MIRAMAR ST
FORT MYERS BEACH FL 33931

RUSK CHRISTOPHER J &
193 MIRAMAR ST
FORT MYERS BEACH FL 33931

KOSTER RODNEY A & THERESE A
880 3RD ST
FORT MYERS BEACH FL 33931

BATIKI WEST CONDO ASSN INC
SUITOR MIDDLETON COX + ASSOC
15751 SAN CARLOS BLVD STE 8
FORT MYERS FL 33908

TROPICAL CENTER CONDO ASSOC
1300 ESTERO BLVD
FORT MYERS BEACH FL 33931

CRESCENT SHORE CONDO ASSOC
PO BOX 2990
FORT MYERS BEACH FL 33932

PARKER HARRY W & BEVERLY J
17858 US HIGHWAY 61
SIKESTON MO 63801

PETRICH PAUL E & GAY G TR
860 HENN HYDE RD
WARREN OH 44484

WILLIAM L & JOYCE J HENDREN T
28033 N 1850 EAST RD
GRIDLEY IL 61744

WILLIAMS JEANNE L TR
1511 ESTERO BLVD # PHH
FORT MYERS BEACH FL 33931

HANY JOHN A TR
3405 STEPHANIE RD
BLOOMINGTON IL 61704

BUTLER JAMES H & TERESA A
1511 ESTERO BLVD #205
FORT MYERS BEACH FL 33931

LAY DANIEL F TR
7583 N 1300 E ROAD
SHIRLEY IL 61772

FRANKLIN JAY STAHAN TRUST
1511 ESTERO BLVD #207
FORT MYERS BEACH FL 33931

FILM CAROLYN A
64 CARROLLS GROVE RD
TROY NY 12180

BROWN JOANNE M TR
PO BOX 96
OMENA MI 49674

JONES MALINDA ETZLER
2445 S FILLMORE ST
DENVER CO 80210

FENN CYNTHIA TR
14248 FOUNTAIN HILLS CT NE
PRIOR LAKE MN 55372

FRANA THERESA L
2789 TRAILWOOD LN
LEXINGTON KY 40511

1511 ESTERO 303 LLC
MICHELLE YOUKHANA
495 THOMAS DR
NORTH BARRINGTON IL 60010

OBRIEN CAROL & WINSTON
1511 ESTERO BLVD #304
FORT MYERS BEACH FL 33931

DANIELSON BRIAN
1300 WILD ROSE TRAIL
EDMOND OK 73034

KARBLER LARRY L L/E
6558 OHENRY CIR
NORTH RIDGEVILLE OH 44039

JOHNSTON DALE MICHAEL &
118 MEADOW CREEK CT
LEXINGTON IL 61753

SEXTON MICHAEL ZEPH &
1511 ESTERO BLVD # 308
FORT MYERS BEACH FL 33931

RAPP DALE A & RUTH ANN
104 PRAIRIE DR
LEXINGTON IL 61753

LAW MICHAEL M & SHEILA K
PO BOX 584
HEYWORTH IL 61745

MEZERA CHRISTINA M TR
5229 W 62ND ST
EDINA MN 55436

QUARTELLO BETTY A TR
1511 ESTERO BLVD # 402
FORT MYERS BEACH FL 33931

SUNSET VIEWS LLC
PO BOX 70
AUBURN IN 46706

DARIANO KELLI R TR
79 SUNNY LN
TIFFIN OH 44883

MOORE ROBERT J & CYNTHIA S
1511 ESTERO BLVD #405
FORT MYERS BEACH FL 33931

STRIBLING MARK TR
PO BOX 408
ASHLAND IL 62612

STOCKER REBECCA L & JAMES A
APT 407
1511 ESTERO BLVD
JACKSONVILLE IL 62650

SMITH GARY B & ROXY R
3734 WESLEY CHAPEL RD
ZANESVILLE OH 43701

HOLZAPFEL CHARLES JOHN &
801 S 4TH CIR
BRANDON SD 57005

GREEN BURLEY & TAMMY
PO BOX 44
OWENSVILLE MO 65066

SUNSET VIEWS LLC
PO BOX 70
AUBURN IN 46706

CHARLES DANNY TR
9751 EASTERN AVE
BYRON CENTER MI 49315

DOUGLAS RAYMOND & JENNIFER
3 PELHAM RD BARGATE GRIMSBY
LINCOLNSHIRE DN34 4SU
UNITED KINGDOM

41 DEVOE STREET CORP
26 UPLAND RD
GREAT NECK NY 11020

GLACKIN BARBARA Q TR
1673 MOUNT EVEREST LN
TOMS RIVER NJ 08753

SPIDEL LYNN R & DEANNA J TR
700 LAKESIDE DR
ROME CITY IN 46784

SPIDEL LYNN R & DEANNA J TR
700 LAKESIDE DR
ROME CITY IN 46784

GUILES JON R TR
PO BOX 2706
FORT MYERS BEACH FL 33932

STERNER RACHEL V TR
2803 KINGS CROSSING DR # 321
KINGWOOD TX 77345

WOOD SAMUEL L
PO BOX 342
PETERSBURG IL 62675

SMITH BRIAN T +
PO BOX 235
HEYWORTH IL 61745

WOOD SAMUEL L +
PO BOX 342
PETERSBURG IL 62675

HANSEN LOUISE E TR
1511 ESTERO BLVD #603
FORT MYERS BEACH FL 33931

RICCIO JOSEPH MICHAEL
26 SECLUDED HOLLOW RD
CAPE MAY COURT HOUSE NJ 08210

NELSON BRADLEY A TR
803 IRONWOOD CC DR
NORMAL IL 61761

FOUR P INVESTMENTS LTD
1511 ESTERO BLVD APT 606
FORT MYERS BEACH FL 33931

WOLOS MICHAEL C & SHAREN A
PO BOX 381
FLUSHING MI 48433

TMS INVESTMENTS
185 HIGH ST NE
WARREN OH 44481

SUNSET VIEWS LLC
PO BOX 70
AUBURN IN 46706

SMITH JULIA V TR
1511 ESTERO BLVD #PHA
FORT MYERS BEACH FL 33931

CALHAN FLP
189 SADDLEBROOK DR
OAK BROOK IL 60523

CALHAN LEO D & JOAN C
1511 ESTERO BLVD #PHC
FORT MYERS BEACH FL 33931

LADWIG MARY TR
10019 ISOLA WAY
MIROMAR LAKES FL 33913

MALAGOTTA PROPERTIES LLC
ANTHONY MIRAGLIOTTA
31 JOHN ALDEN ST
CLIFTON NJ 07013

LONI RODGER J+
2054 N NORDICA AVE
CHICAGO IL 60707

RICCIO NICHOLAS J &
1511 ESTERO BLVD #PHG
FORT MYERS BEACH FL 33931

WILLIAMS JEFFREY M TR
1511 ESTERO BLVD #PHH
FORT MYERS BEACH FL 33931

LOIZZO DIANE L TR
8453 ROB ROY DR
ORLAND PARK IL 60462

BUTLER WILLIAM PATRICK
732 OKUMA DR
CHESTER VA 23836

MAUHI ENTERPRISES INC
4411 CLEVELAND AV
FORT MYERS FL 33901

MAUHI ENTERPRISES INC
4411 CLEVELAND AV
FORT MYERS FL 33901

MAUHI ENTERPRISES INC
4411 CLEVELAND AV
FORT MYERS FL 33901

MAUHI ENTERPRISES INC
4411 CLEVELAND AV
FORT MYERS FL 33901

MAUHI ENTERPRISES INC
4411 CLEVELAND AV
FORT MYERS FL 33901

1300 ESTERO BLVD LLC
32 BAYVIEW BLVD
FORT MYERS BEACH FL 33931

BEYER TAMMY E TR
9656 HALYARDS CT # 24
FORT MYERS FL 33919

ANDRESEN EDWIN TR
7960 PRESERVATION DR
INDIANAPOLIS IN 46278

BOCCELLA SALVATORE
4 POINT VIEW CT
SICKLERVILLE NJ 08081

JOHNSON NANCY ANN L/E
9 NANCY LN
FORT MYERS BEACH FL 33931

HECK LLC
15561 CATALPA COVE DR
FORT MYERS FL 33908

CONANT DONNA TR
8122 S FOREST HILL CIR
FRANKLIN WI 53132

DENNIS R + CYNTHIA L LOKEN TRU
106 ICHABOD LN
MANKATO MN 56001

LANDOLFI STEVEN J
22 VETO ST
PROVIDENCE RI 02908

NIEMEIER RYAN & SUMMER
106 S WALNUT ST
LA CRESCENT MN 55947

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0	TRUE	10477703	19-46-24-V	LKLB OF FLORIDA INC	1400 ESTERO BLVD	FORT MYER FL				33931		1479
1	FALSE	10617008	19-46-24-V	VENETIAN GARDENS C	PALERMO CIR	FORT MYER FL				33931		
2	FALSE	10617009	19-46-24-V	VENETIAN GARDENS C	PALERMO CIR	FORT MYER FL				33931		
3	FALSE	10227974	19-46-24-V	KEY ESTERO SHOPS LL	3220 PINE CONE CT	MILFORD MI				48381		1661
4	FALSE	10227975	19-46-24-V	REALBOOK LLC	12 SEQUOIA DR	DAYTON NJ				8810		200
5	FALSE	10227976	19-46-24-V	GH3 RB CAPITAL LLC	1700 MEDICAL LN #10	FORT MYER FL				33907		211
6	FALSE	10227978	19-46-24-V	AMBERJACK PROPERTI	PO BOX 446	OTTOVILLE OH				45876		210
7	FALSE	10227985	19-46-24-V	PIEC DANIEL J & JOYCE	230 CAROLINA AVE	FORT MYER FL				33931		230
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9	FALSE	10228046	19-46-24-V	EE44 LLC	1951 PINE RIDGE DR	JENISON MI				49428		125/127
10	FALSE	10626630	19-46-24-V	COLLIN JAMES GROUP	15 CARROTWOOD CT	FORT MYER FL				33919		259
11	FALSE	10626631	19-46-24-V	COLLIN JAMES GROUP	15 CARROTWOOD CT	FORT MYER FL				33919		257
12	FALSE	10228054	19-46-24-V	RATISBONA INC	3665 BONITA BEACH R	BONITA SPI FL				34134		251/255
13	FALSE	10228055	19-46-24-V	ZIEGLER MICHAEL W &	437 AUBURN ST	ALLEN TOW PA				18103		249
14	FALSE	10228056	19-46-24-V	CANTRELL JASON ALAN	620 GREENFORD TRAIL	CARMEL IN				46032		245
15	FALSE	10228057	19-46-24-V	PETERSON DAVID CHA	85 LAKEVIEW AVE	EXCELSIOR MN				55331		239
16	FALSE	10228058	19-46-24-V	WIDMEIER INVESTMEN	4390 DODGE ST	DUBUQUE IA				52003		237
17	FALSE	10228059	19-46-24-V	MALONEY JAMES P TR	235 CAROLINA AVE	FORT MYER FL				33931		233/235
18	FALSE	10228060	19-46-24-V	ESH ANDREW CHARLE	15833 SUNSET RD	MINNETON MN				55345		223
19	FALSE	10228061	19-46-24-V	SZYPSKI KEITH P	219 CAROLINA AV	FORT MYER FL				33931		219
20	FALSE	10228062	19-46-24-V	LANI KAI LP	1400 ESTERO BLVD	FORT MYER FL				33931		1403
21	FALSE	10228063	19-46-24-V	LANI KAI LP	1400 ESTERO RD	FORT MYER FL				33931		1401
22	FALSE	10228064	19-46-24-V	AULLS PATRICIA E L/E	7241 BERGAMO WAY U	FORT MYER FL				33966		1351
23	FALSE	10228065	19-46-24-V	WILCOX LANCE	1339 SANTOS RD	FORT MYER FL				33931		1339
24	FALSE	10228066	19-46-24-V	PARILLA DAVID R TR	1335 SANTOS RD	FORT MYER FL				33931		1335
25	FALSE	10228067	19-46-24-V	CONNER CHARLES R &	53 POMPAO ST	FORT MYER FL				33931		126
26	FALSE	10228068	19-46-24-V	PARILLA DAVID R TR	1335 SANTOS RD	FORT MYER FL				33931		1321
27	FALSE	10228069	19-46-24-V	KLC SURF L CHRISTOPH	4625 W EUCLID AVE	TAMPA FL				33629		1397
28	FALSE	10228070	19-46-24-V	KLC SURF L CHRISTOPH	4625 W EUCLID AVE	TAMPA FL				33629		1365/1375
29	FALSE	10228071	19-46-24-V	LANI KAI LP ROBERT G	1400 ESTERO BLVD	FORT MYER FL				33931		1345
30	FALSE	10228072	19-46-24-V	LANI KAI LP ROBERT G	1400 ESTERO BLVD	FORT MYER FL				33931		1331

31	FALSE	10228073	19-46-24-V LANI KAI LP ROBERT G (1400 ESTERO BLVD	FORT MYER FL	33931	1325
32	FALSE	10228074	19-46-24-V 7-ELEVEN I CORP INCC 3200 HYACKBERRY RD IRVING	TX	75063	1301
33	FALSE	10228089	19-46-24-V 455 PALERMO CIRCLE 1421 EAST LAKE SHOR	SPRINGFIELD IL	62712	455
34	FALSE	10463011	19-46-24-V VAN FAM PROPERTIES 17323 INDIGO RIDGE SV BYRON	CEI MI	49315	459
35	FALSE	10228090	19-46-24-V DAR LAND HOLDINGS 13487 COUNTY LINE RD LUXEMBUR	WI	54217	461
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37	FALSE	10228091	19-46-24-V 499 PALERMO LLC 1421 E LAKE SHORE DF	SPRINGFIELD IL	62712	499
38	FALSE	10228092	19-46-24-V MILLER JONATHAN T PO BOX 80490	FORT WAYN IN	46898	501
39	FALSE	10228093	19-46-24-V TEZAK HELEN C TR 50 CHAPEL ST APT 4	FORT MYER FL	33931	505
40	FALSE	10228094	19-46-24-V R & D ENTERPRISES OF 3436 CHURCH ST	STEVENS P WI	54481	551
41	FALSE	10558864	19-46-24-V WEIGERT ANTJE & MAR 415 CAPE CORAL PKW	CAPE COR FL	33914	561
42	FALSE	10228095	19-46-24-V JAMES R BRATLEY & JO 15120 W ILIFF PL	LAKEWOOD CO	80228	571
43	FALSE	10228096	19-46-24-V GNIRCK RAPHAEL + AM MUEHLBERG 39A	BAD HOMBURG VD HO	61348	GERMANY 581
44	FALSE	10228097	19-46-24-V STRICK RICHARD A & 5804 PARK RIDGE CT	FORT COLL CO	80528	130
45	FALSE	10228098	19-46-24-V HENNESSEY PATRICIA 460 PALERMO CIR	FORT MYER FL	33931	460
46	FALSE	10228099	19-46-24-V NORTH KEY INC 7150 RED LION FIVE PC	SPRINGBO OH	45066	552
47	FALSE	10228100	19-46-24-V DONNA M BYRD TRUST 5701 BLUNK KNOB RD	ELIZABETH IN	47117	580
48	FALSE	10228101	19-46-24-V RELAAX LLC 2201 E WILLOW ST	STE SIGNAL HIL CA	90755	584/586
49	FALSE	10228102	19-46-24-V RELAAX LLC 2201 E WILLOW ST	STE SIGNAL HIL CA	90755	588/590
50	FALSE	10228103	19-46-24-V DEL BUSTO GEORGE & 2212 EVEREST PKWY	CAPE COR FL	33904	456
51	FALSE	10228104	19-46-24-V 450 PALERMO LLC 1421 E LAKE SHR	SPRINGFIELD IL	62712	450
52	FALSE	10599453	19-46-24-V LUSSIER TARA CORBISI 745 BIMINI LN	PUNTA GOI FL	33950	212
53	FALSE	10599454	19-46-24-V RELAAX LLC 2201 E WILLOW ST	STE SIGNAL HIL CA	90755	
54	FALSE	10228136	19-46-24-V DAY BILLY WAYNE 3708 SHANNON RUN T	LOUISVILLE KY	40299	155
55	FALSE	10228137	19-46-24-V LUMP THOMAS F & ANN 145 PALERMO CIR	FORT MYER FL	33931	145
56	FALSE	10228138	19-46-24-V SLOMSKI STEVEN A & PO BOX 24 PMB 25382	PENSACOL FL	32513	139
57	FALSE	10228164	19-46-24-V ARLINGTON LARRY SMIT 434 SPINNAKER DR	MARCO ISL FL	34145	121
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59	FALSE	10228167	19-46-24-V 1249 ESTERO ADVENTI 290 BAHIA VIA	FORT MYER FL	33931	1249
60	FALSE	10228174	19-46-24-V NAUTICAL MARKETING 189 SABAL DR	FORT MYER FL	33931	1698
61	FALSE	10228175	19-46-24-V MOFFA ROBERT H 37728 LOIS DR	STERLING MI	48310	1660
62	FALSE	10228176	19-46-24-V WEIT MARTIN & DAWN 275 TROPICAL SHORES	FORT MYER FL	33931	71
63	FALSE	10228177	19-46-24-V BLOCD AHL LEASING LI 3538 TIMBER RIDGE TR	CEDAR RA IA	52411	1667

64	FALSE	10228178	19-46-24-V CROWLEY THERESA M	60 ALVA DR	FORT MYER FL	33931	60
65	FALSE	10228179	19-46-24-V BERTSCHINGER INVES	SEEBLICK 13	WOLLERAU	8832 SWITZERLA	1662
66	FALSE	10228180	19-46-24-V BERTSCHINGER INVES	SEEBLICK 13	8832 WOLLERAU	SWITZERLA	1664
67	FALSE	10228181	19-46-24-V CGRT LLC +	573 LONGWOOD AVE	GLENCOE IL	60022	1666
68	FALSE	10228183	19-46-24-V MAUHI ENTERPRISES II	4411 CLEVELAND AV	FORT MYER FL	33901	1560
69	FALSE	10228184	19-46-24-V SMART PARK OF FMB LI	11330 LONG WATER C	FORT MYER FL	33908	1510
70	FALSE	10228185	19-46-24-V WATERFRONT PROPER	4411 CLEVELAND AVE	FORT MYER FL	33901	71/73
71	FALSE	10228186	19-46-24-V HASSELHOFF LLC	414 MARKET ST	IOWA CITY IA	52245	60/64
72	FALSE	10228187	19-46-24-V 1560 I STREET 62 LLC	4705 LELAND DR	CUMMING GA	30041	1560
73	FALSE	10228188	19-46-24-V UNDERWOOD LLC	414 MARKET ST	IOWA CITY IA	52245	1550
74	FALSE	10228189	19-46-24-V HOY MARSHA L/E	61 ALVA DR	FORT MYER FL	33931	61
75	FALSE	10228190	19-46-24-V GANIM GEORGE W & JC	4666 MAIN ST	BRIDGEPOICT	6606	1478
76	FALSE	10228191	19-46-24-V GANIM GEORGE W & JC	4666 MAIN ST	BRIDGEPOICT	6606	1450
77	FALSE	10228192	19-46-24-V LANI KAI LP ROBERT G	1400 ESTERO BLVD	FORT MYER FL	33931	1400
78	FALSE	10228193	19-46-24-V STEPNEY LLC	4666 MAIN ST	BRIDGEPOICT	6606	71
79	FALSE	10228194	19-46-24-V GANIM GEORGE W SR	4666 MAIN ST	BRIDGEPOICT	6606	1480
80	FALSE	10228195	19-46-24-V ATWATTER WALTER RA	12711 CHATHAM DR	FORT MYER FL	33908	61/65
81	FALSE	10228196	19-46-24-V RIGHT CHOICE INVEST	13500 TELEGRAPH RD	TAYLOR MI	48180	1250
82	FALSE	10228197	19-46-24-V OUR BEACH SAND LLC	12483 SUMMERWOOD	FORT MYER FL	33908	1270
83	FALSE	10228229	19-46-24-V PE RENTALS LLC	1107 KANE ST	LA CROSSE WI	54603	157
84	FALSE	10228230	19-46-24-V BARKER JOHN +	5262 OLYMPIA DR	INDIANAPC IN	46228	159
85	FALSE	10228231	19-46-24-V VALAZQUEZ TIMOTHY +	163 MIRAMAR ST	FORT MYER FL	33931	163
86	FALSE	10228232	19-46-24-V RUSK CHRISTOPHER J	193 MIRAMAR ST	FORT MYER FL	33931	193
87	FALSE	10228233	19-46-24-V KOSTER RODNEY A & TI	880 3RD ST	FORT MYER FL	33931	201
88	FALSE	10228395	19-46-24-V BATIKI WES SUIOR MI	15751 SAN CARLOS BL	FORT MYER FL	33908	
89	FALSE	10462574	19-46-24-V TROPICAL CENTER COI	1300 ESTERO BLVD	FORT MYER FL	33931	
90	FALSE	10462572	19-46-24-V CRESCENT SHORE COI	PO BOX 2990	FORT MYER FL	33932	
91	FALSE	10228396	19-46-24-V PARKER HARRY W & BE	17858 US HIGHWAY 61	SIKESTON MO	63801	1511
91	FALSE	10228397	19-46-24-V PETRICH PAUL E & GAY	860 HENN HYDE RD	WARREN OH	44484	1511
91	FALSE	10228398	19-46-24-V WILLIAM L & JOYCE J H	28033 N 1850 EAST RD	GRIDLEY IL	61744	1511
91	FALSE	10228399	19-46-24-V WILLIAMS JEANNE L TR	1511 ESTERO BLVD # P	FORT MYER FL	33931	1511
91	FALSE	10228400	19-46-24-V HANY JOHN A TR	3405 STEPHANIE RD	BLOOMING IL	61704	1511
91	FALSE	10228401	19-46-24-V BUTLER JAMES H & TER	1511 ESTERO BLVD #2	FORT MYER FL	33931	1511

91	FALSE	10228402	19-46-24-V LAY DANIEL F TR	7583 N 1300 E ROAD	SHIRLEY IL	61772	1511
91	FALSE	10228403	19-46-24-V FRANKLIN JAY STAHAN	1511 ESTERO BLVD #2	FORT MYER FL	33931	1511
91	FALSE	10228404	19-46-24-V FILM CAROLYN A	64 CARROLLS GROVE	FT TROY NY	12180	1511
91	FALSE	10228405	19-46-24-V BROWN JOANNE M TR	PO BOX 96	OMENA MI	49674	1511
91	FALSE	10228406	19-46-24-V JONES MALINDA ETZLE	2445 S FILLMORE ST	DENVER CO	80210	1511
91	FALSE	10228407	19-46-24-V FENN CYNTHIA TR	14248 FOUNTAIN HILL	PRIOR LAKE MN	55372	1511
91	FALSE	10228408	19-46-24-V FRANA THERESA L	2789 TRAILWOOD LN	LEXINGTON KY	40511	1511
91	FALSE	10228409	19-46-24-V 1511 ESTEF MICHELLE	495 THOMAS DR	NORTH BAF IL	60010	1511
91	FALSE	10228410	19-46-24-V OBRIEN CAROL & WIN	1511 ESTERO BLVD #3	FORT MYER FL	33931	1511
91	FALSE	10228411	19-46-24-V DANIELSON BRIAN	1300 WILD ROSE TRAIL	EDMOND OK	73034	1511
91	FALSE	10228412	19-46-24-V KARBLER LARRY L/E	6558 OHENRY CIR	NORTH RID OH	44039	1511
91	FALSE	10228413	19-46-24-V JOHNSTON DALE MICH	118 MEADOW CREEK C	LEXINGTON IL	61753	1511
91	FALSE	10228414	19-46-24-V SEXTON MICHAEL ZEP	1511 ESTERO BLVD # 3	FORT MYER FL	33931	1511
91	FALSE	10228415	19-46-24-V RAPP DALE A & RUTH A	104 PRAIRIE DR	LEXINGTON IL	61753	1511
91	FALSE	10228416	19-46-24-V LAW MICHAEL M & SHE	PO BOX 584	HEYWORTH IL	61745	1511
91	FALSE	10228417	19-46-24-V MEZERA CHRISTINA M	5229 W 62ND ST	EDINA MN	55436	1511
91	FALSE	10228418	19-46-24-V QUARTELLO BETTY A TF	1511 ESTERO BLVD # 4	FORT MYER FL	33931	1511
91	FALSE	10228419	19-46-24-V SUNSET VIEWS LLC	PO BOX 70	AUBURN IN	46706	1511
91	FALSE	10228420	19-46-24-V DARIANO KELLI R TR	79 SUNNY LN	TIFFIN OH	44883	1511
91	FALSE	10228421	19-46-24-V MOORE ROBERT J & CY	1511 ESTERO BLVD #4	FORT MYER FL	33931	1511
91	FALSE	10228422	19-46-24-V STRIBLING MARK TR	PO BOX 408	ASHLAND IL	62612	1511
91	FALSE	10228423	19-46-24-V STOCKER REBECCA L	8 APT 407	1511 ESTEF JACKSONV IL	62650	1511
91	FALSE	10228424	19-46-24-V SMITH GARY B & ROXY	3734 WESLEY CHAPEL	ZANESVILLE OH	43701	1511
91	FALSE	10228425	19-46-24-V HOLZAPFEL CHARLES J	801 S 4TH CIR	BRANDON SD	57005	1511
91	FALSE	10228426	19-46-24-V GREEN BURLEY & TAM	PO BOX 44	OWENSVIL MO	65066	1511
91	FALSE	10228427	19-46-24-V SUNSET VIEWS LLC	PO BOX 70	AUBURN IN	46706	1511
91	FALSE	10228428	19-46-24-V CHARLES DANNY TR	9751 EASTERN AVE	BYRON CEI MI	49315	1511
91	FALSE	10228429	19-46-24-V DOUGLAS RAYMOND & 3	PELHAM I GRIMSBY	LINCOLNSHIRE	DN34 4SU	UNITED KIN
91	FALSE	10228430	19-46-24-V 41 DEVOE STREET	COR 26 UPLAND RD	GREAT NEC NY	11020	1511
91	FALSE	10228431	19-46-24-V GLACKIN BARBARA Q T	1673 MOUNT EVEREST	TOMS RIVE NJ	8753	1511
91	FALSE	10228432	19-46-24-V SPIDEL LYNN R & DEAN	700 LAKESIDE DR	ROME CITY IN	46784	1511
91	FALSE	10228433	19-46-24-V SPIDEL LYNN R & DEAN	700 LAKESIDE DR	ROME CITY IN	46784	1511
91	FALSE	10228434	19-46-24-V GUILLES JON R TR	PO BOX 2706	FORT MYER FL	33932	1511

91	FALSE	10228435	19-46-24-V STERNER RACHEL V TR 2803 KINGS CROSSING KINGWOOD TX	77345	1511
91	FALSE	10228436	19-46-24-V WOOD SAMUEL L PO BOX 342 PETERSBURG IL	62675	1511
91	FALSE	10228437	19-46-24-V SMITH BRIAN T + PO BOX 235 HEYWORTH IL	61745	1511
91	FALSE	10228438	19-46-24-V WOOD SAMUEL L + PO BOX 342 PETERSBURG IL	62675	1511
91	FALSE	10228439	19-46-24-V HANSEN LOUISE E TR 1511 ESTERO BLVD #6 FORT MYER FL	33931	1511
91	FALSE	10228440	19-46-24-V RICCIO JOSEPH MICHA 26 SECLUDED HOLLOV CAPE MAY NJ	8210	1511
91	FALSE	10228441	19-46-24-V NELSON BRADLEY A TR 803 IRONWOOD CC DF NORMAL IL	61761	1511
91	FALSE	10228442	19-46-24-V FOUR P INVESTMENTS 1511 ESTERO BLVD AP FORT MYER FL	33931	1511
91	FALSE	10228443	19-46-24-V WOLOS MICHAEL C & S PO BOX 381 FLUSHING MI	48433	1511
91	FALSE	10228444	19-46-24-V TMS INVESTMENTS 185 HIGH ST NE WARREN OH	44481	1511
91	FALSE	10228445	19-46-24-V SUNSET VIEWS LLC PO BOX 70 AUBURN IN	46706	1511
92	FALSE	10228446	19-46-24-V SMITH JULIA V TR 1511 ESTERO BLVD #PI FORT MYER FL	33931	1511
92	FALSE	10228447	19-46-24-V CALHAN FLP 189 SADDLEBROOK DF OAK BROOK IL	60523	1511
92	FALSE	10228448	19-46-24-V CALHAN LEO D & JOAN 1511 ESTERO BLVD #PI FORT MYER FL	33931	1511
92	FALSE	10228449	19-46-24-V LADWIG MARY TR 10019 ISOLA WAY MIOMAR IL FL	33913	1511
92	FALSE	10228450	19-46-24-V MALAGOTT ANTHONY I 31 JOHN ALDEN ST CLIFTON NJ	7013	1511
92	FALSE	10228451	19-46-24-V LONI RODGER J + 2054 N NORDICA AVE CHICAGO IL	60707	1511
92	FALSE	10228452	19-46-24-V RICCIO NICHOLAS J & 1511 ESTERO BLVD #PI FORT MYER FL	33931	1511
92	FALSE	10228453	19-46-24-V WILLIAMS JEFFREY M TI 1511 ESTERO BLVD #PI FORT MYER FL	33931	1511
92	FALSE	10228454	19-46-24-V LOIZZO DIANE L TR 8453 ROB ROY DR ORLAND P IL	60462	1511
92	FALSE	10228455	19-46-24-V BUTLER WILLIAM PATRI 732 OKUMA DR CHESTER VA	23836	1511
93	FALSE	10228457	19-46-24-V MAUHI ENTERPRISES II 4411 CLEVELAND AV FORT MYER FL	33901	1600
94	FALSE	10228458	19-46-24-V MAUHI ENTERPRISES II 4411 CLEVELAND AV FORT MYER FL	33901	1600
95	FALSE	10228459	19-46-24-V MAUHI ENTERPRISES II 4411 CLEVELAND AV FORT MYER FL	33901	1600
96	FALSE	10228460	19-46-24-V MAUHI ENTERPRISES II 4411 CLEVELAND AV FORT MYER FL	33901	1600
97	FALSE	10228461	19-46-24-V MAUHI ENTERPRISES II 4411 CLEVELAND AV FORT MYER FL	33901	1600
98	FALSE	10228463	19-46-24-V 1300 ESTERO BLVD LLC 32 BAYVIEW BLVD FORT MYER FL	33931	1300
98	FALSE	10228464	19-46-24-V BEYER TAMMY E TR 9656 HALYARDS CT # 2 FORT MYER FL	33919	1300
98	FALSE	10228465	19-46-24-V ANDRESEN EDWIN TR 7960 PRESERVATION C INDIANAPC IN	46278	1300
98	FALSE	10228466	19-46-24-V BOCCELLA SALVATORE 4 POINT VIEW CT SICKLERVIL NJ	8081	1300
98	FALSE	10228467	19-46-24-V JOHNSON NANCY ANN 9 NANCY LN FORT MYER FL	33931	1300
98	FALSE	10228468	19-46-24-V HECK LLC 15561 CATALPA COVE FORT MYER FL	33908	1300
98	FALSE	10228469	19-46-24-V CONANT DONNA TR 8122 S FOREST HILL CI FRANKLIN WI	53132	1300

98	FALSE	10228470	19-46-24-V DENNIS R + CYNTHIA L 106 ICHABOD LN	MANKATO MN	56001	1300
98	FALSE	10228471	19-46-24-V LANDOLFI STEVEN J 22 VETO ST	PROVIDENCE RI	2908	1300
98	FALSE	10228472	19-46-24-V NIEMEIER RYAN & SUM 106 S WALNUT ST	LA CRESCE MN	55947	1300

SiteStreet	SiteUnit	SiteCity	SiteZip	Legal
ESTERO BLVD		FORT MYER	33931	VENETIAN GARDENS <CR>BLK B PB 6 PG 70 <CR>LOTS 7 + 8 + E 1/2 OF LOT 9<CR>+ 28 + 29 +
SUBMERGED		FORT MYER	33931	VENETIAN GARDENS<CR>PB 6 PG 70<CR>RIO DEL LIDO CANAL
SUBMERGED		FORT MYER	33931	VENETIAN GARDENS<CR>PB 6 PG 70<CR>CANAL GRANDE CANAL
ESTERO BLVD		FORT MYER	33931	HILLS T P SUBD PB 3 PG 84<CR>PT LT 11 DESC OR 1468<CR>PG 1697 LESS N 275 FT
CAROLINA AVE		FORT MYER	33931	HILLS T P SUBD PB 3 PG 84<CR>PT LT 11 N 275 FT OF<CR>OR 1468 PG 1697
OSTEGO DR		FORT MYER	33931	HILLS T P SUBD PB 3 PG 84 PT LOT 11 DESC OR 1352 PG 613 AKA BLK J LOT 13 1ST EDITION VENETIAM GAI
OSTEGO DR		FORT MYER	33931	HILLS T P SUBD<CR>PB 3 PG 84 PT LOT 11<CR>DESC IN OR 1351 PG 1680
CAROLINA AVE		FORT MYER	33931	HILLS TP SUBD<CR>PB 3 PG 84 PT LOT 11<CR>DESC OR 1365 PG 760
OSTEGO DR		FORT MYER	33931	PARL IN S 1/4 AS DESC IN<CR>OR 1361 PG 1551 AKA BLK J<CR>LOT 15 VENETIAN GARDENS
PALERMO CIR		FORT MYER	33931	VENETIAN GARDENS<CR>BLK Y PB 6 PG 70<CR>ALL BLK Y EXC NLY 11 FT
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 11
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 12
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 13
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 14
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 15
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 16
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 17
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 18 + N 25 FT LOT 19
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 20 + S 1/2 OF LOT 19
CAROLINA AVE		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 21
SANTOS RD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOTS 30 31 LESS W 12 FT
SANTOS RD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOTS 32 + W 12 FT LOT 31
SANTOS RD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 33
SANTOS RD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 34
SANTOS RD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 35
PALERMO CIR		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 36 + S 1/2 OF BLK X<CR>LESS THEN N 20 FT
SANTOS RD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK A PB 6 PG 70<CR>LOT 37
ESTERO BLVD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK B PB 6 PG 70<CR>W 1/2 LOT 9 LOTS 10 + 11
ESTERO BLVD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK B PB 6 PG 70<CR>LOT 12
ESTERO BLVD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK B PB 6 PG 70<CR>LOT 13
ESTERO BLVD		FORT MYER	33931	VENETIAN GARDENS<CR>BLK B PB 6 PG 70<CR>LOT 14

ESTERO BLVD	FORT MYER	33931 VENETIAN GARDENS<CR>BLK B PB 6 PG 70<CR>LOTS 15
ESTERO BLVD	FORT MYER	33931 VENETIAN GARDENS<CR>BLK B PB 6 PG 70<CR>LOTS 16 + 17
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK.D PB 6 PG 70<CR>LOT 10
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS <CR>BLK D PB 6 PG 70 <CR>LOT 11
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK.D PB 6 PG 70<CR>LOT 12
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS <CR>BLK D PB 6 PG 70 <CR>LOT 13 + N 1/2 OF LOT 14
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK D PB 6 PG 70<CR>PT LOT 15 + S 1/2 LOT 14<CR>DESC IN OR BK 3404 PG 4:
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK E PB 6 PG 70<CR>LOTS 1 + 2 + PT LOT 15 +<CR>20 FT STRIP N OF AND ADJ.
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK E PB 6 PG 70<CR>LOTS 3 + 4
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK E PB 6 PG 70<CR>LOT 5
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK E PB 6 PG 70<CR>LOT 6
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK E PB 6 PG 70<CR>LOT 7
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK.E PB 6 PG 70<CR>LOT 8 + LOT PT 9
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS PB 6/70<CR>BLK E S 1/2 OF LOT 9 +<CR>ALL OF BLK X LESS S 20 FT
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK.F PB 6 PG 70<CR>LOT 1
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK.F PB 6 PG 70<CR>LOT 2
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK.F PB 6 PG 70<CR>LOT 3
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK F PB 6 PG 70<CR>LOT 4
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK F PB 6 PG 70<CR>LOT 5
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK.F PB 6 PG 70<CR>LOT 6
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK F PB 6 PG 70<CR>LOT 7
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK F PB 6 PG 70<CR>PORTION OF LOT 28 DESC IN INSTRUMENT 2020000115
ACCESS UNDETERMINED	FORT MYERS BEACH	VENETIAN GARDENS<CR>BLK F PB 6 PG 70<CR>REMAINING PORTION OF LOT 28 DESC IN INSTRUMENT 2
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK G PB 6 PG 70<CR>LOT 17
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK.G PB 6 PG 70<CR>LOT 18
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK G PB 6 PG 70<CR>LOT 19 NLY 11 FT BLK Y
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK.H PB 6 PG 70<CR>LOT 27
PALERMO CIR	FORT MYER	33931 VENETIAN GARDENS<CR>BLK H PB 6 PG 70<CR>LOT 28 + PT LOTS 26 + 29
ESTERO BLVD	FORT MYER	33931 VENETIAN GARDENS BLK H<CR>PB 6 PG 70 LOTS 30 31+32<CR>+ PT LT 29 OR 2414/2433
ESTERO BLVD	FORT MYER	33931 CRESCENT BEACH BLK B<CR>PB 4 PG 45 E 1/2 OF LT 1<CR>+ N 1/2 OF E 1/2 OF LT 4
ESTERO BLVD	FORT MYER	33931 CRESCENT BEACH<CR>BLK B PB 4 PG 45<CR>W 1/2 LOTS 1 + 4
AVENUE E	FORT MYER	33931 CRESCENT BEACH BLK B PB 4 PG 45 S 1/2 OF E 1/2 OF LOT 4 + E 1/2 OF LOT 5
I ST	FORT MYER	33931 CRESCENT BEACH<CR>BLK B PB 4 PG 45<CR>W 1/2 OF LOT 5

ALVA DR	FORT MYER	33931 CRESCENT BEACH<CR>BLK.B PB 4 PG 45<CR>LOT 7
I ST	FORT MYER	33931 CRESCENT BEACH<CR>BLK B PB 4 PG 45<CR>LOT 8
I ST	FORT MYER	33931 CRESCENT BEACH<CR>BLK B PB 4 PG 45<CR>LOT 9 + LOT PT 10
I ST	FORT MYER	33931 CRESCENT BEACH<CR>BLK B PB 4 PG 45<CR>LOT PT 10
ESTERO BLVD	FORT MYER	33931 CRESCENT BEACH<CR>BLK.C PB 4 PG 45<CR>LOTS 1 + 4
ESTERO BLVD	FORT MYER	33931 CRESCENT BEACH<CR>BLK C PB 4 PG 45<CR>LOTS 2 3 6
ALVA DR	FORT MYER	33931 CRESCENT BEACH<CR>BLK C PB 4 PG 45<CR>LOT 5
AVENUE C	FORT MYER	33931 CRESCENT BEACH<CR>BLK C PB 4 PG 45<CR>LOTS 7 + PT LOT 8 W 1/2 OF
I ST	62 FORT MYER	33931 CRESCENT BEACH<CR>BLK C PB 4 PG 45<CR>LT9 + E1/2 LT 8+ VAC ALLEY
I ST	FORT MYER	33931 CRESCENT BEACH<CR>BLK C PB 4 PG 45<CR>LOT 10
ALVA DR	FORT MYER	33931 CRESCENT BEACH<CR>BLK C PB 4 PG 45<CR>LOT 11
ESTERO BLVD	FORT MYER	33931 CRESCENT BEACH<CR>BLK D PB 4 PG 45<CR>LOTS 1 + 4 LESS WLY 43 FT
ESTERO BLVD	FORT MYER	33931 CRESCENT BEACH<CR>BLK.D PB 4 PG 45<CR>WLY 43 FT LOTS 1 + 4
ESTERO BLVD	FORT MYER	33931 CRESCENT BEACH PB 4 PG 45<CR>BLKS D + E + VAC R/W DESC<CR>OR 1293 PG 1208
AVENUE C	FORT MYER	33931 CRESCENT BEACH<CR>BLK.D PB 4 PG 45<CR>LOT 5
I ST	FORT MYER	33931 CRESCENT BEACH<CR>BLK.D PB 4 PG 45<CR>LOT 10
AVENUE C	FORT MYER	33931 CRESCENT BEACH<CR>BLK D PB 4 PG 45<CR>LOT 11
ESTERO BLVD	FORT MYER	33931 CRESCENT PARK LTS 1 + 2 + ESTRY 2.5 FT LT 3 + CRESCENT BEACH LTS 1-5 BLK F LESS ESTRLY 45FT OF NF
ESTERO BLVD	FORT MYER	33931 CRESCENT BEACH BLK F<CR>PB 4 PG 45 PT LOTS 1 2 & 3<CR>DESC IN OR 1319 PG 1459
MIRAMAR ST	FORT MYER	33931 MIRAMAR<CR>BLK B PB 6 PG 31<CR>LOT 8
MIRAMAR ST	FORT MYER	33931 MIRAMAR<CR>BLK B PB 6 PG 31<CR>LOT 9
MIRAMAR ST	FORT MYER	33931 MIRAMAR<CR>BLK.B PB 6 PG 31<CR>LOT 10
MIRAMAR ST	FORT MYER	33931 MIRAMAR<CR>BLK B PB 6 PG 31<CR>LOT 11
MIRAMAR ST	FORT MYER	33931 MIRAMAR<CR>BLK B PB 6 PG 31<CR>LOT 12
BATIKI WEST CONDO C	FORT MYER	33931 BATIKI WEST CONDO<CR>DESC OR BK 1055 PG 1455<CR>COMMON ELEMENTS POOL/DOCK
TROPICAL CENTER C/E	FORT MYER	33931 CONDO IN SW 1/4 SEC 19<CR>TWP 46 R 24 RECORDED IN<CR>OR 1123 P 323 THRU 364<CR>COMMON
CRESCENT SHORE C/E	FORT MYER	33931 A CONDO LOCATED IN SEC 19<CR>TWP 46 RGE 24 AS DESC IN<CR>OR 1464 PG 445<CR>COMMON ELEI
ESTERO BL'	200 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 200
ESTERO BL'	201 FORT MYER	33931 BATIKI WEST CONDO<CR> OR 1055 PG 1455<CR>UNIT 201
ESTERO BL'	202 FORT MYER	33931 BATIKI WEST CONDO<CR> OR 1055 PG 1455<CR>UNIT 202
ESTERO BL'	203 FORT MYER	33931 BATIKI WEST CONDO<CR> OR 1055 PG 1455<CR>UNIT 203
ESTERO BL'	204 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 204
ESTERO BL'	205 FORT MYER	33931 BATIKI WEST CONDO<CR> OR 1055 PG 1455<CR>UNIT 205

ESTERO BL'	206 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 206
ESTERO BL'	207 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 207	
ESTERO BL'	208 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 208
ESTERO BL'	209 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 209
ESTERO BL'	300 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 300	
ESTERO BL'	301 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 301
ESTERO BL'	302 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 302
ESTERO BL'	303 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 303	
ESTERO BL'	304 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 304
ESTERO BL'	305 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 305
ESTERO BL'	306 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 306
ESTERO BL'	307 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 307	
ESTERO BL'	308 FORT MYER	33931 BARIKI WEST CONDO<CR>	OR 1055 PG 1055<CR>UNIT 308
ESTERO BL'	309 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 309
ESTERO BL'	400 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 400	
ESTERO BL'	401 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 401	
ESTERO BL'	402 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 402
ESTERO BL'	403 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 403
ESTERO BL'	404 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 404
ESTERO BL'	405 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 405
ESTERO BL'	406 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 406	
ESTERO BL'	407 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 407
ESTERO BL'	408 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 408
ESTERO BL'	409 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 409	
ESTERO BL'	500 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 500	
ESTERO BL'	501 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 501
ESTERO BL'	502 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 502
ESTERO BL'	503 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 503
ESTERO BL'	504 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 504
ESTERO BL'	505 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 505
ESTERO BL'	506 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 506
ESTERO BL'	507 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 507
ESTERO BL'	508 FORT MYER	33931 BATIKI WEST CONDO<CR>OR 1055 PG 1455<CR>UNIT 508	

ESTERO BL'	509 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 509
ESTERO BL'	600 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 600
ESTERO BL'	601 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 601
ESTERO BL'	602 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 602
ESTERO BL'	603 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 603
ESTERO BL'	604 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 604
ESTERO BL'	605 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 605
ESTERO BL'	606 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 606
ESTERO BL'	607 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 607
ESTERO BL'	608 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 608
ESTERO BL'	609 FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT 609
ESTERO BL' PHA	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE A
ESTERO BL' PHB	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE B
ESTERO BL' PHC	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE C
ESTERO BL' PHD	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE D
ESTERO BL' PHE	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE E
ESTERO BL' PHF	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE F
ESTERO BL' PHG	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE G
ESTERO BL' PHH	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE H
ESTERO BL' PHI	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE I
ESTERO BL' PHJ	FORT MYER	33931 BATIKI WEST CONDO<CR>	OR 1055 PG 1455<CR>UNIT PENTHOUSE J
ESTERO BL' A	FORT MYER	33931 TROPICAL CENTER CONDO<CR>	OR 1123 PG 323<CR>UNIT A
ESTERO BL' B	FORT MYER	33931 TROPICAL CENTER CONDO<CR>	OR 1123 PG 323<CR>UNIT B
ESTERO BL' C	FORT MYER	33931 TROPICAL CENTER CONDO<CR>	OR 1123 PG 323<CR>UNIT C
ESTERO BL' D	FORT MYER	33931 TROPICAL CENTER CONDO<CR>	OR 1123 PG 323<CR>UNIT D
ESTERO BL' E	FORT MYER	33931 TROPICAL CENTER CONDO<CR>	OR 1123 PG 323<CR>UNIT E
ESTERO BL'	101 FORT MYER	33931 CRESCENT SHORE CONDO<CR>	OR 1464 PG 445<CR>UNITS 101 102 + 103
ESTERO BL'	104 FORT MYER	33931 CRESCENT SHORE CONDO<CR>	OR 1464 PG 445<CR>UNIT 104
ESTERO BL'	105 FORT MYER	33931 CRESCENT SHORE CONDO<CR>	OR 1464 PG 445<CR>UNIT 105
ESTERO BL'	106 FORT MYER	33931 CRESCENT SHORE CONDO<CR>	OR 1464 PG 445<CR>UNIT 106
ESTERO BL'	201 FORT MYER	33931 CRESCENT SHORE CONDO<CR>	OR 1464 PG 445<CR>UNIT 201
ESTERO BL'	202 FORT MYER	33931 CRESCENT SHORE CONDO<CR>	OR 1464 PG 445<CR>UNIT 202
ESTERO BL'	203 FORT MYER	33931 CRESCENT SHORE CONDO<CR>	OR 1464 PG 445<CR>UNIT 203

ESTERO BL'	204 FORT MYER	33931 CRESCENT SHORE CONDO<CR>OR 1464 PG 445<CR>UNIT 204
ESTERO BL'	205 FORT MYER	33931 CRESCENT SHORE CONDO<CR>OR 1464 PG 445<CR>UNIT 205
ESTERO BL'	206 FORT MYER	33931 CRESCENT SHORE CONDO<CR>OR 1464 PG 445<CR>UNIT 206

·<CR>VAC RD RD R/W OR 553 PG 797

RDENS

545
TO LTS 1 + 2<CR>DESC IN OR BK 3404 PG 4545

371
:020000115871

ETHLY 2.7 LT 3

ELEMENTS
MENTS



July 24, 2024

LKLB of Florida Inc.
1400 Estero Blvd.
Fort Myers Beach, FL 33931

Re: 1479 Estero Blvd, Fort Myers Beach
Strap # 19-46-24-W4-0060.B0070
SEZ20240186- Bayside Parking lot

Dear Applicant,

The Community Development Department has reviewed the submission package for the above-referenced ZVL application. At this time, the application is found insufficient and requires additional information.

Zoning Review: Jason Smalley 7/24/2024

Concerns:

1. It is unclear whether sufficient parking is provided for the 25-unit hotel/motel use at the property. Any commercial parking would be in spaces that are in addition to the minimum required spaces. Please see the formula below for calculating the required minimum spaces for the primary site use. If the hotel/motel use requires 30 parking spaces, then 13 would be available for a commercial parking lot.
2. The parking lot area will need to be redesigned to comply with parking space and drive aisle minimums.
 - a. Parking spaces do not appear to meet minimum standards of 18'x9' with 2' overhand from wheel blocks
 - b. Drive aisles appear deficient in size. Plans call for 20' wide drive aisles, but there is not internal connection to allow for one-way only navigation through the parking lot, unless redesigned the aisle width doesn't provide the minimum 22' width for two-way traffic through the lot.
3. Current code requirements for landscaping, space separation and stormwater draining are not able to be met with the present lot configuration and several variances will be required.

Additional Information Needed:

1. To determine the minimum number of parking spaces required to accommodate the 25 guest units, staff needs to know the unit sizes (<450s.f. = 1.2 spaces per unit; >450s.f. = 1.5 spaces per unit)
2. Provide parking lot configuration plan that complies with spaces and drive aisle minimums.
 - a. On the parking plan, please show the existing light poles, heights and compliance with turtle-lighting standards.
3. A list of variances necessary to accommodate the redesigned parking plan.



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

Staff recommends that the following could be incorporated into the parking plan

- Improvements to the landscaping along Estero Blvd
- Reduce the entry driveway width from Estero Blvd. There appears to be two large entrances/exits from Estero Blvd. This could be reduced to one.

Please respond to each sufficiency review comment. If you do not provide the requested supplements or corrections within 60 calendar days of this letter, the Code requires that this application be considered withdrawn. If additional time is needed, the applicant may ask for additional time. If you have any questions concerning this matter, please contact the Community Development Department office by emailing zoningpermits@fmbgov.com.

Sincerely,
Jason Smalley
Planner
Community Development Services

From: [Sarah Propst](#)
To: [Robert Burandt](#); [Kendra Rosa](#)
Cc: [zoning.permits](#); [Judith Frankel](#)
Subject: RE: SEZ20240186- 1479 Estero Blvd- Insufficiency letter
Date: Tuesday, July 30, 2024 11:33:52 AM
Attachments: [image008.png](#)
[image009.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)
[image020.png](#)
[image021.png](#)
[image022.png](#)
[image002.png](#)

Good morning Mr. Burandt, staff is unable to determine what variances are needed without a dimensioned plan that indicates the aisle width, the parking space sizes, and any landscaping areas. Please provide that plan/information, along with the size of the guest units that the parking lot accommodates (units up to 450 sf. = 1.2 spaces, greater than 450 sf = 1.5 spaces) to help us determine the number of spaces available for public use.

Please reach out if this is unclear or we can assist.



Sarah Propst, AICP, PMP
Sr. Planner/Project Manager
Town of Fort Myers Beach
2731 Oak St
Fort Myers Beach, FL. 33931
Cell: (757) 269-1203



Think Green. Please print this e-mail only if necessary.

Please Note: Florida has very broad public records laws. Most written communications to and from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications may be subject to public disclosure.

From: Robert Burandt <robert@capecoralattorney.com>
Sent: Monday, July 29, 2024 11:12 AM
To: Kendra Rosa <Kendra@fmbgov.com>
Cc: [zoning.permits](#) <zoningpermits@fmbgov.com>; Sarah Propst <sarah.propst@fmbgov.com>;
Judith Frankel <jfrankel@fmbgov.com>
Subject: RE: SEZ20240186- 1479 Estero Blvd- Insufficiency letter

Thank you for your letter of insufficiency, this lot has been used for parking for over 40 years and we are trying to come into compliance as requested by town officials even though we believe we are currently compliant with existing codes. Please advise what additional

variances will be required if we decide to continue with our existing application.

Thank you and have a nice day.

Robert B. Burandt, Esq.
BURANDT, ADAMSKI, FEICHTHALER, & SANCHEZ, PLLC
1714 Cape Coral Parkway East
Cape Coral, Florida 33904

Phone: (239) 542-4733
Fax: (239) 542-9203
Email: Robert@capecoralattorney.com

Confidentiality Notice - This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by e-mail and delete all copies of this message.

This Communication Is From A Debt Collector- Unless you dispute the validity of this debt within thirty days of your receipt of this notice, we will assume that the debt is valid. If you notify us in writing within the thirty day period that the debt is disputed, we will take the steps necessary to obtain verification of the debt from the creditor and forward the same to you. Pursuant to the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) we are required to state that this information is an attempt to collect a debt and any information obtained will be used for that purpose.

From: Kendra Rosa <Kendra@fmbgov.com>
Sent: Wednesday, July 24, 2024 3:17 PM
To: Robert Burandt <robert@capecoralattorney.com>
Cc: zoning.permits <zoningpermits@fmbgov.com>; Sarah Propst <sarah.propst@fmbgov.com>;
Judith Frankel <jfrankel@fmbgov.com>
Subject: SEZ20240186- 1479 Estero Blvd- Insufficiency letter

Good afternoon,

Please find the attached insufficiency letter for 1479 Estero Blvd.

Kendra Rosa
*Zoning Coordinator,
Community Development
Town of Fort Myers Beach
2731 Oak St
Fort Myers Beach, FL 33931
Phone: (239) 765-0202*



Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

1. **Request:**

Meeting Date: January 8, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240158 TO ALLOW SHARED USE PARKING LOT PER LDC SECTION 34-2011(2)a., FOR THE PROPERTY LOCATED AT 1240 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Why the action is necessary:

Special exceptions are reviewed by the LPA and the LPA makes a recommendation to the Town Council.

What the action accomplishes:

A shared parking lot use is allowed only through special exception approval in the Downtown zoning district.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Sarah Propst, Community
Development, Planning
Manager

5. **Background:**

The applicant is proposing a shared parking lot in the Downtown zoning district. Prior to Hurricane Ian, the subject property supported a short-term rental and a small commercial restaurant, which was completely destroyed during the hurricane. The applicant wants to convert the property into a shared parking lot adjacent to the Town's parking lot on Estero Blvd. As per LDC Section 34-2011(2)a., permanent shared parking lots are considered a principal use of a parcel of land and may be approved in certain zoning districts only by special exception. Therefore, the applicant is requesting a special exception to allow a permanent shared parking lot in the Downtown zoning district.

This application was heard by the LPA on December 3rd, 2024. The LPA voted 6-0 (with one member absent) to approve with staff conditions.

Attachments:

1. 25-24, SEZ20240158, 1240 Estero Shared Parking
2. Staff Report SEZ20240158
3. Exhibit A: Application Documents
4. Exhibit B: Site Plan

Financial Impact:

unknown

6. **Alternative Action**

Approve with conditions

7. **Management Recommendations:**

Recommend approval

8. **Recommended Approval:**

Judith Frankel, Principal Planner

Frankie Kropacek, Operations & Compliance Director

nancy stuparich, Town Attorney

Amy Baker, Town Clerk

Andy Hyatt, Town Manager

Created/Initiated - 12/18/2024

Approved - 12/18/2024

Approved - 12/29/2024

Approved - 12/31/2024

Final Approval - 12/31/2024

RESOLUTION NUMBER 25-24

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240158 TO ALLOW SHARED USE PARKING LOT PER LDC SECTION 34-2011(2)a., FOR THE PROPERTY LOCATED AT 1240 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

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

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

WHEREAS, Applicant Reginald Beach on behalf of owner Ganim Properties LLC is requesting a special exception to allow a shared parking lot as per LDC 34-2011(2)a.; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-01.40A.0010; and

WHEREAS, the Property is located in the “Pedestrian Commercial” category of the Future Land Use Map of the Comprehensive Plan; and

WHEREAS, the Property is located in the “Downtown” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on December 3, 2024, and at the hearing the LPA gave full and complete consideration to the request of Applicants, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted 6 to 0 recommending approval with conditions of the special exception; and

WHEREAS, on January 8, 2025 the Town Council held a duly noticed public hearing to fully consider the request of the Applicants, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

WHEREAS, the Town Council determined it **is/ is not** in the best interest of the Town to approve/approve with conditions/deny the request.

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

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

Section 2. The Town Council determines the Applicants did/ did not meet their burden of proof that the requested Special Exception **does/ does not** meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception **is/ is not** in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicants, Town staff, and interested parties and public, the Town Council **APPROVES/APPROVES WITH CONDITIONS/DENIES** the special exception for a shared parking lot per LDC Section 34-2011(2)a.

Section 3. In approving the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

- A. Changed or changing conditions which make approval of the request appropriate.
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request meets all performance and locational standards for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code; and

Section 4. If the Town Council approves/denies the requested special exception and the following conditions of approval are imposed on the Applicants and the Property:

- 1) Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development 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 property owner must maintain all required landscaping or install new plantings as necessary.
- 3) Failure to comply with any of the above-mentioned conditions of approval for the Special Exception will render this approval null and void.

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 _____
Karen Woodson, Council Member _____
Scott Safford, Council Member _____

ADOPTED this ____ day of _____, 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____, 2025.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Special Exception

CASE NUMBER: SEZ20240158

CASE NAME: Special Exception for shared parking lot (1240 Estero Blvd) in Downtown zoning.

LPA

HEARING DATE: December 3, 2024 at 9 AM

Town Council

HEARING DATE: January 8th, 2025 at 9 AM

STAFF

RECOMMENDATION: Approval with Conditions

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

I. APPLICATION SUMMARY

Applicant/Owner: Reginald Beach / Ganim Properties, LLC

Request: Special exception for a shared parking lot use in the Downtown zoning district

Subject property: See attached site plan in Exhibit B

Physical Address: 1240 Estero Boulevard

STRAP #: 19-46-24-W4-01.40A.0010

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North: PEDESTRIAN COMMERCIAL
Downtown

South: RECREATIONAL

Downtown and Environmental Conservation (EC)

East: PEDESTRIAN COMMERCIAL AND RECREATION
Downtown and Environmental Conservation (EC)

West: PEDESTRIAN COMMERCIAL
Downtown

II. BACKGROUND AND ANALYSIS

Background:

The applicant is proposing a shared parking lot in the Downtown zoning district. Prior to Hurricane Ian, the subject property supported a short-term rental and small commercial restaurant, which was completely destroyed during the hurricane. The Applicant is proposing to convert the property into a shared parking lot adjacent to the Town's parking lot on Estero Blvd.

As per LDC Section 34-2011(2)a., permanent shared parking lots are considered a principal use of a parcel of land and may be approved in certain zoning districts only by special exception. Therefore, the Applicant is requesting a special exception to allow a permanent shared parking lot in Downtown zoning.

This application was heard by the LPA on December 3rd, 2024. The LPA voted 6-0 (with one member absent) to approve with staff conditions.

Analysis:

The previously existing short-term rental and commercial restaurant on this site were destroyed during Hurricane Ian in 2022. The property is currently vacant, and the Applicant is proposing a permanent shared parking use. As per LDC section 34-2011(2)a., shared parking lots may only be approved through special exception. Therefore, the applicant is requesting a special exception to operate a shared parking lot.

The applicant is proposing a shared parking lot with 24, 8.5-foot by 20-foot parking spaces and one 13-foot by 22-foot ADA space with a 5-foot access aisle, for a total of 25 parking spaces. Per section 34-2016(1) of the Town's LDC, 90° parking spaces must be a minimum of 8.5 feet wide and 18 feet long, with a minimum required drive-aisle width of twenty-two feet. Sec. 34-2016(3) requires ADA spaces to be a minimum of 12 feet by 18 feet. The code requires a twenty-two-foot-wide drive aisle for two-way traffic within 90-degree parking and the applicant is proposing a 45-foot drive aisle and intends to utilize the existing 27-foot-wide access point from Estero Blvd.

The Applicant proposes to meet or exceed the landscaping requirements of the LDC. LDC Section 10-416(c)(2)a., requires one tree to be planted per every 250 square feet of internal landscaped area or 7 trees for this site. The Applicant is proposing to preserve all 9 remaining healthy trees along the periphery of the site. LDC Section 10-

416(c)(2)b., requires at least 10% of the internal parking area to be landscaped. The Applicant is proposing 5-foot-wide landscaped areas along the East and West boundaries of the project to meet this requirement. The Applicant is also proposing a 17-foot-wide internal landscaping island on the east side of the parking lot. LDC Section 10-146(c)(2)c., requires 10-foot-wide internal landscaping islands.

The proposed special exception is compliant with the Town's Comprehensive Plan. The Comprehensive plan describes the need for additional parking within the Town and specifically encourages the development of shared parking and parking near Times Square.

Policy 7-A-2 states: "PARKING: Even though existing parking lots are not booked 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."

Policy 3-D-5 ii. states: "Encourage the private sector to build and operate expanded parking areas, using public sector assistance if needed for land assembly and regulatory relief."

Policy 7-F-1 states: "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."

The proposed use is located less than ¼ mile from Times Square and is directly adjacent to the existing Town parking lot located immediately west of the site. The proposed use of shared parking lot is consistent with the Town's Land Development Code and Comprehensive Plan. Staff feel that this shared parking lot will provide necessary parking near Times Square, and the construction of this shared parking lot will contribute positively to the available parking in the Downtown zoning district.

Neighborhood Compatibility:

The adjacent lot to the west is an existing shared parking lot owned by the Town with no observed negative impact. As reflected in the Town's Comprehensive Plan, there is a substantial need for additional parking in the Town, and this shared parking lot would act as an extension of the Town's existing parking lot along Estero Blvd. The construction of a shared parking lot on this site, therefore, would not be a departure from the character of the neighborhood,

Findings and Conclusions:

Special Exception Findings

LDC Sec. 34-88(b) sets forth the required findings and conclusions for the approval of a special exception:

- 1) *Whether there exist changed or changing conditions which make approval of the request appropriate.*

The previously existing structure was destroyed during Hurricane Ian and the site is now vacant. Approving the shared lot would make the site usable while not obstructing the view from Estero Boulevard to the Gulf of Mexico.

- 2) *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

As mentioned above, the request is consistent with the Town's Comprehensive Plan.

- 3) *Whether the request meets or exceeds all performance and locational standards for the proposed use.*

The property was previously developed. The parking lot will be built to the Town's standards and will be available in conjunction with the Town's parking lot on the west. The request will meet all performance and locational standards for the proposed use.

- 4) *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The Applicant plans to preserve all nine healthy trees remaining on site after the hurricane and provide appropriate landscaping islands consistent with Town's LDC. At this time, the staff does not anticipate any additional negative impact on the environment and Town's natural resources through the request to operate a shared parking lot on the subject property.

- 5) *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 Town's parking lot on Estero Blvd has been operating on the adjacent property without any negative impact to surrounding properties. No negative impact or injury to surrounding properties is anticipated.

- 6) *Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.*

No variances are requested. The proposed shared parking lot will be built in compliance with the Town's Land Development Code.

III. RECOMMENDATION

Staff finds that the special exception for a shared parking lot in the Downtown zoning district is in compliance with item Sec. 34-88(b)(1). Therefore, staff recommend **Approval with conditions** for SEZ20240158, a special exception request to allow a permanent shared parking lot at 1240 Estero Blvd.

IV. CONDITIONS OF APPROVAL

Staff recommends the following conditions for approval.

- 1) Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development 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 property owner must maintain all required landscaping or install new plantings as necessary.
- 3) Failure to comply with any of the above-mentioned conditions of approval for the Special Exception will render this approval null and void.

V. EXHIBITS

Exhibit A: Application Documents

Exhibit B: Space Plan

16890 Carmen Avenue
Fort Myers
FL 33908

June 7, 2024

Dear Ms. Rosa,

Thank you for the good news in your email to me in March about the downtown zoning district allowing a permanent shared parking lot with a special exception at the property located at 1240 Estero Boulevard, FMB. As such I am applying for the special exception which is attached with this letter.

The property qualifies for a special exception because additional parking will enhance the downtown area especially in the busy tourist season.

As you know, the Town recently installed a municipal parking lot immediately next door between my property and Margaritaville which is frequently full contributing to extra snarling to an already difficult traffic situation on our beautiful island.

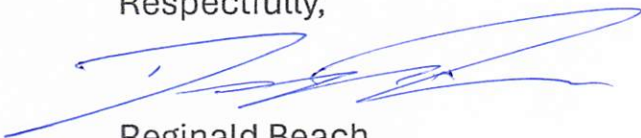
It is my understanding that my neighbor next door on the other side is in the application process of rebuilding the Cottage Restaurant and Bar which will also make that immediate area even more popular.

Since Hurricane Ian washed the Beacon Motel away at this location leaving us with a vacant lot, developing the property with something as low profile as a parking lot seems to me more preferable than erecting any kind of structure that would interfere with the view of the Gulf from Estero Boulevard.

Granting the requested special exception will not negatively impact the surrounding properties or the existing or planned uses of those properties in any way.

Please do not hesitate to contact me if further information is needed.

Respectfully,



Reginald Beach

Town of Fort Myers Beach

JUN 7 2024

Received by: _____



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: 1240 ESTERO BOULEVARD - FMB, FL 33931
STRAP Number: 19-46-24-W4-140A-0010
Applicant: REGINALD BEACH Phone: 857 413 6161
Contact Name: SAME Phone: _____
Email: REGINALD BEACH@HOTMAIL.COM Fax: _____
Current Zoning District: _____
Future Land Use Map (FLUM) Category: _____
FLUM Density Range: _____ 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*: REGINALD BEACH Phone: 857 413 6161
**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: 16890 CARMEN AVE - FORT MYERS, FL 33908
Email: REGINALD BEACH@HOTMAIL.COM Fax: _____
Contact Name: REG BEACH Phone: 857 413 6161



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: REG BEACH Phone: 857 413 6161
Address: 16890 CARMEN AVE - FORT MYERS FL 33908
Email: REGINALD.BEACH@HOTMAIL.COM Fax: _____

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☒ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 90 feet
Depth (please provide an average width if irregular in shape) 175 feet
Frontage on street: 90 feet. Frontage on waterbody: _____ feet
Total land area: 15,750 ☐ acres ☒ square feet

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

BETWEEN MARGARITAVILLE AND LANI KAI
HOTEL. ABUTS THE OLD "COTTAGE
RESTAURANT + BAR.
FORMERLY THE BEACON MOTEL

☐ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

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

- ☐ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☐ Attach a map showing the surrounding property owners as Exhibit 6-7.
☐ Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

- | | |
|--|--|
| ☐ Low Density | ☐ Marina |
| ☐ Mixed Residential | ☐ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |



Case# _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

This is the second part of a two-part application. This part requests specific information for a special exception. Include this form with the Request for Public Hearing form.

Project Name:	BEACH PARKING
Authorized Applicant:	REGINALD BEACH
LEOPA STRAP Number(s):	19-46-24-W4-140A.0010

Current Property Status:
Current Zoning:
Future Land Use Map (FLUM) Category:
Platted Overlay? ☐ yes ☐ no FLUM Density Range:

Requested Action:

☐	Use of premises in the EC (Environmentally Critical) zoning district for:
☐	Use of premises in the _____ zoning district for:

PART I

Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

UTILIZING THE NOW VACANT LOT WHERE
THE BEACON MOTEL USED TO BE
LOCATED AT 1240 ESTERO BOULEVARD
AS A PARKING LOT

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:

THE PROPERTY IMMEDIATELY ABUTS
A TOWN OWNED PARKING LOT SO NO
DIFFERENT IMPACT ON SURROUNDING
PROPERTIES



INCREASING PARKING CAPACITY WILL
REDUCE TRAFFIC CONGESTION

Page 325 of 843



Page 326 of 843

**Taxing Authorities**

Generated on 3/22/2024 11:05 AM

**Sales / Transactions**

Generated on 3/22/2024 11:05 AM

**Building / Construction Permit Data**

Generated on 3/22/2024 11:05 AM

**Parcel Numbering History**

Generated on 3/22/2024 11:05 AM

**Solid Waste (Garbage) Roll Data**

Generated on 3/22/2024 11:05 AM

**Flood and Storm Information**

Generated on 3/22/2024 11:05 AM

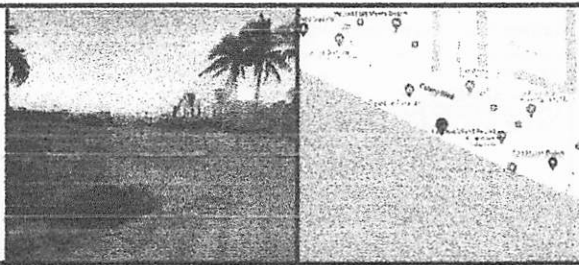
Generated on 3/22/2024 11:05 AM

[Previous Parcel Number](#) [Next Parcel Number](#) [New Query](#) [Search Results](#) [Home](#)

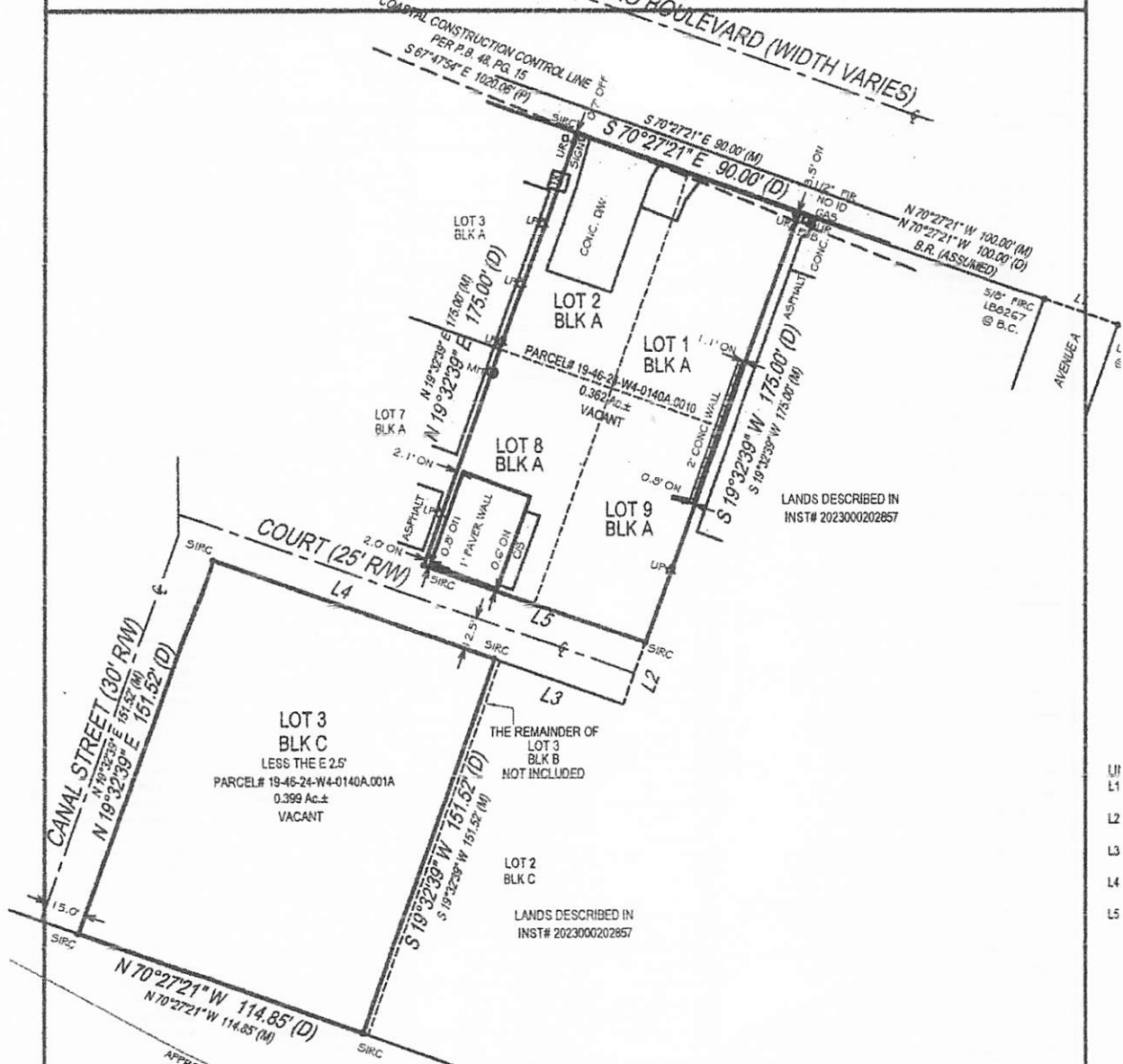




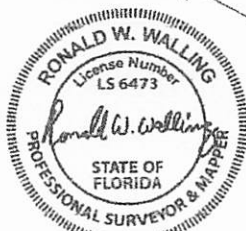
www.exactaland.com | office: 866.735.1916 | fax: 866.744.2882



PROPERTY ADDRESS: 1240 ESTERO BOULEVARD AND 200 CANAL STREET, FORT MYERS BEACH, FLORIDA 33931 SURVEY NUMBER: 2402.2300



GULF OF MEXICO



RONALD W. WALLING
State of Florida Professional Surveyor and Mapper
License Number 6473
Exacta Land Surveyors, LLC | LB# 8291

SURVEYORS CERTIFICATION:

I hereby certify that this Survey of the lands described hereon was made under my direct supervision, and to the best of my knowledge and belief is a true and accurate representation of said lands and meets the Standards of Practice set forth in Chapter 5J-15.050 through 5J-15.053, Florida Administrative Code, pursuant to section 472.027, Florida Statutes. This survey is not valid without the signature and original raised seal of a Florida licensed surveyor and mapper, except when the electronic signature and seal of a Florida licensed surveyor and mapper is affixed hereto.

POINTS OF INTEREST:
NONE VISIBLE

50

GRA



Exacta Land Surveyors, LLC
866.735.1916 | 866.744.2882
151 West Broadway Street, Suite 2001, Fort Myers, FL 33901



Florida Land
Title Association

**AFFILIATE
MEMBERS**

DATE SIGNED: 02/27/24

FIELD WORK DATE: 2/21/2024

REVISION DATE(S): (REV. 2/27/2024)

SEE PAGE 2 OF 2 FOR LEGAL DESCRIPTION
PAGE 1 OF 2 - NOT VALID WITHOUT ALL PAGES

JOB SPECIFIC SURVEYOR NOTES:

THE ASSUMED BEARING REFERENCE OF NORTH 70 DEGREES 27 MINUTES 21 SECONDS WEST IS BASED ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD, LOCATED WITHIN CRESCENT PARK ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 39 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

LEGAL DESCRIPTION:

LOTS 1, 2, 8 AND 9, BLOCK A, AND LOT 3, LESS THE EAST 2 1/2 FEET THEREOF, BLOCK C, CRESCENT PARK, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 39, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

GENERAL SURVEYOR NOTES:

- The Legal Description used to perform this survey was supplied by others. This survey does not determine nor imply ownership of the lands or any fences shown hereon. Unless the Title Commitment Number is referenced on this survey, an examination of the abstract of title was NOT performed by the signing surveyor to determine which instruments, if any, are affecting this property.
- The purpose of this survey is to establish the boundary of the lands described by the legal description provided and to depict the visible improvements thereon for a pending financial transaction. Underground footings, utilities, or other service lines, including roof eave overhangs were not located as part of this survey. Unless specifically stated otherwise the purpose and intent of this survey is not for any construction activities or future planning.
- If there is a septic tank or drain field shown on this survey, the location depicted hereon was either shown to the surveyor by a third party or it was estimated by visual above ground inspection. No excavation was performed to determine its location.
- This survey is exclusively for a pending financial transaction and only to be used by the parties to whom it is certified.
- Alterations to this survey map and report by other than the signing surveyor are prohibited.
- Dimensions are in feet and decimals thereof.
- Any FEMA flood zone data contained on this survey is for informational purposes only. Research to obtain said data was performed at www.fema.gov and may not reflect the most recent information.
- Unless otherwise noted "SIRC" indicates a Set Iron Rebar with a Cap stamped LB68291, a minimum half inch in diameter and eighteen inches long.
- If you are reading this survey in an electronic format, the information contained on this document is only valid if this document is electronically signed as specified in Chapter SJ17.062 (3) of the Florida Administrative Code and Florida Statute 472.025. The Electronic Signature File related to this survey which is sent under separate cover. Manually signed and sealed logs of all survey signature files are kept in the office of the performing surveyor.
- The symbols reflected in the legend and on this survey may have been enlarged or reduced for clarity. The symbols have been plotted at the approximate center of the field location and may not represent the actual shape or size of the feature.
- Points of Interest (POI's) are select above-ground improvements, which may appear in conflict with boundary, building setback or easement lines, as defined by the parameters of this survey. These POI's may not represent all items of interest to the viewer. There may be additional POI's which are not shown or called-out as POI's, or which are otherwise unknown to the surveyor.
- Utilities shown on the subject property may or may not indicate the existence of recorded or unrecorded utility easements.
- The information contained on this survey has been performed exclusively by and is the sole responsibility of Exakta Land Surveyors, LLC. Additional logos or references to third party firms are for informational purposes only.
- Pursuant to F.S. 558.0035, an individual employee or agent may not be held individually liable for negligence.
- Due to varying construction standards, building dimensions are approximate and are not intended to be used for new construction or planning.

SURVEYOR'S LEGEND

LINE TYPES Boundary Line Center Line Chain Link or Wire Fence Easement Edge of Water Iron Fence Overhead Lines Structure Survey Tie Line Viny Fence Wall or Party Wall Wood Fence	Elevation Fire Hydrant Find or Set Monument Guywire or Anchor Manhole Tree Utility or Light Pole Well	ABBREVIATIONS (C) - Calculated (D) - Deed (F) - Field (M) - Measured (P) - Plat (R) - Record (S) - Survey A/C - Air Conditioning AE - Access Easement AKE - As Shown Easement ASBL - Accessory Setback Line B/W - Bay/Box Window BC - Block Corner BFP - Backflow Preventer BLOG - Building BLR - Block BM - Benchmark BR - Bearing Reference BRL - Building Restriction Line BSMT - Basement C - Curve C/L - Center Line	C/P - Covered Porch C/S - Concrete Slab CATV - Cable TV Riser CB - Concrete Block CH - Chord Bearing CHIM - Chimney CLF - Chain Link Fence CME - Canal Maintenance Easement CO - Clean Out COMC - Concrete COR - Corner CS/W - Concrete Sidewalk CUE - Control Utility Easement CVG - Concrete Valley Gutter DJW - Driveway DE - Drainage Easement DF - Drain Field DH - Drill Hole DUE - Drainage & Utility Easement ELEV - Elevation EM - Electric Meter ENCL - Enclosure ENT - Entrance EOP - Edge of Pavement EOW - Edge of Water ESMT - Easement EUB - Electric Utility Box F/DH - Found Drill Hole FCM - Found Concrete Monument FF - Finished Floor FIP - Found Iron Pipe FIPC - Found Iron Pipe & Cap	FIA - Found Iron Rod FIRC - Found Iron Rod & Cap FN - Found Nail FNAD - Found Nail & Disc FRSPK - Found Rail Road Spike GAR - Garage GM - Gas Meter ID - Identification IEE - Ingress/Egress Easement ILL - Illegible INST - Instrument INT - Intersection IRIE - Irrigation Easement L - Length LAS - Limited Access Easement LBE - License No. (Business) LBE - Limited Buffer Easement LE - Landscape Easement LME - Lake/Landscape Maintenance Easement LS# - License No. (Surveyor) MB - Map Book ME - Maintenance Easement MES - Mitered End Section MF - Metal Fence MH - Manhole MHWL - Mean High Water Line NR - Non-Radial NTS - Not to Scale NAVOD88 - North American Vertical Datum 1988 NGVD29 - National Geodetic Vertical Datum 1929 OG - On Ground	OEB - Official Records Book ORV - Official Record Volume O/A - Overall O/S - Offset OFF - Outside Subject Property OH - Overhang OHL - Overhead Utility Lines OHWL - Ordinary High Water Line OI - Inside Subject Property PE - Pool Equipment PB - Plat Book PC - Point of Curvature PCC - Point of Compound Curvature PCP - Permanent Control Point PI - Point of Intersection PLS - Professional Land Surveyor LE - Landscape Easement PLT - Planter POB - Point of Beginning POC - Point of Commencement PRC - Point of Reverse Curvature PRM - Permanent Reference Monument PSM - Professional Surveyor & Mapper PT - Point of Tangency PUE - Public Utility Easement R - Radius or Radial R/W - Right of Way RES - Residential RGE - Range ROE - Roof Overhang Easement RP - Radius Point	S/W - Sidewalk SBL - Setback Line SCL - Survey Closure Line SCR - Screen SEC - Section SEP - Septic Tank SEW - Sewer SIRC - Set Iron Rod & Cap SMWE - Storm Water Management Easement SNAD - Set Nail and Disc SQFT - Square Feet STL - Survey Tie Line STV - Story SV - Sewer Valve SWE - Sidewalk Easement TBM - Temporary Bench Mark TEL - Telephone Facilities TOB - Top of Bank TUE - Technological Utility Easement TWP - Township TX - Transformer TYP - Typical UE - Utility Easement UG - Underground UP - Utility Pole UR - Utility Riser VF - Vinyl Fence W/C - Witness Corner WF - Water Filter WP - Wood Fence WM - Water Meter/Valve Box WV - Water Valve
--	--	--	--	--	---	--

CERTIFIED TO:

GANIM, GANIM & GANIM PC;

DATE SIGNED: 02/27/24

BUYER:

LENDER:

TITLE COMPANY: GANIM, GANIM & GANIM PC

COMMITMENT DATE: NOT REVIEWED

CLIENT FILE NO:

SEE PAGE 1 OF 2 FOR MAP OF PROPERTY
PAGE 2 OF 2 - NOT VALID WITHOUT ALL PAGES

FLOOD ZONE INFORMATION:

BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE AE / VE (WITH A BASE FLOOD ELEVATION OF 12 / 14, 15). THIS PROPERTY WAS FOUND IN TOWN OF FORT MYERS BEACH, COMMUNITY NUMBER 120673, PANEL NUMBER 0554 DATED 11/17/2022.



Exakta Land Surveyors, LLC

Exakta Land Surveyors, LLC

IDA 8291

0: 866.735.1916 | F: 866.744.2682

131 West Broadway Street, Suite 1001, Odessa, FL 33768





COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

PART III - Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV - Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

Town of Fort Myers Beach

JUN 20 2024

Received by: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, [Signature] 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

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

THOMAS GANIM	100%
4666 MAIN STREET	
BRIDGEPORT, CT 06606	

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

Name and Address

Percentage of Interest

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

Name and Address

Percentage of Ownership

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

Name, Address and Office

Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
<u>N/A</u>	_____
_____	_____
_____	_____
_____	_____

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]
Signature

REGINALD BEACH
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, REGINALD BEACH (name), as AUTHORIZED REPRESENTATIVE (title) of GANIM PROPERTIES 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

REGINALD BEACH - BEACH PARKING
Name of Entity (corporation, partnership, LLP, LLC, etc)

[Signature]
Signature

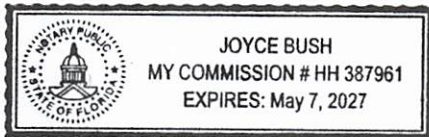
DIRECTOR
Title

Typed or Printed Name

Date

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 12th day of June, 2024, by Reginald Beach, ☐ who is personally known to me OR ☒ who has produced FL DL as identification.



[Signature]
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W4-140A.0010

Property Address: 1240 ESTERO BOULEVARD - FMB, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee

County? ☒ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

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

B. Boundary Survey:

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

HARD COPY
IS IN THE MAIL



GANIM, GANIM & GANIM P.C.

ATTORNEYS AT LAW

4666 MAIN STREET | BRIDGEPORT, CONNECTICUT 06606
TELEPHONE: (203) 372-7772 | FACSIMILE: (203) 374-7199

TOMGANIM.COM

GEORGE W. GANIM SR.*

THOMAS G. GANIM

ADAM D. SCHLEIN

MARY GANIM KOLESNIK

6/14/05 - 10/30/08

*ALSO ADMITTED IN MA

PARALEGAL:

HELEN SIERANSKI
HELEN@TOMGANIM.COM

JACQUELINE MORRIS
JACQUELINE@TOMGANIM.COM

VIRGINIA COLON
10/09/73 - 12/25/20

REAL ESTATE PARALEGAL:

CATHI KATES
CATHIKATES@GMAIL.COM

BOOKKEEPER:

LAURA J. BORGER
LAURA@TOMGANIM.COM

June 5, 2024

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

RE: 1240 Estero Boulevard

Dear Sir or Madam:

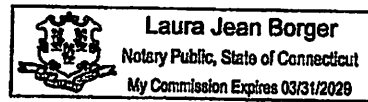
I am the owner of the above-referenced property. Please be advised that the acting agent for my property is Reginald Beach who resides at 16890 Carmen Avenue in Fort Myers. I authorize Mr. Beach to apply for any permitting necessary pertaining to the use of my property as a parking lot.

Very truly yours,

THOMAS G. GANIM

Subscribed and sworn before me this 5th day of June 2024.

Laura Jean Borger – Notary Public
My Commission Expires:



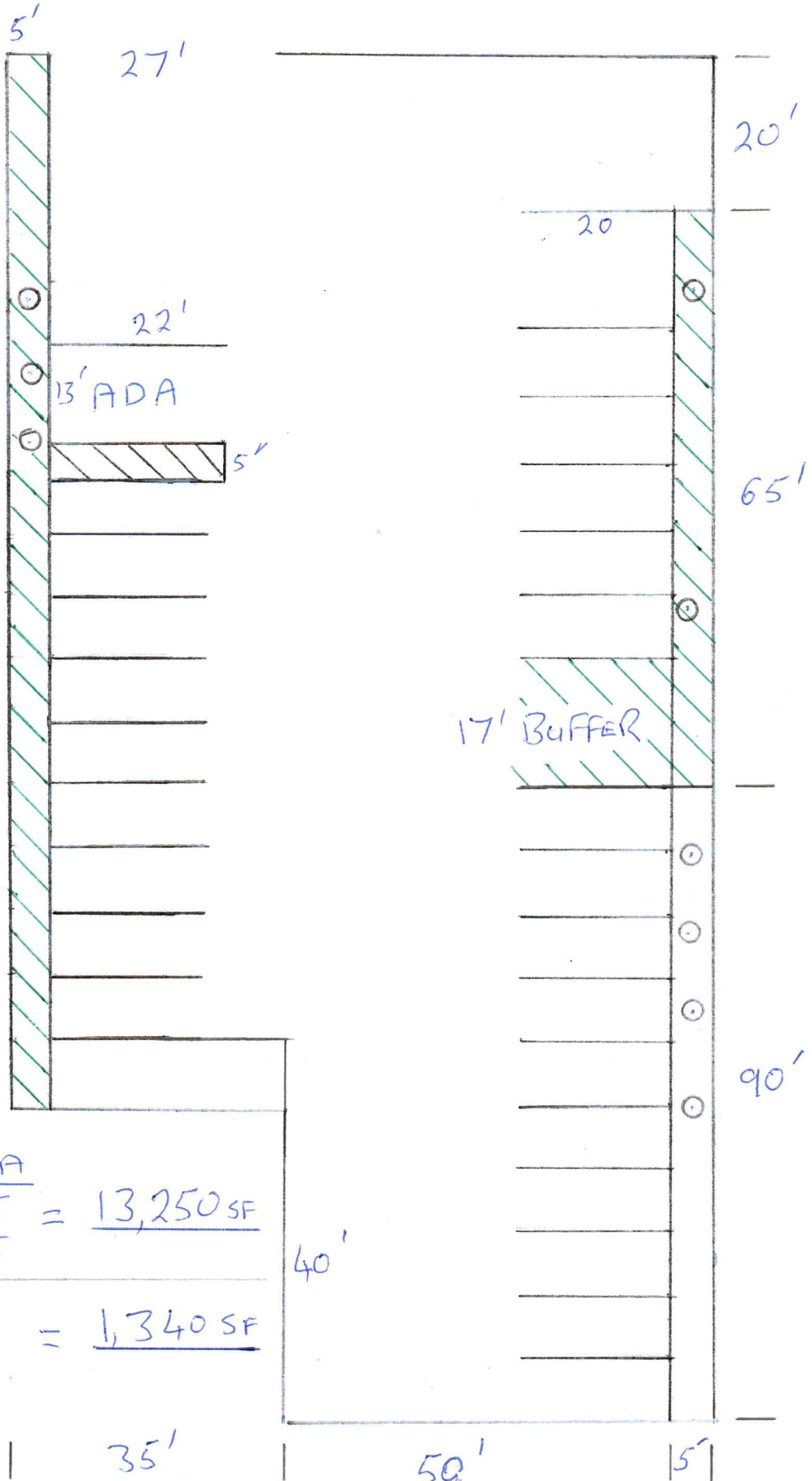
202 401 58

1240 ESTERO BLVD

○ - EXISTING
MATURE
TREES

24 x 8½' x 20'
SPACES

|| - LANDSCAPING



PARKING AREA

$$55 \times 155 - 8,525 = 13,250 \text{ SF}$$

$$35 \times 135 - 4,725$$

LANDSCAPING

$$5 \times 200 - 1,000 = 1,340 \text{ SF}$$

$$17 \times 20 - 340$$

1. **Request:**

Meeting Date: January 8, 2025

A RESOLUTION OF THE TOWN COUNCIL OF FORT MYERS BEACH APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION 20240240, REQUESTING A SPECIAL EXCEPTION FOR THE PROPERTY LOCATED AT 2584 ESTERO BLVD., GENERALLY REFERRED TO AS "ESTERO BEACH CLUB CONDO" STRAP NUMBER 19-46-24-W3-02000.00CE, TO ALLOW FOR THE REPLACEMENT/ REPAIR OF PAVER DECKS, POOL SHELL AND COPING, CEMENT WALKWAYS, A CEMENT FOOT-WASH STATION, IRRIGATION LINES AND A FENCE ALONG AN EXISTING RETAINING WALL, LOCATED PARTIALLY AND ENTIRELY WITHIN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The condo owners must apply for a Special Exception to repair/ replace structures damaged due to the storm with the Town's Environmentally Critical area

What the action accomplishes:

Approval will allow the applicant to apply to the FDEP for permits to repair/ replace structures on the beach.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Jason Smalley, Senior Planner

5. **Background:**

THE APPLICANT IS REQUESTING A SPECIAL EXCEPTION TO ALLOW FOR THE REPLACEMENT/ REPAIR OF PAVER DECKS, POOL SHELL AND COPING, CEMENT WALKWAYS, A CEMENT FOOT-WASH STATION, IRRIGATION LINES AND A FENCE ALONG AN EXISTING RETAINING WALL, LOCATED PARTIALLY AND ENTIRELY WITHIN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT.

THE LPA FOUND THAT THE REQUEST IS CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE REQUIREMENTS OF THE LDC AND VOTED 7 TO 0 RECOMMENDING APPROVAL WITH CONDITIONS OF THE SPECIAL EXCEPTION

Attachments:

1. 25-25, SEZ20240240, Estero Beach Club
2. TC Staff Report
3. 2584 Estero_SURVEY
4. Exhibit A -Site Plan
5. Exhibit C - Special Exception Supplement PH-A
6. Exhibit B- Public Hearing Application
7. Exhibit D - Emails regarding project

Financial Impact:

N/A

6. **Alternative Action**

Denial

7. **Management Recommendations:**

N/A

8. **Recommended Approval:**

Judith Frankel, Principal Planner
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/23/2024
Approved - 12/23/2024
Approved - 12/28/2024
Approved - 12/31/2024
Final Approval - 12/31/2024

RESOLUTION NUMBER 25-25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20240240 TO ALLOW RESTORATION OF A POOL, POOL DECK, CEMENT WALKWAYS, CEMENT FOOT-WASH STATION, IRRIGATION LINES AND FENCE IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 2584 ESTERO BOULEVARD, STRAP NUMBER 19-46-24-W3-02000.00CE; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

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

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

WHEREAS, Applicant Mike Muirhead, Board VP on behalf of The Estero Beach Club Condo Association is requesting a special exception to repair accessory structures in the EC zoning district per Section 6-366 of the Town of Fort Myers Land Development Code; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W3-02000.00CE; and

WHEREAS, the Property is located in the “Recreation” category of the Future Land Use Map of the Comprehensive Plan; and

WHEREAS, the Property is located in the “Environmentally Critical” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was noticed and held before the Local Planning Agency (LPA) on December 10, 2024, and at the hearing the LPA gave full and complete consideration to the request of the Applicant recommendations of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted 7 to 0 recommending approval with conditions of the Special Exception; and

WHEREAS, on the 8th day of January, 2025 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

WHEREAS, the Town Council determined it **is/ is not** in the best interest of the Town to approve/approve with conditions/deny the request for a Special Exception.

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

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

Section 2. The Town Council determines the Applicant did/ did not meet its burden of proof that the requested Special Exception does/ does not meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception is/ is not in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council **APPROVES/APPROVES WITH CONDITIONS/DENIES** the Special Exception to allow reconstruction of a major accessory structure in the EC zoning district per section 6-366.

Section 3. In approving the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

- A. Changed or changing conditions which make approval of the request appropriate.
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request meets all performance and locational standards for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code; and

In accordance with the additional regulations and considerations found in Section 6-366 of the LDC:

- A. Any repairs must comply with all relevant local and state floodplain regulations.
- B. Repairs may not damage existing dunes or dune vegetation.
- C. Repairs, other than those limited to emergency repairs to enclose a damaged structure, may not be completed during sea turtle nesting season.
- D. A new special exception must be applied for each time the structure is repaired.

Section 4. If the Town Council approves/denies the requested Special Exception and the following conditions of approval are imposed on the Applicant and the subject property:

1. A new Special Exception must be applied for each time the structure is repaired.
2. Construction shall not occur during sea turtle nesting season.
3. Any repairs must comply with all relevant local and state floodplain regulations.
4. Repairs may not damage existing dunes or dune vegetation.
5. Approval of this Special Exception does not give the Applicant an undeniable right to permit approval. Development of the subject 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.
6. Failure to comply with any of the above-mentioned conditions of approval for the Special Exception will render this approval null and void.

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	_____
Karen Woodson, Council Member	_____
Scott Safford, Council Member	_____

ADOPTED this ____ day of _____, 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of January 2025.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Special Exception

CASE NUMBER: SEZ20240240

CASE NAME: Special Exception for restoration of a swimming pool, paver pool deck, sidewalk, foot-wash and fences along existing seawall portions of which are in the EC zoning district.

LPA

HEARING DATE: December 10th 2024, at 9:00 AM

TOWN COUNCIL

HEARING DATE: January 8th 2025, at 9:00 AM

STAFF

RECOMMENDATION: APPROVAL

**PREPARED/
SUBMITTED BY:** Jason Smalley, Senior Planner

I. APPLICATION SUMMARY

Applicant/Owner: Michael Muirhead, VP Board of Directors/ Estero Beach Club Condo Association

Requests: Special exception to restore several recreation features present pre-Hurricane Ian in the EC zoning district .

Physical Address: 2584 Estero Blvd

STRAP #: 19-46-24-W3-02000.00CE

FLU: Boulevard

Zoning: Residential Multi-family (RM)

Adjacent zoning and land uses:

North: Commercial Planned Development (CPD)
Institutional Use

South:	Environmentally Critical (EC) Recreation
East:	Residential Multi-family (RM)/ Commercial Resort (CR) Motel and Duplexes
West:	Residential Multi-family (RM) Residential Condominium

II. BACKGROUND AND ANALYSIS

Background:

The applicant is proposing to restore to pre-Hurricane Ian conditions several recreational elements that are either partially or entirely within the Environmentally Critical (EC) zoning district, including a swimming pool, pool deck, cement walking path, irrigation systems, foot-wash area and fencing along an existing retaining wall at the property. The subject property is located in the Center Island portion of the Town, on the Gulf side of Estero Blvd. No pre-Ian property survey has been located, however historic aerials and photographs demonstrate the presence of the recreation elements that the application is requesting to be restored.

The applicant provided photographs of the property from pre-Ian and coupled with aerial image records from Lee County it is apparent that the fence and foot-wash station existed since at least 2004 (per LEEPA images). The pool, deck, and cement walkways have existed substantially longer, at least since 1990. Any type of development within the EC zoning district requires a special exception to be approved. In this case the special exception will allow for the restoration of the existing pool and pool deck, cement walkways, irrigation systems and fencing. The foot-wash station and fence were completely destroyed and the pool/pool deck and walkways were structurally affected and the applicant is seeking to rebuild. The areas affected by the storm which must be rebuilt within the EC area are proposed to be:

- Pool Shell (contains approx. 55ft² of brick coping): ±375ft²
- Pool Deck: ±1,086ft²
- Foot-Wash: ±10ft²
- Cement Walkways: ±124ft²
- Planting Areas/ Rocks: ±1,424ft²
- Fences: ±156 linear feet
- Irrigation: Unknown Linear Feet (Contractor will propose amount)

The applicant must concurrently apply for the required Coastal Construction Control Line (CCCL) permit with the Department of Environmental Protection (DEP) for this proposed work scope.

According to the attorney's letter submitted with the application, greater than 75% of the voting owners voted to remain as a timeshare association and apply for the necessary permit for rebuilding. The applicant has provided a letter of opinion from their attorney as required.

The LPA found that the request is consistent with the comprehensive plan and the requirements of the LDC and voted 7 to 0 recommending approval with conditions of the Special Exception

Analysis:

The condominium structure at The Estero Beach Club was built on or around 1971-72, per the applicant. The seawall/retaining wall and pool deck area are not mentioned in the document and permit records are not available to verify that these elements were built at the same time as the condominium, however it likely was part of the original design.

The LDC allows for repairs to existing retaining and seawall structures. The location, seaward of the 1978 CCCL necessitates the approval of a special exception. Per LDC sec. 26-77(d), Existing seawalls and retaining walls along the Gulf of Mexico may be maintained but may not be rebuilt. The applicant has stated that the subject wall is structurally sound and will only require aesthetic modifications.

Neighborhood Compatibility:

The pool, pool deck, cement walkways and foot-wash station were developed concurrent with the building at 2580 Estero Blvd in 1971, according to the applicant. These elements appear to have been in place prior to the establishment of the 1978 CCCL although records are not available. The fence and irrigation have been at the site since 2001, according to the applicant. It does not seem that the restoration and slight alteration of these recreation elements will change the character of the subject property.

Findings and Conclusions:

Section 6-366(b)(3) Regulations and Considerations

LDC Section 6-366 includes additional regulations and considerations for special exception approval of repairs in the EC zoning district:

- a. Any repairs must comply with all relevant local and state floodplain regulations.*

The development must comply with local and state floodplain requirements.

- b. Repairs may not damage existing dunes or dune vegetation.*

The repairs and proposed structures are proposed landward of the dune. No dunes or native vegetation will be impacted.

- c. Repairs, other than those limited to emergency repairs to enclose a damaged structure may not be completed during sea turtle nesting season.*

Sea turtle nesting season begins May 1st and ends on October 31st.

- d. A new special exception must be applied for each time the structure is repaired.*

This will be a condition of the special exception approval.

Special Exception Findings

LDC Sec. 34-88(b) sets forth the required findings and conclusions for the approval of a special exception:

- 1) Whether there exist changed or changing conditions which make approval of the request appropriate.*

The recreation elements in the EC were damaged or destroyed during Hurricane Ian. Construction in the EC is likely to be damaged by storm surge in the future.

- 2) Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

Policy 5-D-1 states: 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.

The proposed work scope for this special exemption is to restore the recreation elements to pre-Hurricane Ian conditions with slight modifications. The retaining wall itself will not be removed, replaced or altered in any fashion.

LDC Sec. 34-652(e)(3) states that a special exception may be approved for “reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage to existing primary structures, which encroach into the EC district and their customary accessory uses.” The subject recreation elements existed pre-Hurricane Ian and are located partially in the EC.

- 3) *Whether the request meets or exceeds all performance and locational standards for the proposed use.*

The request will comply with local, state, and federal air, noise and water pollution standards. It will not adversely affect water quality and it will not create a nuisance to adjacent properties.

- 4) *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The request will maintain what was previously constructed on this property. It will not have an additional negative impact.

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

There is no anticipated negative impact or injury to surrounding properties.

- 6) *Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.*

The EC zoning district allows only passive, movable structures, no new major structures of any kind are allowed, other than dune walkovers through a special exception. The development of minor structures are allowed in the EC through a special exception. LDC Section 26-77(d) states that, "Existing seawalls and retaining walls along the Gulf of Mexico may be maintained but may not be rebuilt." This is in line with the Fort Myers Beach Comprehensive Plan Policy 5-D-1.

III. RECOMMENDATION

Staff finds that the special exception for reconstruction of major accessory structures in the EC zoning district is in compliance with item Sec. 34-88(b)(1). Therefore, staff recommends **approval with conditions** of **SE220240240** for the reconstruction of a swimming pool, pool deck, cement walking path, irrigation systems, foot-wash area and fencing along an existing retaining wall at the property seaward of the 1978 Lee County Line (CCCL).

If LPA recommends approval of the request, staff has recommended conditions of approval.

IV. CONDITIONS OF APPROVAL

1. A new special exception must be applied for each time the structures are reconstructed.

2. Approval of this special exception does not give the Applicant an undeniable right to permit approval. Development 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.
3. The applicant must apply for and receive all state and local permits required for the reconstruction of all proposed structures.
4. Any violation of the conditions of approval shall render the special exception null and void.
5. The applicant must obtain an approved lighting plan as outlined in LDC Sec. 34-1834. The applicant must also obtain an approved landscaping plan as outlined in LDC Sec. 10-413.

Staff Report Exhibits:

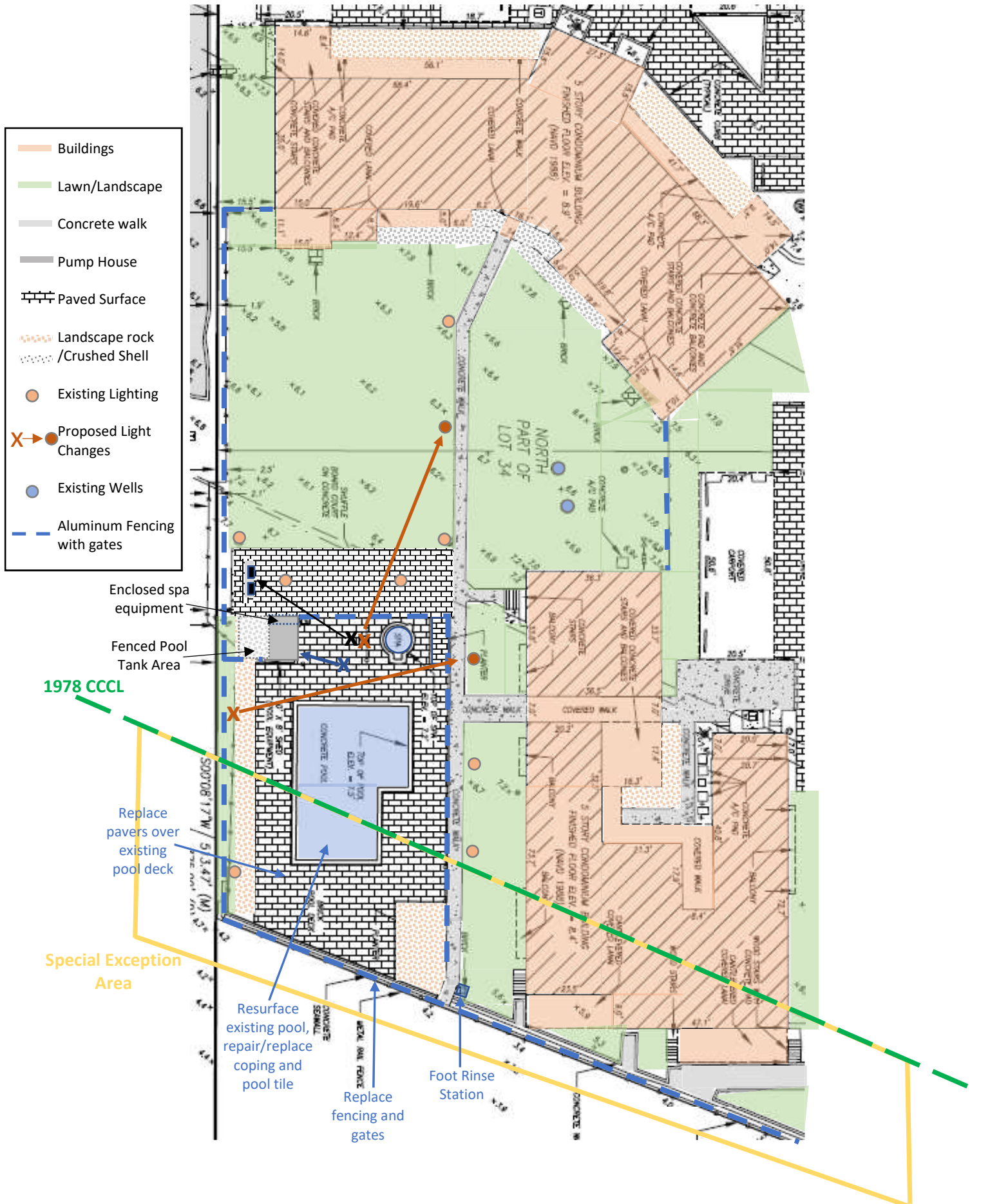
Exhibit A - Site Plan

Exhibit B- Public Hearing Application

Exhibit C – Special exception Supplement Application

Exhibit D- Email correspondence regarding application

Estero Beach Club Site Plan 2580 Estero Boulevard





Case# _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

This is the second part of a two-part application. This part requests specific information for a special exception. Include this form with the Request for Public Hearing form.

Project Name: Estero Beach Club Condo Association
Authorized Applicant: Michael Muirhead, Vice President, Board of Directors
LEOPA STRAP Number(s): 19-46-24-W3-02000.00CE

Current Property Status: Developed
Current Zoning: RM-EC
Future Land Use Map (FLUM) Category: Boulevard
Platted Overlay? ☐ yes ☐ no FLUM Density Range:

Requested Action:

☒	Use of premises in the EC (Environmentally Critical) zoning district for: Swimming pool and surrounding deck, fence and gates, concrete walk, foot rinse and irrigation to support lawn and landscaping
☐	Use of premises in the _____ zoning district for:

PART I Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

A special exception is requested to repair the existing swimming pool, concrete walk and foot rinse station and to replace deck pavers, surrounding fence and gates, and irrigation system to support lawn and landscaping. These items were damaged during Hurricane Ian. Portions of these items are located seaward of the 1978 CCCL.

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties. Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:
The pool and common area existed prior to 1978.
The major accessories were damaged or destroyed during hurricane Ian.
Proposed repair/replacements will be made with same like and kind except where environmental improvements can be made (i.e. pathway lighting for wildlife compliance)



There are no known negative impacts to surrounding properties.

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For Consumption of Alcoholic Beverages (COP) license approval:

- a. Notarized authorization from the Property Owner to apply for permit
- b. A statement indicating the type of establishment, the type of state license to be acquired, and the planned hours of operation. Also indicate if the request includes outdoor seating areas and indicate the seating areas and capacity on the site plan.
- c. A map showing the locations of other properties within 500 feet of the request where consumption-on-premises uses are already in operation.
- d. The site plan must include the public entrances and exits to the building, the floor area and proposed seating capacity, and floor area and seating capacity of any areas within the building subdivided between restaurant and bar/lounge areas. The site plan should also indicate the parking area, including the spacing and the locations of entrances and exits.

For transit terminals:

The site plan must indicate the location of the bus stalls; commuter parking areas, if provided; taxi waiting stalls; circulation pattern for buses including the entrances and exits; and the location of any building(s) housing the terminal and waiting areas.

For use of the EC zoning district:

- a. If the location of the request is in the portion of the EC zoning district between Estero Boulevard and the Gulf of Mexico, provide a survey meeting the requirements of Chapter 62B-33.0081 of the Florida Administrative Code, also including the precise location of the (1978) Coastal Construction Setback Line for Estero Island recorded in Plat Book 33, Page 3, of the Official Records of Lee County, Florida.
- b. The site plan must indicate the precise location of the request on the subject property and any related details of the existing conditions or planned improvements to the subject property. For areas in the EC zoning district between Estero Boulevard and the Gulf of Mexico, the precise location of the request in relation to the (1978) Coastal Construction Setback Line must be shown on the site plan.

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.

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

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

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

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

Requested Action: Indicate the nature of the request and include the current zoning of the property.

Part 1 Narrative Statements:

“Request for...”

Indicate the nature of the request that requires a special exception, and explain why it requires a special exception. Describe the relationship of the requested use to any existing use(s) of the property, if applicable.

“The property qualifies for a special exception because...”

Explain why the request and the subject property qualify for a special exception. Address the standards for decision-making for special exceptions that are provided in the Land Development Code, as follows:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- Whether the request meets or exceeds all performance and locational standards for the proposed use.
- Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

- Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

“Granting the requested special exception could impact surrounding properties as follows...”

Explain how this request, if granted for the subject property, could affect the surrounding properties and the existing or planned uses on those properties.

Submittal Requirements Check List and Filing Guide



A completed Public Hearing Application Form.



A completed Supplemental form PH-A.

Site Plan. The site plan should be to scale and should indicate the location of the request on the property. Existing buildings and other improvements (such as swimming pools, fences, decks, or parking lots) should also be shown on the site plan. The site plan should also indicate the existing uses on adjacent properties. Also include any additional relevant detail related to the specific request.

Guide to Filing Supplement PH-A for Special Exceptions

Case Number will be inserted by Community Development staff.

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

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

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

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

Requested Action: Indicate the nature of the request and include the current zoning of the property.

Part 1 Narrative Statements: "Request for..."

Indicate the nature of the request that requires a special exception, and explain why it requires a special exception. Describe the relationship of the requested use to any existing use(s) of the property, if applicable.

"The property qualifies for a special exception because..."

Explain why the request and the subject property qualify for a special exception. Address the standards for decision-making for special exceptions that are provided in the Land Development Code, as follows:

- Whether there exist changed or changing conditions which make approval of the request appropriate.
- Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- Whether the request meets or exceeds all performance and locational standards for the proposed use.
- Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
- Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

"Granting the requested special exception could impact surrounding properties as follows..."

Explain how this request, if granted for the subject property, could affect the surrounding properties and the existing or planned uses on those properties.

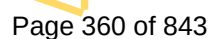
EXPLANATORY NOTES

Please do not print, copy and submit these instructions

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

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

2580 Estero Boulevard





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: 2584 Estero Blvd, Fort Myers Beach, FL 33931

STRAP Number: 19-46-24-W3-02000.00CE

Applicant: Estero Beach Club Condo Association Phone: 239-437-0340

Contact Name: Mike Muirhead, Board VP Phone: 716-913-2160

Email: mdmuirhead@outlook.com Fax: _____

Current Zoning District: _____

Future Land Use Map (FLUM) Category: Boulevard

FLUM Density Range: 6 units / acre Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

☒ Special Exception

☐ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: Estero Beach Club Condo Assoc Phone: 239-437-0340

**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: C/O Suitor, Middleton, Cox & Assoc, 15751 San Carlos Blvd #8, Fort Myers, FL 33908

Email: mdmuirhead@outlook.com Fax: _____

Contact Name: Mike Muirhead Phone: 716-913-2160



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: Michael D. Muirhead Phone: 716-913-2160
Address: 23884 Sanctuary Lakes Ct, Bonita Springs, FL 34134
Email: mdmuirhead@outlook.com Fax: _____

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

Name: See Exhibit D-1 Phone: _____
Address: _____
Email: _____ Fax: _____

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☒ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

PART III – Waivers

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

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ 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

Printed Name

STATE OF _____ COUNTY OF _____

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

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

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

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Each owner listed in EXHIBIT 5-1

Percentage Ownership

2%



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

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

AFFIDAVIT

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

I, Michael Muirhead (name), as Vice President (title)
of Estero Beach Club Condo Association (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

Estero Beach Club Condominium Association

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

[Signature]
Signature

Vice President
Title

MICHAEL D. MURHEAD
Typed or Printed Name

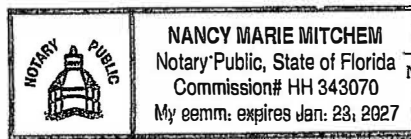
9/5/2024
Date

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 5th day of September, 2024, by

Michael D Murhead, ☐ who is personally known to me OR ☒ who has produced FL Driver License as identification.

Seal



Nancy Marie Mitchem
Notary Public Signature Nancy Marie Mitchem

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W3-02000.00CE

Property Address: 2584 Estero Blvd, Fort Myers Beach, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee

County? ☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☒ Yes. Property identified in subdivision: T.P. Hill's Subdivision

Book: 3 Page: 84 Unit: _____ Block: _____ Lot(s): 2, 3, 4

B. Boundary Survey:

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



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 183.3 feet
Depth (please provide an average width if irregular in shape) 518.7 feet
Frontage on street: 181.33 feet. Frontage on waterbody: 185.26 feet
Total land area: 95,078 ☐ acres ☒ square feet

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

From the Sky Bridge, go South approximately 1 mile. Estero Beach Club is located
on the gulf side of Estero Blvd.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

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

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

- | | |
|--|--|
| ☐ Low Density | ☐ Marina |
| ☐ Mixed Residential | ☐ Recreation |
| ☒ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |

EXHIBIT D-1 OTHER AGENTS

D. Other Agent(s)

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

Name: J&L Refrigeration (Jeffrey J Puterbaugh) Phone: 239-591-2828
Address: 17300 Palm Beach Blvd, Alva, FL 33920
Email: JandLGeothermal@comcast.net Fax: _____

Name: Clyde Johnson Contracting (Justin Ennis) Phone: 863-233-1641
Address: 206 Lotus St, Clewiston, FL 33440
Email: justin.ennis@johnsongroup.global Fax: _____

Name: Suitor, Middleton, Cox & Assoc Phone: 239-437-0340
Address: 15751 San Carlos Blvd #8, Fort Myers, FL 33908
Email: esterobeachclub@aol.com Fax: _____

EXHIBIT 5-1**Estero Beach Club Condo Association**

Unit	Owner	Street	City ST Zip	% Ownership
11	Diamond Property Alliance	1900 E. Golf Road, Ste 1275	Schaumburg, IL 60173	2.08%
12	Browell, Debra & Brian	900 Rosa Lane	Lafayette, IN 47905	2.08%
14	Coffman, Joyce	55 Hiawatha Lane	Galesburg, IL 61401	2.08%
15	Stuck, Steve & Lorrie	363 Misty Pine Trail	Prudenville, MI 48651	2.08%
21	Volpe, Kent & Kari	919 Warwick Lane	Libertyville, IL 60048	2.08%
22	Olsen, Susan	406 Spring Creek Ct.	Albany, IL 61230	2.08%
23	Ramey, Steve & Nancy	1634 Dorrell Ct.	Greenwood, IN 46143	2.08%
24	KDMJ Associates, Inc.	23883 Santary Lakes Ct	Bonita Springs FL 34133	2.08%
25	Laird, William & Doris	1125 Mercer Drive	Tallahassee, FL 32312	2.08%
31	Kruetz, Dave & Amy	936 Manchester Rd.	Lake Zurich, IL 60047	2.08%
32	Incaudo, Charles	20112 Hartford Blvd	Estero, FL 33927	2.08%
33	Johnston, Dean & Debi	448 West St N	Orillia, ON L3V5E8 Canada	2.08%
34	Garnett, Greg & Henri	244 N. Woodridge Dr.	Pittsboro, IN 46167	2.08%
35	Nowak, Michael & Annmarie	2580 Estero Blvd #35	Fort Myers Beach, FL 33931	2.08%
41	Ramey, Steven & Nancy	1634 Dorrell Ct.	Greenwood, IN 46143	2.08%
42	Jim and Lisa Campbell	2024 Oakridge Street	St. Paul, MN 55119	2.08%
43	Brodbeck, Tara & Dan	2592 Indian Wells Trail	Xenia, OH 45385	2.08%
44	Manning, Bob & Debbie	7 Tide Turn Dr.	Salem, SC 29676	2.08%
45	O'Neill, Peggy & Zechinati, James	924 Westchester Way	Richmond, KY 40475	2.08%
51	Schrader, Lila & Charles	2 South 648 Deerpath Rd.	Batavia, IL 60510	2.08%
52	Capparis Properties, LLC	2580 Estero Blvd #52	Fort Myers Beach, FL 33931	2.08%
53	Koop, Sharon	1137 Elmwood Lane	Elk Grove Village, IL 60007	2.08%
54	Arend, Dave & Joanna	15759 Road 138	Paulding, OH 45879	2.08%
55	Lanigan, Randall & Deborah	188 Lauren Drive	Villa Hills, KY 41017	2.08%
101	Gulfway 101, LLC	23884 Santary lakes Ct	Bonita Springs FL 34134	2.08%
102	Gulfway 102, LLC	23885 Santary lakes Ct	Bonita Springs FL 34135	2.08%
103	Wolfe, Charles & Pamela	401 Monocacy Dr.	Bath , PA 18014	2.08%
104	Garnett, Rodney & Ali	7377 N. CR 550E	Pittsboro, IN 46167	2.08%
201	Yeager, John & Elaine	4923 Stonehaven Dr.	Columbus, OH 43212	2.08%
202	Manning, Bob & Debbie	7 Tide Turn Dr.	Salem, SC 29676	2.08%
203	Seashore Properties, LLC	20280 Burnside Place #1202	Estero, FL 33928	2.08%
204	Florida Wright Enterprises, LLC	10100 Cypress Cove Dr #354	Ft. Myers, FL 33908	2.08%
205	Alexander, Michael & Claire	9667 Windgate Drive	Bloomington, IL 61705	2.08%
301	Norris, Mark & Susan	3155 East Strater Rd	Kendallville, IN 46755	2.08%
302	Chesnut, Steve & Beverly	6701 Idlewild Street	Ft. Myers, FL 33966	2.08%
303	Meyer, Laura and Barry	5601 American Blvd. W. #508	Bloomington, MN 55437	2.08%
304	Thomas Tubbs Trust	2580 Estero Blvd #304	Fort Myers Beach, FL 33931	2.08%
305	Romberg, Michael & Tina	116 Azalea Road	Frankfort IL 60423	2.08%
401	Heuck, David & Michelle	14690 Fairhaven Road	Fort Myers, FL 33908	2.08%
402	Clark, Delbert & Leann	29785 Kestral Lane	St. Joseph, MN 56374	2.08%
403	Renee and Chris Thomas	1922 Madison St.	Madison, WI 53711	2.08%
404	Conklin, Kerry & Suzan	12956 Rocky Pointe Rd	McCordsville, IN 46055	2.08%
405	Richard Allen Trust	5865 Hunt Club Way	Waunakee, WI 53597	2.08%
501	Gulfway 501 LLC	23884 Sanctuary Lakes Ct.	Bonita Springs, FL 34134	2.08%
502	Jill & Walter Combs	14 Oakridge Circle	Ware, MA 01082	2.08%
503	Renee and Chris Thomas	1922 Madison St.	Madison, WI 53711	2.08%
504	Mellema, Gary & Lari Ann	2580 Estero Blvd #504	Fort Myers Beach, FL 33931	2.08%
505	Wright, Michelle	20280 Burnside Place #1202	Estero, FL 33928	2.08%

Estero Beach Club Condo Association

EXHIBIT 5-3 Notice and Consent

UNIT	OWNER NAME	1st Notice	2nd Notice	Yea	No Reply
11	DIAMOND PROPERTY ALLIANCE LLC	8/12/2024	8/16/2024	X	
12	BROWELL BRIAN R & DEBRA I	8/12/2024	8/16/2024	X	
14	COFFMAN JOYCE A	8/12/2024	8/16/2024	X	
15	STUCK STEVEN L & LORRAINE M	8/12/2024	8/16/2024	X	
21	VOLPE KENT R	8/12/2024	8/16/2024	X	
22	OLSEN SUSAN L	8/12/2024	8/16/2024	X	
23	RAMEY STEVEN L & NANCY K	8/12/2024	8/16/2024	X	
24	KDMJ ASSOCIATES INC	8/12/2024	8/16/2024	X	
25	LAIRD W E & DORIS M	8/12/2024	8/16/2024	X	
31	KREUTZ DAVID TR	8/12/2024	8/16/2024	X	
32	INCAUDO CHARLES	8/12/2024	8/16/2024	X	
33	JOHNSTON DEAN + DEBI	8/12/2024	8/16/2024		X
34	GREGORY W GARNETT TRUST +	8/12/2024	8/16/2024	X	
35	NOWAK MICHAEL S TR	8/12/2024	8/16/2024	X	
41	RAMEY STEVEN L & NANCY K	8/12/2024	8/16/2024	X	
42	LTE 6020 LLC	8/12/2024	8/16/2024	X	
43	HV DESIGNS LLC	8/12/2024	8/16/2024	X	
44	MANNING DEBORAH A TR	8/12/2024	8/16/2024	X	
45	ZECHINATI JAMES &	8/12/2024	8/16/2024	X	
51	SCHRADER CHARLES H TR	8/12/2024	8/16/2024	X	
52	CAPPARIS PROPERTIES LLC	8/12/2024	8/16/2024	X	
53	KOOP ROBERT N & SHARON L	8/12/2024	8/16/2024	X	
54	AREND DAVID L & JOANNA L	8/12/2024	8/16/2024	X	
55	HIGHLAND MANOR APARTMENTS LLC	8/12/2024	8/16/2024	X	
101	GULFWAY 101 LLC	8/12/2024	8/16/2024	X	
102	GULFWAY 102 LLC	8/12/2024	8/16/2024	X	
103	WOLFE CHARLES G & PAMELA M	8/12/2024	8/16/2024	X	
104	GARNETT RODNEY S & ALTHEA N	8/12/2024	8/16/2024		X
105	ESTERO BEACH CLUB CONDO ASSN	8/12/2024	8/16/2024		
201	YEAGER JOHN A & M ELAINE	8/12/2024	8/16/2024	X	
202	ESTERO FMB RENTAL LLC	8/12/2024	8/16/2024	X	
203	SEASHORE PROPERTIES LLC	8/12/2024	8/16/2024	X	
204	FLORIDA WRIGHT ENTERPRISES LLC	8/12/2024	8/16/2024		X
205	ALEXANDER MICHAEL B TR	8/12/2024	8/16/2024	X	
301	NORRIS MARK A & SUSAN K TR	8/12/2024	8/16/2024	X	
302	CHESNUT STEVEN WAYNE &	8/12/2024	8/16/2024	X	
303	MEYER LAURELEE M	8/12/2024	8/16/2024	X	
304	TUBBS THOMAS A TR	8/12/2024	8/16/2024		X
305	ROMBERG TINA RUIZ &	8/12/2024	8/16/2024		X
401	HEUCK DAVID & MICHELLE	8/12/2024	8/16/2024	X	
402	DELBERT G CLARK TRUST +	8/12/2024	8/16/2024	X	
403	EBC 403 LLC	8/12/2024	8/16/2024	X	
404	CONKLIN KERRY P TR	8/12/2024	8/16/2024	X	
405	ALLEN LESTER TR	8/12/2024	8/16/2024	X	
501	GULFWAY 501 LLC	8/12/2024	8/16/2024	X	
502	COMBS JILL A GRAVEL	8/12/2024	8/16/2024	X	
503	EBC 503 LLC	8/12/2024	8/16/2024	X	
504	MELLEMA GARY & LARI ANN	8/12/2024	8/16/2024	X	
505	TURTLE SHORE PROPERTIES LLC	8/12/2024	8/16/2024	X	
Total				43	5
				90%	10%



September 5, 2024

Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, Florida 33931

**RE: Attorney Opinion Letter
Estero Beach Club Condominium Association, Inc. / Town of Fort Myers Beach
Municipal Ordinance 20-02 Special Exception**

To Whom It May Concern:

This Firm serves as general counsel for Estero Beach Club Condominium Association, Inc. (the “Association”). This Opinion Letter has been prepared in accordance with Section 34-201(a)(1)(b)(3) of the Fort Myers Beach Municipal Code for the purpose of the Association seeking a special exception to Fort Myers Beach Municipal Ordinance 20-02 to allow the Association to repair the Condominium’s swimming pool, concrete walk, foot rinse station, deck pavers, surrounding fence and gates, and irrigation system to support the lawn and landscaping, all of which were damaged during Hurricane Ian, with portions of these items being located seaward of the 1978 Coastal Construction Control Line.

In applying for a special exception requiring a public hearing, Section 34-201(a)(1)(b)(3) of the Fort Myers Beach Municipal Code provides as follows:

3. So as to protect the legal rights of nonparticipating unit owners, the application shall be accompanied by a letter of opinion from a licensed Florida attorney, who shall attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents or timeshare documents, as applicable, and concluded that the act of applying or petitioning to the town violates none of the provisions therein, or any federal or state law regulating condominiums or timeshare plans, or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the town would violate no such rights.

For purposes of this Opinion Letter, we have reviewed the Association’s Declaration of Condominium, Bylaws, and Articles of Incorporation, as amended (collectively, the “Governing Documents”). The Association’s Declaration of Condominium and Bylaws are recorded at Official Records Book 761, Page 836, *et. seq.*, of the Public Records of Lee County, Florida, and the

Association's Amended and Restated Articles of Incorporation are recorded at Official Records Book 3200, Page 3737, *et. seq.*, of the Public Records of Lee County, Florida.

Subject to the qualifications and limitations set forth in the subsequent portions of this Opinion Letter, it is our opinion that:

1. Estero Beach Club Condominium Association, Inc. is a not-for-profit corporation that is duly organized, validly existing, and in good standing under the laws of the State of Florida, with full and adequate power and authority to carry out its business as now conducted.
2. Estero Beach Club is a condominium as defined and regulated by Chapter 718 of the Florida Statutes.
3. The Association has all requisite authority and legal rights to unilaterally proceed to repair the Condominium's Common Element swimming pool, concrete walk, foot rinse station, deck pavers, surrounding fence and gates, and irrigation system to support the lawn and landscaping, including the ability to apply for a special exception to Fort Myers Beach Municipal Ordinance 20-02 to obtain permitting for such repairs.
4. The Association has notified all Unit Owners of its application for a special exception to allow for the repairs to the Condominium as set forth above, and has received approval from over seventy-five percent (75%) of its Unit Owners.
5. The act of applying or petitioning the Town of Fort Myers Beach for a special exception as set forth above, and the Town's approval of such request does not violate any provisions of the Governing Documents or any federal or State laws regulating condominiums, or the rights of any nonparticipating Unit Owners derived from any such documents and laws.

The information contained in this Opinion Letter is sent only to opine on the above matters expressly stated. No other matter may be implied or inferred from the text of this Opinion Letter. The opinions, as expressed in this Letter, are rendered as of the date hereof and are based on existing law and the existing Governing Documents, which are subject to change. We express no opinion as to circumstances or events which may occur after the date hereof. We assume no obligation to supplement or update this opinion to reflect any facts or circumstances which may hereafter come to our attention or any changes in any laws or court decisions which may hereafter occur. In rendering the opinions expressed in this Letter, we have assumed all official public records (including their proper indexing and filing) are accurate and complete.

We are members of the bar of the State of Florida and do not purport to be experts on, or to express any opinion herein, concerning any laws other than the laws of the State of Florida. The opinions expressed in this Letter speak as of the date hereof and are based upon the applicable laws, regulations, and ordinances in effect and facts existing as of the date of this Opinion Letter. This Opinion Letter is rendered for the sole benefit of the addressee hereof, and no other person or entity is entitled to rely hereon.

September 5, 2024
Page 3

Very truly yours,

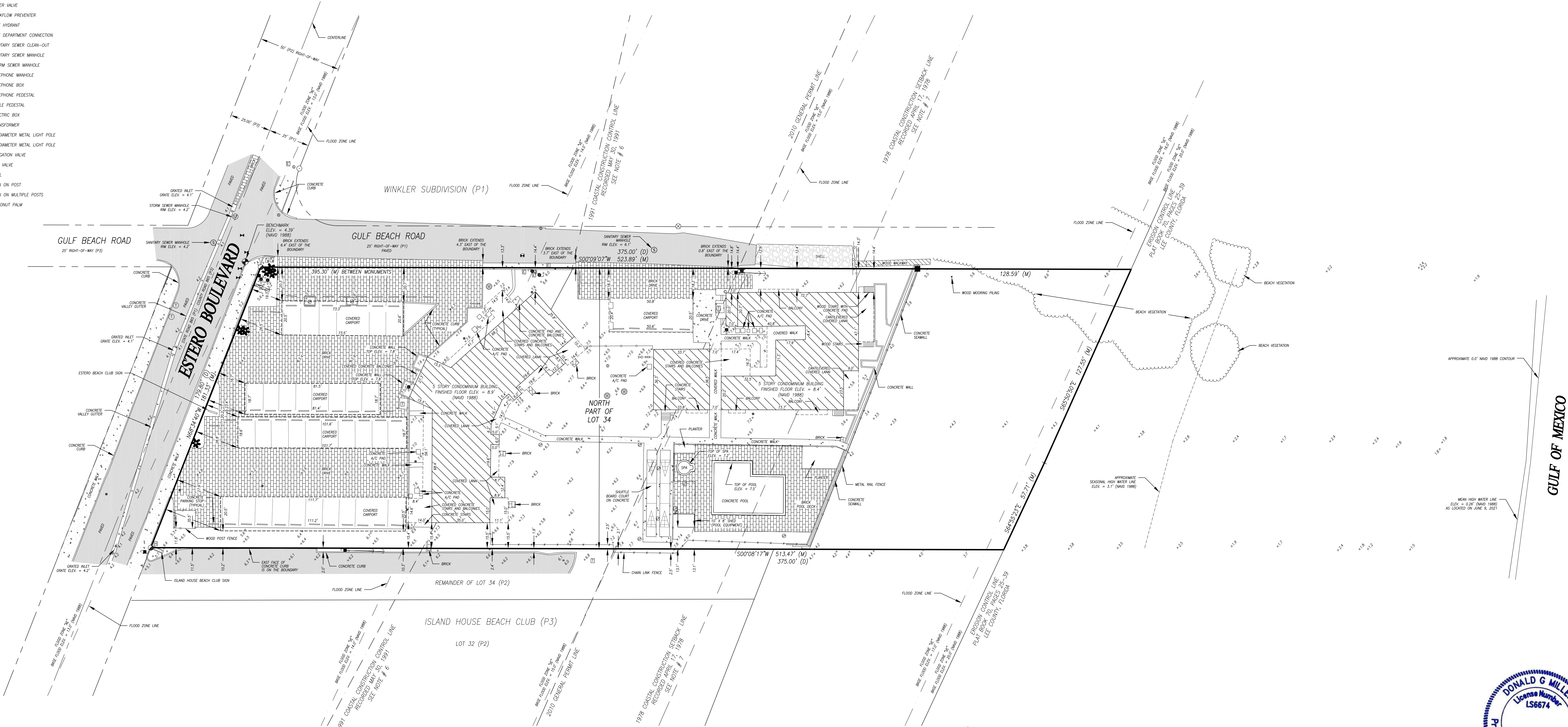
ROETZEL & ANDRESS, LPA

A handwritten signature in black ink, reading "Ashley D. Lupo". The signature is written in a cursive, flowing style with a large, prominent "A" and "L".

Ashley D. Lupo, B.C.S.
For the Firm

LEGEND

- ⊕ = BENCHMARK, SET PK NAL AND DISK - "LB 6896"
- = FOUND 5/8" REBAR - NO IDENTIFICATION
- ⊗ = FOUND 1/2" REBAR - NO IDENTIFICATION
- ⊙ = SET 5/8" REBAR AND CAP - "DAG GEO LB 6896"
- = FOUND 4" X 4" CONCRETE MONUMENT WITH 2" DISK
- (1) = LEGAL DESCRIPTION DATA
- (M) = FIELD MEASURED DATA
- (P1) = RECORD PLAT DATA - ESTERO BEACH CLUB, PLAT BOOK 3, PAGE 114
- (P2) = RECORD PLAT DATA - T.P. HILL'S SUBDIVISION OF LOTS 2, 3 AND 4, PLAT BOOK 3, PAGE 84
- (P3) = RECORD PLAT DATA - RIGHT-OF-WAY CONTROL SURVEY MAP OF ESTERO BOULEVARD COUNTY ROAD 865, SHEET 10-11
- = SPOT ELEVATION, NAVD 1988
- ⊕ = WOOD UTILITY POLE
- ⊕ = CONCRETE UTILITY POLE
- ⊕ = GUY ANCHOR
- ⊕ = WATER METER
- ⊕ = WATER VALVE
- ⊕ = BACKFLOW PREVENTER
- ⊕ = FIRE HYDRANT
- ⊕ = FIRE DEPARTMENT CONNECTION
- ⊕ = SANITARY SEWER CLEAN-OUT
- ⊕ = SANITARY SEWER MANHOLE
- ⊕ = STORM SEWER MANHOLE
- ⊕ = TELEPHONE MANHOLE
- ⊕ = TELEPHONE BOX
- ⊕ = TELEPHONE PEDESTAL
- ⊕ = CABLE PEDESTAL
- ⊕ = ELECTRIC BOX
- ⊕ = TRANSFORMER
- ⊕ = 8" DIAMETER METAL LIGHT POLE
- ⊕ = 8" DIAMETER METAL LIGHT POLE
- ⊕ = IRRIGATION VALVE
- ⊕ = GAS VALVE
- ⊕ = WELL
- ⊕ = SIGN ON POST
- ⊕ = SIGN ON MULTIPLE POSTS
- ⊕ = COCONUT PALM



LEGAL DESCRIPTION

BEGINNING AT THE NORTHEAST CORNER OF LOT 34, OF T.P. HILL'S SUBDIVISION OF LOTS 2, 3 AND 4, IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, ON ESTERO ISLAND, AND RUN SOUTH ALONG THE EAST BOUNDARY OF SAID LOT 34 A DISTANCE OF 115.23 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN CONVEYED; THENCE NORTHWESTERLY AND PARALLEL WITH THE COUNTY ROAD, BEING THE NORTH LINE OF SAID LOT 34 A DISTANCE OF 179.8 FEET; THENCE SOUTH PARALLEL WITH THE WEST BOUNDARY OF SAID LOT 34, A DISTANCE OF 259.77 FEET, MORE OR LESS, TO THE BEACH OF THE GULF OF MEXICO, THENCE SOUTHEASTERLY ALONG THE SAID BEACH 179.8 FEET TO A POINT 259.77 FEET SOUTH OF THE POINT OF BEGINNING, THENCE NORTH TO THE POINT OF BEGINNING AND ALSO DESCRIBED AS FOLLOWS:

BEING PART OF LOT 34, OF THE T.P. HILL'S SUBDIVISION OF GOVERNMENT LOTS 2, 3 AND 4, OF SECTION 19, TOWNSHIP 46 SOUTH, OF RANGE 24 EAST, AS SHOWN ON THE PLAT OF SAID SUBDIVISION IN PLAT BOOK 3 AT PAGE 84, IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 34, AND RUNNING SOUTH ALONG THE EAST BOUNDARY OF SAID LOT A DISTANCE OF 115.23 FEET; THENCE NORTHWESTERLY AND PARALLEL WITH THE COUNTY ROAD 179.8 FEET; THENCE NORTH 115.23 FEET TO THE COUNTY ROAD; THENCE SOUTHEASTERLY ALONG SAID ROAD A DISTANCE OF 179.8 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

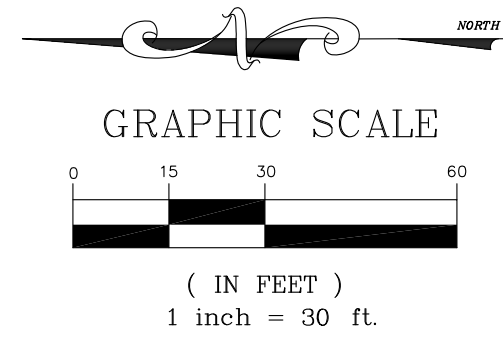
AND FORMERLY DESCRIBED AS FOLLOWS:

A TRACT OR PARCEL OF LAND LYING IN LOT 34 OF T. P. HILL'S SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN PLAT BOOK 3 AT PAGE 84 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE CONCRETE POST SET AT THE NORTHEAST CORNER OF SAID LOT 34, RUN SOUTHERLY ALONG THE WESTERLY LINE OF A 25 FOOT ROAD (GULF BEACH ROAD) AT AN ANGLE OF 68 DEGREES 40 MINUTES 00 SECONDS (AS MEASURED FROM SOUTHEASTERLY TO SOUTHERLY) WITH THE SOUTHEASTERLY LINE OF STATE ROAD NO. 865 (ESTERO BOULEVARD) TO THE WATERS OF THE GULF OF MEXICO, PASSING THROUGH A CONCRETE POST AT 375.00 FEET; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO AN INTERSECTION WITH A LINE PARALLEL WITH AND 168.96 FEET WESTERLY OF (AS MEASURED ON A PERPENDICULAR) THE LAST MENTIONED COURSE; THENCE RUN NORTHERLY ALONG SAID PARALLEL LINE (PASSING THROUGH A CONCRETE POST AT 79 FEET, MORE OR LESS), TO AN IRON PIPE AT THE INTERSECTION WITH THE AFOREMENTIONED SOUTHEASTERLY LINE OF STATE ROAD NO. 865 (ESTERO BOULEVARD); THENCE RUN SOUTHEASTERLY ALONG SAID SOUTHEASTERLY LINE TO THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED.

SURVEYOR'S NOTES

- BEARINGS SHOWN HEREON ARE GRID BEARINGS BASED UPON THE NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT (NAD83/90) FLORIDA EAST ZONE. DISTANCES SHOWN ARE GROUND DISTANCES MEASURED IN FEET. COORDINATES SHOWN ARE GRID COORDINATES. DATUM BASED UPON DEPARTMENT OF NATURAL RESOURCES CONTROL MONUMENTS 64-78-A26 AND 64-78-A27 HAVING NAD83/90 GRID COORDINATES AS SHOWN.
- NO UNDERGROUND IMPROVEMENTS OR FOUNDATIONS WERE LOCATED UNDER THE SCOPE OF THIS SURVEY.
- ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988). ELEVATIONS ARE BASED UPON TIES TO THE TRIMBLE REAL-TIME KINEMATIC (RTK) GLOBAL POSITIONING SYSTEM (GPS) CONTROL NETWORK.
- THIS PARCEL LIES IN FLOOD ZONES AS SHOWN. ZONES ARE BASED ON FEMA FLOOD INSURANCE RATE MAP PANEL 12071C0554F, DATED AUGUST 28, 2008. FLOOD ZONE LINES SHOWN HEREON WERE SCALED FROM THE INDICATED F.I.R.M. MAP PANEL.
- BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON THE RECORD PLAT AND LEGAL DESCRIPTION PROVIDED. NO SEARCH OF THE PUBLIC RECORDS WAS PERFORMED BY THIS SURVEYOR. THERE MAY BE OTHER SETBACKS AND/OR EASEMENTS NOT KNOWN TO THIS SURVEYOR.
- THE 1991 COASTAL CONSTRUCTION CONTROL LINE SHOWN HEREON IS AS RECORDED IN PLAT BOOK 48, PAGE 30, AND FILED IN OFFICIAL RECORDS BOOK 2224, PAGES 1010 THROUGH 1041 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA ON MAY 30, 1991.
- THE 1978 COASTAL CONSTRUCTION SETBACK LINE SHOWN HEREON IS AS RECORDED BY ORDINANCE 76-3 RECORDED APRIL 17, 1978 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA
- THE STREET ADDRESS IS:
2580 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931
- MEAN HIGH WATER ELEVATION OF 0.26' (NAVD 1988) IS BASED ON A DETERMINATION OF THE FLORIDA DEPARTMENT OF ENVIRONMENTAL AGENCY.
- THIS TIDAL WATER SURVEY COMPLIES WITH CHAPTER 177, PART II, FLORIDA STATUTES.
- THIS PARCEL CONTAINS 2.013 ACRES, OR 87,668 SQ. FT., MORE OR LESS.



CERTIFIED TO:
ESTERO BEACH CLUB CONDOMINIUM ASSOCIATION, INC.
MIDFLORIDA CREDIT UNION
KNOTT EBELENI HART

DRAWN BY:
IR

DAGOSTINO GEOSPATIAL, INC.
Professional Surveying & Mapping
10981 Donita Beach Road SE Bonita Springs, FL 34135
Phone: (239) 352-0885 Website: www.daggeo.com



DRAWING SCALE:
1" = 30'

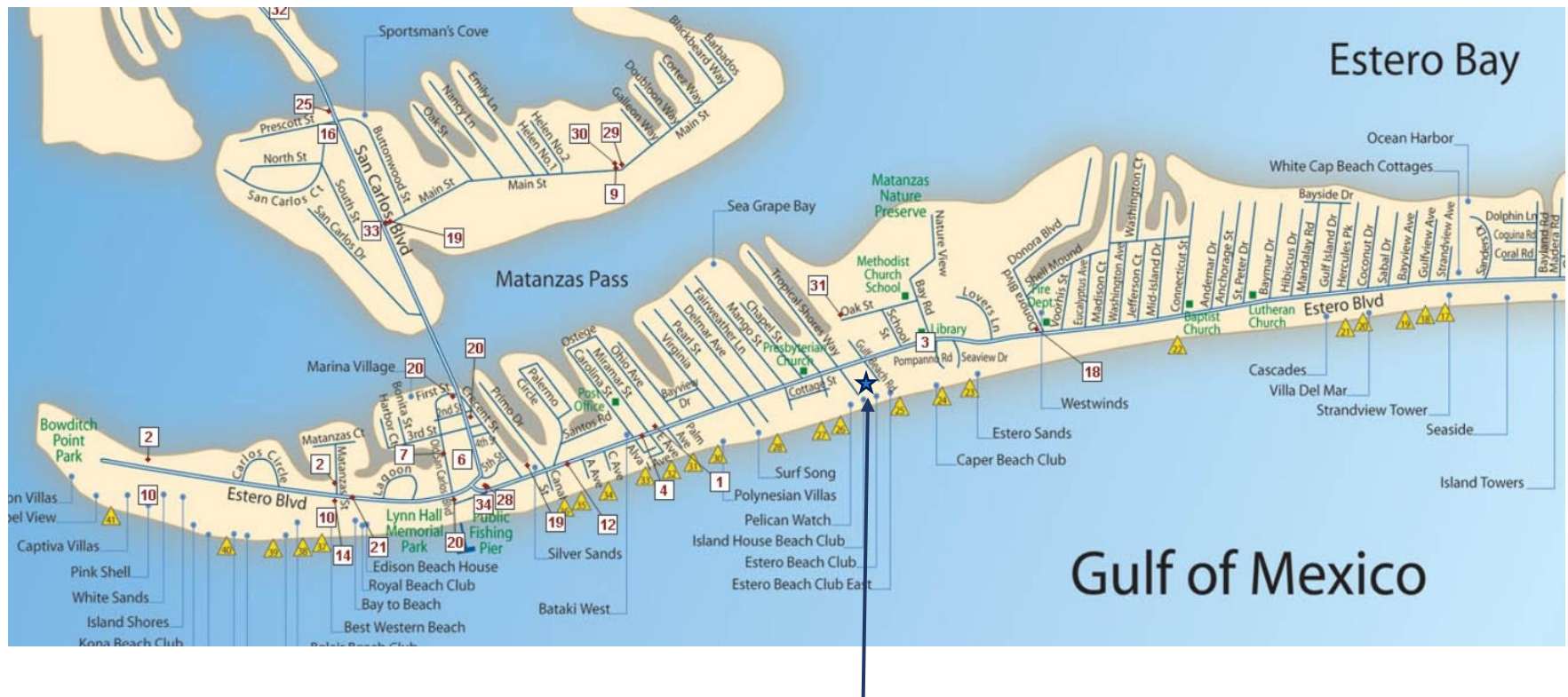
COMPUTER FILE:
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07/01/2021

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07/01/2021

DONALD G. MILLER
Professional Surveyor and Mapper
License Number
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STATE OF
FLORIDA

This map prepared by:
DONALD G. MILLER
CERTIFICATE OF AUTHORIZATION NO. LB 6896
NOT VALID WITHOUT THE SIGNATURE
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Estero Beach Club Condo Association

Subject Affected: 223 Buffer: 500 Date: 7/31/2024 12:00:00 AM List Size: 224

Index	Subject	Folioid	STRAP	OwnerName	SiteNumber	SiteStreet	SiteUnit	SiteCity	SiteZip
0	TRUE	10462578	19-46-24-W3-02000.00CE	ESTERO BEACH CLUB CONDO ASSN	2584	ESTERO BLVD		FORT MYERS BEACH	33931
1	FALSE	10227526	19-46-24-W2-0020B.0010	SK FMB GROUP LLC	2610	ESTERO BLVD		FORT MYERS BEACH	33931
2	FALSE	10227527	19-46-24-W2-0020B.0040	PRARAZ BUILDERS LLC	2630	ESTERO BLVD		FORT MYERS BEACH	33931
3	FALSE	10227528	19-46-24-W2-0020B.0180	MLINARIC MARJAN &	2686	ESTERO BLVD		FORT MYERS BEACH	33931
4	FALSE	10227529	19-46-24-W2-0020B.019B	EVERGLADES CONSTRUCTION GROUP	2700	ESTERO BLVD		FORT MYERS BEACH	33931
5	FALSE	10227532	19-46-24-W3-0020B.0140	CORCELLI DONALD N & MARY E	2670/2680	ESTERO BLVD		FORT MYERS BEACH	33931
6	FALSE	10227534	19-46-24-W3-0020C.0010	TOWN OF FORT MYERS BEACH	2600	OAK ST		FORT MYERS BEACH	33931
7	FALSE	10227536	19-46-24-W3-0020C.0070	GULF BEACH LLC	100	GULF BEACH RD		FORT MYERS BEACH	33931
8	FALSE	10570126	19-46-24-W3-0020C.0090	DJ AREND FARMS INC	2601	ESTERO BLVD		FORT MYERS BEACH	33931
9	FALSE	10570127	19-46-24-W3-0020C.0110	REEF OF FMB LLC, JARET BISHOP	2611	ESTERO BLVD		FORT MYERS BEACH	33931
10	FALSE	10227537	19-46-24-W3-0020C.0120	NECULA MONICA C	2617/2619	ESTERO BLVD		FORT MYERS BEACH	33931
11	FALSE	10227538	19-46-24-W3-0020C.0140	PG ASSOCIATES LLC	2621/2623	ESTERO BLVD		FORT MYERS BEACH	33931
12	FALSE	10227539	19-46-24-W3-0020C.0160	2633 ESTERO LLC	2633/2635	ESTERO BLVD		FORT MYERS BEACH	33931
13	FALSE	10227540	19-46-24-W3-0020C.0180	TOWN OF FORT MYERS BEACH	2639/2641	ESTERO BLVD		FORT MYERS BEACH	33931
14	FALSE	10227542	19-46-24-W3-0020C.0210	FOLLIARD PATRICK M & AMY	2651	ESTERO BLVD		FORT MYERS BEACH	33931
15	FALSE	10227543	19-46-24-W3-0020C.0230	COTTAGES AT MYERSIDE LLC	2661-2681	ESTERO BLVD		FORT MYERS BEACH	33931
16	FALSE	10227544	19-46-24-W3-0020C.0270	COTTAGES AT MYERSIDE LLC	125	SCHOOL ST		FORT MYERS BEACH	33931
17	FALSE	10227545	19-46-24-W3-0020C.0290	MYERSIDE LLC	131-151	SCHOOL ST		FORT MYERS BEACH	33931
18	FALSE	10227552	19-46-24-W3-0020D.0010	TOWN OF FORT MYERS BEACH	2731	OAK ST		FORT MYERS BEACH	33931
19	FALSE	10227570	19-46-24-W3-00450.A000	TOWN OF FORT MYERS BEACH	2523/2525	ESTERO BLVD		FORT MYERS BEACH	33931
20	FALSE	10227609	19-46-24-W3-00458.0000	FORT MYERS BEACH FIRE CONTROL	2545	ESTERO BLVD		FORT MYERS BEACH	33931
21	FALSE	10227610	19-46-24-W3-00458.0010	FORT MYERS BEACH FIRE CONTROL	2555	ESTERO BLVD		FORT MYERS BEACH	33931
22	FALSE	10227695	19-46-24-W3-0120A.0070	2450 ESTERO BLVD LLC	2450	ESTERO BLVD		FORT MYERS BEACH	33931
23	FALSE	10227697	19-46-24-W3-0120A.0100	EMPIRE HOLDING CORP TR	2500	ESTERO BLVD		FORT MYERS BEACH	33931
24	FALSE	10227698	19-46-24-W3-0120A.013A	EMPIRE HOLDING CORP TR, RAINBOW REALT	2543	COTTAGE AVE		FORT MYERS BEACH	33931
25	FALSE	10227699	19-46-24-W3-0120A.014A	FRENCH EDWIN T III	2550	COTTAGE AVE		FORT MYERS BEACH	33931
26	FALSE	10227700	19-46-24-W3-0120A.0150	FRENCH EDWIN T III	2548	COTTAGE AVE		FORT MYERS BEACH	33931
27	FALSE	10227701	19-46-24-W3-0120A.016A	COASTAL COTTAGES LLC	2520	COTTAGE AVE		FORT MYERS BEACH	33931
28	FALSE	10227702	19-46-24-W3-0120A.016B	COASTAL COTTAGES LLC	2522	COTTAGE AVE		FORT MYERS BEACH	33931
29	FALSE	10227703	19-46-24-W3-0120A.0170	TEZAK HELEN C TR	50	CHAPEL ST		FORT MYERS BEACH	33931
30	FALSE	10227704	19-46-24-W3-0120A.017A	GOLDBERG GENNIE M TR	2518	COTTAGE AVE		FORT MYERS BEACH	33931
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34	FALSE	10227754	19-46-24-W3-01302.0000	EMPIRE HOLDING CORP TR	2510	ESTERO BLVD		FORT MYERS BEACH	33931
35	FALSE	10227755	19-46-24-W3-01303.0000	OLOUGHLIN DEREK W	2553	COTTAGE AVE		FORT MYERS BEACH	33931
36	FALSE	10227756	19-46-24-W3-01304.0000	WHITEHEAD LELAND S &	2563	COTTAGE AVE		FORT MYERS BEACH	33931
37	FALSE	10462580	19-46-24-W3-02100.00CE	ESTERO BEACH CLUB EAST CONDO, ALLIANT I	2654	ESTERO BLVD		FORT MYERS BEACH	33931
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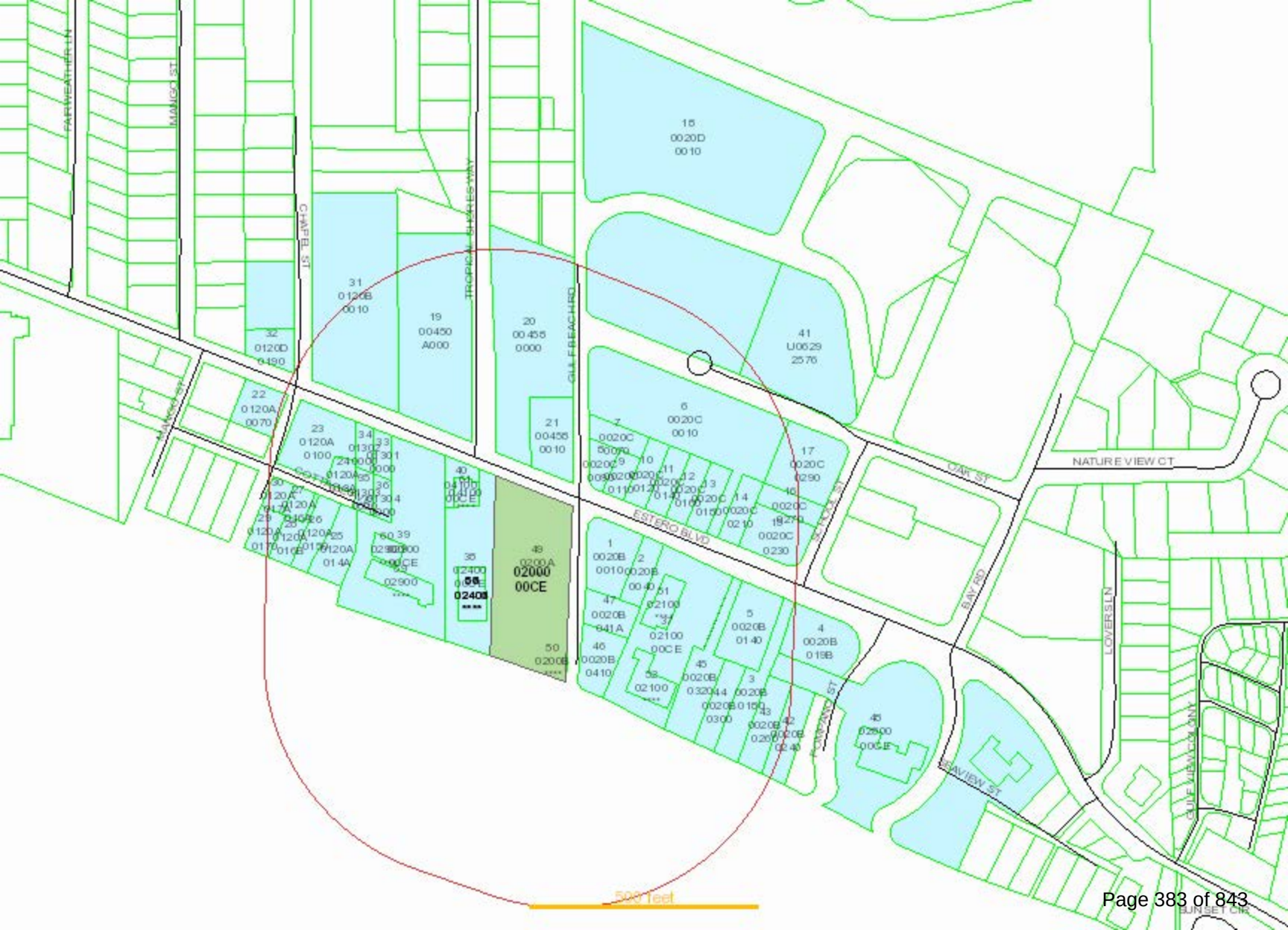
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42	FALSE	10230038	30-46-24-W2-0020B.0240	CONNER CHARLES R & GAIL D	53	POMPAÑO ST	FORT MYERS BEACH	33931
43	FALSE	10230039	30-46-24-W2-0020B.0260	CAPTAIN'S QUARTERS FMB LLC	2704/2706	ESTERO BLVD	FORT MYERS BEACH	33931
44	FALSE	10230040	30-46-24-W2-0020B.0300	BERNHARD MATTHEW C &	2672	ESTERO BLVD	FORT MYERS BEACH	33931
45	FALSE	10230041	30-46-24-W2-0020B.0320	MAXWELL EMILY JANE	2662	ESTERO BLVD	FORT MYERS BEACH	33931
46	FALSE	10230042	30-46-24-W2-0020B.0410	LUMPKINS NANCIE LEE TR	30	GULF BEACH RD	40 FORT MYERS BEACH	33931
47	FALSE	10230043	30-46-24-W2-0020B.041A	FOREMAN BRADFORD G	50	GULF BEACH RD	FORT MYERS BEACH	33931
48	FALSE	10230080	30-46-24-W2-02800.00CE	CAPER BEACH CLUB CONDO ASSN	2812	ESTERO BLVD	FORT MYERS BEACH	33931
49	FALSE	10227767	19-46-24-W3-0200A.0110	DIAMOND PROPERTY ALLIANCE LLC	2580	ESTERO BLVD	11 FORT MYERS BEACH	33931
49	FALSE	10227768	19-46-24-W3-0200A.0120	BROWELL BRIAN R & DEBRA I	2580	ESTERO BLVD	12 FORT MYERS BEACH	33931
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49	FALSE	10227771	19-46-24-W3-0200A.0210	VOLPE KENT R +	2580	ESTERO BLVD	21 FORT MYERS BEACH	33931
49	FALSE	10227772	19-46-24-W3-0200A.0220	OLSEN SUSAN L	2580	ESTERO BLVD	22 FORT MYERS BEACH	33931
49	FALSE	10227773	19-46-24-W3-0200A.0230	RAMEY STEVEN L & NANCY K	2580	ESTERO BLVD	23 FORT MYERS BEACH	33931
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49	FALSE	10227776	19-46-24-W3-0200A.0310	KREUTZ DAVID TR	2580	ESTERO BLVD	31 FORT MYERS BEACH	33931
49	FALSE	10227777	19-46-24-W3-0200A.0320	INCAUDO DANIEL +	2580	ESTERO BLVD	32 FORT MYERS BEACH	33931
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49	FALSE	10227779	19-46-24-W3-0200A.0340	GREGORY W GARNETT TRUST +	2580	ESTERO BLVD	34 FORT MYERS BEACH	33931
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49	FALSE	10227783	19-46-24-W3-0200A.0430	HV DESIGNS LLC	2580	ESTERO BLVD	43 FORT MYERS BEACH	33931
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49	FALSE	10227786	19-46-24-W3-0200A.0510	SCHRADER CHARLES H TR	2580	ESTERO BLVD	51 FORT MYERS BEACH	33931
49	FALSE	10227787	19-46-24-W3-0200A.0520	CAPPARIS PROPERTIES LLC	2580	ESTERO BLVD	52 FORT MYERS BEACH	33931
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50	FALSE	10227795	19-46-24-W3-0200B.1050	ESTERO BEACH CLUB CONDO ASSN	2580	ESTERO BLVD	105 FORT MYERS BEACH	33931
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52	FALSE	10227846	19-46-24-W3-02100.2020	GRANDGEORGE ROBERT E &	2650 ESTERO BLVD	202 FORT MYERS BEACH	33931
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52	FALSE	10227859	19-46-24-W3-02100.4050	ROTH VERRA ANNE	2650 ESTERO BLVD	405 FORT MYERS BEACH	33931
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52	FALSE	10227861	19-46-24-W3-02100.5020	FAUSTINI ROSE MARIE TR	2650 ESTERO BLVD	502 FORT MYERS BEACH	33931
52	FALSE	10227862	19-46-24-W3-02100.5030	RDW LIMITED PARTNERSHIP, SHEILA TOLLEY	2650 ESTERO BLVD	503 FORT MYERS BEACH	33931
52	FALSE	10227863	19-46-24-W3-02100.5040	DIETRICH DONALD B TR	2650 ESTERO BLVD	504 FORT MYERS BEACH	33931
52	FALSE	10227864	19-46-24-W3-02100.5050	JOHNSON MICHAEL A	2650 ESTERO BLVD	505 FORT MYERS BEACH	33931
52	FALSE	10227865	19-46-24-W3-02100.5060	DVORAK DAVID M & JANETTE	2650 ESTERO BLVD	506 FORT MYERS BEACH	33931
53	FALSE	10227867	19-46-24-W3-02401.00B0	TAYLOR SARAH WHITE TR	2560 ESTERO BLVD	1B FORT MYERS BEACH	33931
53	FALSE	10227868	19-46-24-W3-02401.00C0	GAFFNEY JOSEPH J & MARGARET	2560 ESTERO BLVD	1C FORT MYERS BEACH	33931
53	FALSE	10227869	19-46-24-W3-02401.00D0	EVANS JOHN ROBERT JR	2560 ESTERO BLVD	1D FORT MYERS BEACH	33931
54	FALSE	10227870	19-46-24-W3-02402.00A0	SCHRAM JULIE TR	2560 ESTERO BLVD	2A FORT MYERS BEACH	33931
54	FALSE	10227871	19-46-24-W3-02402.00B0	TOWNSEND THOMAS & AMY	2560 ESTERO BLVD	2B FORT MYERS BEACH	33931
54	FALSE	10227872	19-46-24-W3-02402.00C0	TOWNSEND AMY E & THOMAS A	2560 ESTERO BLVD	2C FORT MYERS BEACH	33931
54	FALSE	10227873	19-46-24-W3-02402.00D0	ISLAND HOUSE 2D LLC	2560 ESTERO BLVD	2D FORT MYERS BEACH	33931
54	FALSE	10227874	19-46-24-W3-02402.00E0	BLAKE JANICE	2560 ESTERO BLVD	2E FORT MYERS BEACH	33931
55	FALSE	10227875	19-46-24-W3-02403.00A0	MONKS ROBERT C	2560 ESTERO BLVD	3A FORT MYERS BEACH	33931
55	FALSE	10227876	19-46-24-W3-02403.00B0	KROULADIS JOHN J SR &	2560 ESTERO BLVD	3B FORT MYERS BEACH	33931
55	FALSE	10227877	19-46-24-W3-02403.00C0	CZERKIES BEACH LLC	2560 ESTERO BLVD	3C FORT MYERS BEACH	33931
55	FALSE	10227878	19-46-24-W3-02403.00D0	HART HOWARD E +	2560 ESTERO BLVD	3D FORT MYERS BEACH	33931
55	FALSE	10227879	19-46-24-W3-02403.00E0	WHITEHOUSE KATHLEEN M	2560 ESTERO BLVD	3E FORT MYERS BEACH	33931
56	FALSE	10227880	19-46-24-W3-02404.00A0	AUSMAN PAMELA	2560 ESTERO BLVD	4A FORT MYERS BEACH	33931
56	FALSE	10227881	19-46-24-W3-02404.00B0	SUTTON JOSEPH CHARLES TR	2560 ESTERO BLVD	4B FORT MYERS BEACH	33931

56	FALSE	10227882	19-46-24-W3-02404.00C0	RALSON JEFFREY S TR	2560	ESTERO BLVD	4C	FORT MYERS BEACH	33931
56	FALSE	10227883	19-46-24-W3-02404.00D0	TUBBS THOMAS A TR	2560	ESTERO BLVD	4D	FORT MYERS BEACH	33931
56	FALSE	10227884	19-46-24-W3-02404.00E0	TRESCHUK-BAHN JACQUELINE	2560	ESTERO BLVD	4E	FORT MYERS BEACH	33931
57	FALSE	10227885	19-46-24-W3-02405.00A0	GABOR PETER +	2560	ESTERO BLVD	5A	FORT MYERS BEACH	33931
57	FALSE	10227886	19-46-24-W3-02405.00B0	MCCAFFREY WILLIAM F TR +	2560	ESTERO BLVD	5B	FORT MYERS BEACH	33931
57	FALSE	10227887	19-46-24-W3-02405.00C0	NELSON WILLIAM M &	2560	ESTERO BLVD	5C	FORT MYERS BEACH	33931
57	FALSE	10227888	19-46-24-W3-02405.00D0	MANNING NATALIE	2560	ESTERO BLVD	5D	FORT MYERS BEACH	33931
57	FALSE	10227889	19-46-24-W3-02405.00E0	SCOTT E CZERKIES +	2560	ESTERO BLVD	5E	FORT MYERS BEACH	33931
58	FALSE	10227890	19-46-24-W3-02406.00A0	KADO KELLY JOE & TERESA JO	2560	ESTERO BLVD	6A	FORT MYERS BEACH	33931
58	FALSE	10227891	19-46-24-W3-02406.00E0	LEVINE STEPHEN M & DIANE E	2560	ESTERO BLVD	6E	FORT MYERS BEACH	33931
59	FALSE	10227893	19-46-24-W3-02900.1010	BURGETT RUSSELL E TR	2532	ESTERO BLVD	101	FORT MYERS BEACH	33931
59	FALSE	10227894	19-46-24-W3-02900.1020	SHEPHARD ROBERT W	2532	ESTERO BLVD	102	FORT MYERS BEACH	33931
59	FALSE	10227895	19-46-24-W3-02900.1030	TAYLOR STEVEN	2532	ESTERO BLVD	103	FORT MYERS BEACH	33931
59	FALSE	10227896	19-46-24-W3-02900.1040	OWENS JAMES L & DIANNE L	2532	ESTERO BLVD	104	FORT MYERS BEACH	33931
59	FALSE	10227897	19-46-24-W3-02900.1050	MINOR KEVIN L & WENDY	2532	ESTERO BLVD	105	FORT MYERS BEACH	33931
59	FALSE	10227898	19-46-24-W3-02900.1060	JERRY LEE & DARLENE LOUISE WEA	2532	ESTERO BLVD	106	FORT MYERS BEACH	33931
59	FALSE	10227901	19-46-24-W3-02900.2010	LACAVA JOYCE L/E	2532	ESTERO BLVD	201	FORT MYERS BEACH	33931
59	FALSE	10227902	19-46-24-W3-02900.2020	STAHL JUDITH A TR	2532	ESTERO BLVD	202	FORT MYERS BEACH	33931
59	FALSE	10227903	19-46-24-W3-02900.2030	BRIESATH RANDAL TR	2532	ESTERO BLVD	203	FORT MYERS BEACH	33931
59	FALSE	10227904	19-46-24-W3-02900.2040	KRAUSE RANDY STEVEN & JAN A	2532	ESTERO BLVD	204	FORT MYERS BEACH	33931
59	FALSE	10227905	19-46-24-W3-02900.2050	ASCEND HOMES LLC	2532	ESTERO BLVD	205	FORT MYERS BEACH	33931
59	FALSE	10227906	19-46-24-W3-02900.2060	BRUNER RICHARD T +	2532	ESTERO BLVD	206	FORT MYERS BEACH	33931
59	FALSE	10227909	19-46-24-W3-02900.3010	VREDENBURG JOHN F TR	2532	ESTERO BLVD	301	FORT MYERS BEACH	33931
59	FALSE	10227910	19-46-24-W3-02900.3020	GRENZ LYLE R TR	2532	ESTERO BLVD	302	FORT MYERS BEACH	33931
59	FALSE	10227911	19-46-24-W3-02900.3030	ALICE A BRUNETTI TRUST +	2532	ESTERO BLVD	303	FORT MYERS BEACH	33931
59	FALSE	10227912	19-46-24-W3-02900.3040	WINDFALL INC	2532	ESTERO BLVD	304	FORT MYERS BEACH	33931
59	FALSE	10227913	19-46-24-W3-02900.3050	SUTTON MAVIS M	2532	ESTERO BLVD	305	FORT MYERS BEACH	33931
59	FALSE	10227914	19-46-24-W3-02900.3060	AMESBURY WILLIAM ROBIN JR &	2532	ESTERO BLVD	306	FORT MYERS BEACH	33931
59	FALSE	10227917	19-46-24-W3-02900.4010	BURNSTINE HARRY M TR	2532	ESTERO BLVD	401	FORT MYERS BEACH	33931
59	FALSE	10227918	19-46-24-W3-02900.4020	SMITH DON SCOT TR	2532	ESTERO BLVD	402	FORT MYERS BEACH	33931
59	FALSE	10227919	19-46-24-W3-02900.4030	HAWES GARY R &	2532	ESTERO BLVD	403	FORT MYERS BEACH	33931
59	FALSE	10227920	19-46-24-W3-02900.4040	BANERIAN KIRK G & LESLIE N	2532	ESTERO BLVD	404	FORT MYERS BEACH	33931
59	FALSE	10227921	19-46-24-W3-02900.4050	BUSCH FAMILY PROPERTIES LLC	2532	ESTERO BLVD	405	FORT MYERS BEACH	33931
59	FALSE	10227922	19-46-24-W3-02900.4060	WINDFALL INC	2532	ESTERO BLVD	406	FORT MYERS BEACH	33931
59	FALSE	10227925	19-46-24-W3-02900.5010	STICKLEY KIM A & PAMELA S	2532	ESTERO BLVD	501	FORT MYERS BEACH	33931
59	FALSE	10227926	19-46-24-W3-02900.5020	OOYKAAS DICK E & PATRICIA T +	2532	ESTERO BLVD	502	FORT MYERS BEACH	33931
59	FALSE	10227927	19-46-24-W3-02900.5030	OOYKAAS DICK E & PATRICIA T +	2532	ESTERO BLVD	503	FORT MYERS BEACH	33931
59	FALSE	10227928	19-46-24-W3-02900.5040	POHL JAMES W TR	2532	ESTERO BLVD	504	FORT MYERS BEACH	33931
59	FALSE	10227929	19-46-24-W3-02900.5050	DORNFELD LEE V & DONNA	2532	ESTERO BLVD	505	FORT MYERS BEACH	33931
59	FALSE	10227930	19-46-24-W3-02900.5060	BARRETT HILARY W + JAFFREY M WELLS	2532	ESTERO BLVD	506	FORT MYERS BEACH	33931
59	FALSE	10227933	19-46-24-W3-02900.6010	FIELDS GARY L TR	2532	ESTERO BLVD	601	FORT MYERS BEACH	33931

59	FALSE	10227934	19-46-24-W3-02900.6020	FRANCIS J GALVIN TRUST +	2532 ESTERO BLVD	602 FORT MYERS BEACH	33931
59	FALSE	10227935	19-46-24-W3-02900.6030	OOYKAAS DICK E & PATRICIA T	2532 ESTERO BLVD	603 FORT MYERS BEACH	33931
59	FALSE	10227936	19-46-24-W3-02900.6040	MANDATE CAPITAL LLC	2532 ESTERO BLVD	604 FORT MYERS BEACH	33931
59	FALSE	10227937	19-46-24-W3-02900.6050	MCKEOWN PATRICK G &	2532 ESTERO BLVD	605 FORT MYERS BEACH	33931
59	FALSE	10227938	19-46-24-W3-02900.6060	PELICAN PARTNERS	2532 ESTERO BLVD	606 FORT MYERS BEACH	33931
60	FALSE	10227899	19-46-24-W3-02900.1070	OOYKAAS DICK E & PATRICIA T +	2532 ESTERO BLVD	107 FORT MYERS BEACH	33931
60	FALSE	10227900	19-46-24-W3-02900.1080	WHITE BARBARA L TR	2532 ESTERO BLVD	108 FORT MYERS BEACH	33931
60	FALSE	10227907	19-46-24-W3-02900.2070	BERKEY BRIAN D TR	2532 ESTERO BLVD	207 FORT MYERS BEACH	33931
60	FALSE	10227908	19-46-24-W3-02900.2080	SHRI ENTERPRISES INC, RAVI DEVAGUPTAPU	2532 ESTERO BLVD	208 FORT MYERS BEACH	33931
60	FALSE	10227915	19-46-24-W3-02900.3070	SIEFRING RICHARD M TR	2532 ESTERO BLVD	307 FORT MYERS BEACH	33931
60	FALSE	10227916	19-46-24-W3-02900.3080	MEYER STEPHEN P	2532 ESTERO BLVD	308 FORT MYERS BEACH	33931
60	FALSE	10227923	19-46-24-W3-02900.4070	MARSHALL MARYLU B L/E	2532 ESTERO BLVD	407 FORT MYERS BEACH	33931
60	FALSE	10227924	19-46-24-W3-02900.4080	SPITZER ARDEN L & SANDRA C	2532 ESTERO BLVD	408 FORT MYERS BEACH	33931
60	FALSE	10227931	19-46-24-W3-02900.5070	WILTSE GARY ALAN &	2532 ESTERO BLVD	507 FORT MYERS BEACH	33931
60	FALSE	10227932	19-46-24-W3-02900.5080	ONKEN JAMES H & LYNNE E +	2532 ESTERO BLVD	508 FORT MYERS BEACH	33931
60	FALSE	10227939	19-46-24-W3-02900.6070	GROLMUS MARY JO ANN	2532 ESTERO BLVD	607 FORT MYERS BEACH	33931
60	FALSE	10227940	19-46-24-W3-02900.6080	ROBSHAW RICHARD P	2532 ESTERO BLVD	608 FORT MYERS BEACH	33931
61	FALSE	10482071	19-46-24-W3-04100.0011	TROPICAL SHORES LLC	2550 ESTERO BLVD	11 FORT MYERS BEACH	33931
61	FALSE	10482072	19-46-24-W3-04100.0012	MAROTTA JAMES & LINDA	2550 ESTERO BLVD	12 FORT MYERS BEACH	33931
61	FALSE	10482073	19-46-24-W3-04100.0021	TROPICAL SHORES LLC	2550 ESTERO BLVD	21 FORT MYERS BEACH	33931
61	FALSE	10482074	19-46-24-W3-04100.0022	TROPICAL SHORES LLC	2550 ESTERO BLVD	22 FORT MYERS BEACH	33931



From: Jason Smalley
To: Estero Beach Club
Cc: Judith Frankel; mdmuirhead@outlook.com
Subject: RE: Estero Beach Club -- EC Special Exception
Date: Wednesday, November 20, 2024 3:09:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Jennifer,

We will schedule you for the 10th, you don't have to have a contractor there, rarely do the LPA or Council ask technical questions, it's just always a good idea to have someone there that is comfortable explaining what was there and to confirm that what was said in the staff report is true and correct

Jason Smalley

Senior Planner, Community Development

Town of Fort Myers Beach

2731 Oak St

Fort Myers Beach, FL 33931

Phone: (239) 765-0202



[FMBgov.com](https://www.fmbgov.com)



From: Estero Beach Club <esterobeachclub@aol.com>
Sent: Wednesday, November 20, 2024 3:07 PM
To: Jason Smalley <jsmalley@fmbgov.com>
Cc: Judith Frankel <jfrankel@fmbgov.com>; mdmuirhead@outlook.com
Subject: Re: Estero Beach Club -- EC Special Exception

Hi Jason,
I will be out of town on December 2nd so the 10th is better for me. Do we need to have contractors present?

Thank you!

Jennifer

Estero Beach Club
Esteroeachclub@aol.com
Ph: 239-463-2595 Temporarily out of service

On Wednesday, November 20, 2024 at 02:09:19 PM EST, Jason Smalley <jsmalley@fmbgov.com> wrote:

Jennifer,

We currently have two available meetings for your project, Dec. 2nd or 10th, do you have a preference for which of those dates might be most beneficial to have a representative available for any questions that the LPA may have?

Jason Smalley

Senior Planner, Community Development

Town of Fort Myers Beach

2731 Oak St

Fort Myers Beach, FL 33931
Phone: (239) 765-0202



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From: Estero Beach Club <esterobeachclub@aol.com>
Sent: Tuesday, November 19, 2024 1:12 PM
To: Jason Smalley <jsmalley@fmbgov.com>
Cc: Judith Frankel <jfrankel@fmbgov.com>; mdmuirhead@outlook.com
Subject: Re: Estero Beach Club -- EC Special Exception

I had to make a few phone calls to get this information!

2580 building (closest to Estero Blvd) was built in 1971. The pool, deck, sidewalk and foot wash was also put in at the same time.

The 2584 building (closest to the beach) was built in 1972.

The aluminum fence enclosing the pool and front of the property was added in 2001.

Jennifer

Estero Beach Club

Esteroeachclub@aol.com

Ph: 239-463-2595 Temporarily out of service

On Tuesday, November 19, 2024 at 11:37:28 AM EST, Jason Smalley <jsmalley@fmbgov.com> wrote:

Jennifer,

I am into the historical section of the staff report and I wanted to try and confirm some information:

1. LEEPA doesn't have a build date for the structures, do you know what year the buildings went up, or were approved with Lee County?
2. Do you have general timelines for when the other elements were constructed:
 - a. Pool/ deck
 - b. Foot wash station
 - c. Sidewalks
 - d. Fence

Jason Smalley

Senior Planner, Community Development
Town of Fort Myers Beach
2731 Oak St
Fort Myers Beach, FL 33931
Phone: (239) 765-0202



FMBgov.com



From: Estero Beach Club <esterobeachclub@aol.com>
Sent: Tuesday, November 19, 2024 9:25 AM
To: Jason Smalley <jsmalley@fmbgov.com>
Cc: Judith Frankel <jfrankel@fmbgov.com>; mdmuirhead@outlook.com
Subject: Re: Estero Beach Club -- EC Special Exception

Here are the measurements and materials in the EC area:

- 1,424 square feet of grass and landscape rock with plantings
- 124 square feet of concrete side walk
- 9 square feet of concrete pavers for foot wash
- 375 square feet of pool shell (includes 55 linear feet of brick paver coping and tile border)
- 1,086 square feet of brick paver deck
- 156 linear feet of aluminum railing with a 4ft walk-through gate

The attached picture is my oldest son taken on the pool deck showing the EC area in 1990. Is this type of picture be helpful or do you need more official documentation? I can get plenty more of these kinds of pictures.

Jennifer

Estero Beach Club

EsteroBeachclub@aol.com

Ph: 239-463-2595 Temporarily out of service

On Friday, November 15, 2024 at 02:58:10 PM EST, Jason Smalley <jsmalley@fmbgov.com> wrote:

Jennifer,

Thanks so much for the quick response.

1. I don't need you to update your drawing, I think it expresses what is being requested just fine, I think we should just get an area calculation for what paver area is being replaced, the area of the pool shell seaward of the CCCL, the concrete sidewalk and then account for the minor things like the pad area of the foot wash. We should also break-out the type of material and the amount being proposed (ie 1000sf of pavers seaward of the CCCL, 650sf of pool shell seaward of the CCCL, 500sf of concrete sidewalk seaward of the CCCL and 10sf of concrete footwash pad area).
2. You answered my question about whether those two areas specifically are staying the same
3. If there isn't anything that exists, then it is what it is, we will just use the LEEPA aerals we have access to, that should be fine.

Let me know if you need clarification on any of this and if I don't hear back from you before 4:30pm today, please have a wonderful weekend.

Jason Smalley

Senior Planner, Community Development
Town of Fort Myers Beach
2731 Oak St
Fort Myers Beach, FL 33931
Phone: (239) 765-0202



FMBgov.com



From: Estero Beach Club <esterobeachclub@aol.com>
Sent: Friday, November 15, 2024 2:00 PM
To: Jason Smalley <jsmalley@fmbgov.com>
Cc: Judith Frankel <jfrankel@fmbgov.com>; mdmuirhead@outlook.com
Subject: Fw: Estero Beach Club -- EC Special Exception

Hi Jason,

1. The EC section is currently enclosed with a yellow border on the site plan submitted. Does that area need to be more prominent? I've attached another site plan that mutes the other areas. Is this helpful? Or would you like it redrawn with just the EC area?

The concrete pool deck is still there. Pavers were installed on top of the concrete deck but many were lost during the storm. We want to lay brick pavers on top of the concrete deck within the same footprint we had before. We are not expanding the area. The pool coping is made of the same brick paver material with a 6-inch tile border. With the exception of slight color changes, the materials are all exactly the same as we had before.

There is a concrete sidewalk along the side of the pool to a beach access gate with a foot wash area. We do need to repair/replace damaged sections, but we are making no changes to the size or location of the sidewalk.

By quantity, do you need the approximate square footage of each area/material?

2. The planter will remain a planter with small landscape rock and plantings in the bed including the pre-existing palm tree that survived the storm. The long side of the pool will also remain landscape area with small rock and plantings. We are not adding any pavers to those areas.

3. I will do my best to gather any evidence from our owners. All of our physical records were lost in the storm.

Please let me know if I am on the right track for what you need.

Jennifer

Estero Beach Club

EsteroBeachclub@aol.com

Ph: 239-463-2595 Temporarily out of service

From: Jason Smalley <jsmalley@fmbgov.com>
Sent: Friday, November 15, 2024 11:54:54 AM
To: Mike Muirhead <mdmuirhead@Outlook.com>
Cc: Judith Frankel <jfrankel@fmbgov.com>
Subject: Estero Beach Club -- EC Special Exception

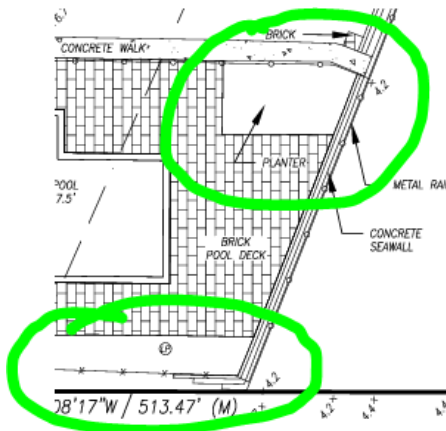
Mike,

Good Morning, I hope you're having a good day so far.

I wanted to reach out because I am developing the staff report for your Special Exception to replace the areas which were damaged by the storm(s). I believe that the package is largely complete, but I had a few comments that should be addressed ASAP so that I can make them part of the final staff report:

1. We need to break-out the area of individual work that's proposed in the EC. What I mean is that we should call out the proposed area of the pool deck so that it's easier for the LPA/ Council to understand what the total requested area to be rebuilt is, and what types of material are being proposed and in what quantity.
2. Is the plan to leave the area noted as "planter" and the side-setback/ swale area as pervious ground, or are you proposing filling in any of that area with additional pavers (see screenshot below)?
3. I would encourage you to gather any evidence (permits, pictures, news articles) which are prior to 1998, which is the first year I have access to Lee County Property Appraisers' aerial images. This isn't mandatory, but if you have anything like that we may want to just make it part of the record to establish the extent of time that the pool deck area has existed on-site.

If you have questions or concerns, please let me know, I will work with you to get this information ASAP so we can continue to move forward. Thanks



Jason Smalley

Senior Planner, Community Development
Town of Fort Myers Beach
2731 Oak St
Fort Myers Beach, FL 33931
Phone: (239) 765-0202





Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

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1. **Request:**

Meeting Date: January 8, 2025

Authorize the Town Manager to execute two subrecipient agreements for the awarded CDBG-DR funding in the amounts of up to \$8,336,753.00 and \$4,681,844.90 for the projects submitted to the Public Facilities and Critical Infrastructure CDBG-DR programs.

Why the action is necessary:

Acknowledges and accepts the funding obligation and subrecipient agreement associated with the Lee County CDBG-DR Public Facilities and Critical Infrastructure programs and authorizes the execution of related subrecipient agreements.

What the action accomplishes:

Acknowledges and accepts the funding obligation and subrecipient agreement associated with the Lee County CDBG-DR Public Facilities and Critical Infrastructure programs and authorizes the execution of related subrecipient agreements.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison, Joe Onzick, Finance Director

5. **Background:**

From September 2024:

"In May 2024, the Town Council authorized the application and administration of projects under the Critical Infrastructure and Public Facilities through Resolution 24-76.

The Planning and Infrastructure Evaluation Committee met on August 12, 2024, to evaluate the applicants' proposals. The committee recommended funding both of the qualifying proposals and were ranked within the top 10 of all the proposals submitted. These projects were then brought before the Lee County Board of County Commissioners for approval on September 3, 2024, in which they were approved.

The Town is being awarded up to \$13,018,597.90 to utilize for tasks related to these projects:

- *CDBG-DR Public Facilities Program: \$8,336,753.00 Parks & Recreation Revitalization Projects*

(This includes funding for Old San Carlos Lighting, Newton Beach Park, and the Fort Myers Beach Community Pool.

- *CDBG-DR Critical Infrastructure Program: \$4,681,844.90 North (West) Tower Project"*

The Town has is nearing completion of the onboarding and grant agreement creation phase, and is seeking approval to sign the two subrecipient agreements for the projects listed above provided by Lee County.

Resolution 24-76 authorized the Town Manager to apply for and to administer these grants including executing related documents needed to implement and administer the grants. Staff is brining this before the Town Council as a final approval and input before signing these agreements.

Attachments:

1. North Island Water Tower Conditional Award Letter
2. Parks and Recreation Revitalization Conditional Award Letter
3. DR10262 Town of Fort Myers Beach North Island Water Tower SRA and Exhibits
4. DR10264 Town of Fort Myers Beach Parks and Rec Revitalization SRA and Exhibits

Financial Impact:

CDBG-DR Public Facilities Program: \$8,336,753.00 Parks & Recreation Revitalization Projects
CDBG-DR Critical Infrastructure Program: \$4,681,844.90 North (West) Tower Project
Total Town Obligation for both Programs: \$13,018,597.90

6. Alternative Action**7. Management Recommendations:****8. Recommended Approval:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/30/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

Kevin Ruane
District One

Cecil L. Pendergrass
District Two

Ray Sandelli
District Three

Brian Hamman
District Four

Mike Greenwell
District Five

Dave Harner, II
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing
Examiner

Date: September 4, 2024

Andrew Hyatt, Town Manager
Town of Fort Myers Beach
2781 Oak Street
Fort Myers Beach, FL 33931

Re: CDBG-DR Conditional Award Notice

Good afternoon,

On September 3, 2024, the Lee County Board of County Commissioner's voted to award Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to Public Facilities and Infrastructure projects. I am pleased to inform you that the BoCC has conditionally awarded funding for the Town of Fort Myers Beach North Island Water Tower Complex.

The awarded amount for your project is up to \$4,681,844.90. The anticipated start date for the project is January 1, 2025. This start date is subject to the completion of necessary requirements and final signature of the written agreement. Costs to be reimbursed by the grant cannot be incurred until the effective date of the written agreement. No choice limiting actions may be taken prior to the completion of the required environmental review requirements.

During your onboarding meeting we will review the requirements of the funding award, but as a reminder, CDBG-DR funds were provided to Lee County from the U.S. Department of Housing and Urban Development and are subject to all federal requirements outlined in 24 CFR 570, 2 CFR 200, and others. The required procurement procedures are outlined in 2 CFR 200 Subpart D, and in Lee County's Subrecipient Manual.

This award is conditional on completion and submission of the following:

- Completed Initial Risk Assessment that includes:
 - o Grant Management Plan
 - o Procurement Policy to include 2 CFR 200.318-327 OR Resolution Adopting Lee County's Procurement Policy
 - o Recipient A-133 Audit (Single Audit)
 - o List of Key Stakeholders/Org Chart
 - o Financial Policies and Procedures
 - o Section 504 Compliance (Property Conditions Report)
 - o Indirect Cost Rate Plan (if applicable)
 - o Non-Discrimination Policy
 - o Affirmatively Furthering Fair Housing Compliance
 - o Excessive Force Policy Compliance
- Completion of an Environmental Review Record and Authorization to Use Grant Funds from HUD (*Lee County SRGA will coordinate this effort*)
- Review of the Draft Subrecipient Agreement
- Final Budget

- Copy of ICE and any procurement packages that have been assembled and/or advertised.
 - o Applicants should not have an executed contract with any vendors. If you have an executed contract, please contact your grant manager to receive guidance regarding obtaining concurrence on your procurement of this vendor.

The jurisdiction must have an active and unexpired Unique Entity ID (UEI) in the System for Award Management (SAM) to avoid delays in the disbursement of funds. Grantees are required to maintain an active SAM registration for the duration of their contract by re-activating their UEI annually at the following website: <https://www.sam.gov/SAM>.

Should you have any additional questions, regarding the conditional award or attached documents, please do not hesitate to contact your grant manager.

Congratulations once again on this award, and we look forward to working with you.

Contacts:

Grant Manager
Carla Platter
cplatter@hga-llc.com
239-533-8716

CC: Lee County
Strategic Resources and Government Affairs (SRGA)
<https://cdbgdr.leegov.com>
Recovery@leegov.com
(239) 533-2315

Enclosures:
CDBG-DR Subrecipient Award Summary Page

CDBG-DR SUBRECIPIENT AWARD SUMMARY

The following information is provided pursuant to 2 CFR 200.332(a)(1)

Federal Award Identification Number (FAIN)/ HUD CDBG-DR Grant No.:	B-23-UN-12-0002
Assistance Listing Number (formerly CFDA #):	14.218 Community Development Block Grants/Entitlement Grants
Federal Register Notice & Public Law:	FR-6393-N-01: PL-117-328
Federal Award (HUD Grant Agreement) Date:	11/20/2023
Agreement No.:	To be determined.
Responsible Entity (RE):	Lee County
Lead and Responsible Department:	Office of Strategic Resources and Government Affairs
CDBG-DR Funding Source/Program:	US Department of Housing and Urban Development
Subrecipient Name:	Town of Fort Myers Beach
Subrecipient ID (Unique Entity Identifier via SAM.gov):	J87EFSEEQ884
Subrecipient Period of Performance (Start Date):	1/1/2025
Subrecipient Period of Performance (End Date):	12/31/2027
Total Amount Obligated via Agreement:	\$4,681,844.90
Project/Activity ID(s):	To be determined.
Federal Award Program/Project/Activity Description:	CDBG-DR/Critical Infrastructure/Town of Fort Myers Beach North Island Water Tower Complex
Does the Federal award include an Indirect Cost Rate for Subrecipient?	Yes ☐ No ☒
	☐ Negotiated Rate Click or tap here to enter text. %
If Yes, is the Indirect Cost Rate a:	☐ De Minimis Rate

Official County Contact for Award: Jeannie Sutton, Director, Strategic Resources and Government Affairs; 2115 Second St., Fort Myers, FL 33901; Phone: (239) 822-8438; Email: JSutton@leegov.com

Kevin Ruane
District One

Cecil L. Pendergrass
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Dave Harner, II
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Examiner

Date: September 4, 2024

Andrew Hyatt, Town Manager
Town of Fort Myers Beach
2781 Oak Street
Fort Myers Beach, FL 33931

Re: CDBG-DR Conditional Award Notice

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During your onboarding meeting we will review the requirements of the funding award, but as a reminder, CDBG-DR funds were provided to Lee County from the U.S. Department of Housing and Urban Development and are subject to all federal requirements outlined in 24 CFR 570, 2 CFR 200, and others. The required procurement procedures are outlined in 2 CFR 200 Subpart D, and in Lee County's Subrecipient Manual.

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 - o Indirect Cost Rate Plan (if applicable)
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- Final Budget

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Should you have any additional questions, regarding the conditional award or attached documents, please do not hesitate to contact your grant manager.

Congratulations once again on this award, and we look forward to working with you.

Contacts:

Grant Manager
Carla Platter
cplatter@hga-llc.com
239-533-8716

CC: Lee County
Strategic Resources and Government Affairs (SRGA)
<https://cdbgdr.leegov.com>
Recovery@leegov.com
(239) 533-2315

Enclosures:
CDBG-DR Subrecipient Award Summary Page

CDBG-DR SUBRECIPIENT AWARD SUMMARY

The following information is provided pursuant to 2 CFR 200.332(a)(1)

Federal Award Identification Number (FAIN)/ HUD CDBG-DR Grant No.:	B-23-UN-12-0002
Assistance Listing Number (formerly CFDA #):	14.218 Community Development Block Grants/Entitlement Grants
Federal Register Notice & Public Law:	FR-6393-N-01: PL-117-328
Federal Award (HUD Grant Agreement) Date:	11/20/2023
Agreement No.:	To be determined.
Responsible Entity (RE):	Lee County
Lead and Responsible Department:	Office of Strategic Resources and Government Affairs
CDBG-DR Funding Source/Program:	US Department of Housing and Urban Development
Subrecipient Name:	Town of Fort Myers Beach
Subrecipient ID (Unique Entity Identifier via SAM.gov):	J87EFSEEQ884
Subrecipient Period of Performance (Start Date):	1/1/2025
Subrecipient Period of Performance (End Date):	12/31/2027
Total Amount Obligated via Agreement:	\$8,336,753.00
Project/Activity ID(s):	To be determined.
Federal Award Program/Project/Activity Description:	CDBG-DR/Public Facilities/Town of Fort Myers Beach Parks and Recreation Revitalization
Does the Federal award include an Indirect Cost Rate for Subrecipient?	Yes ☐ No ☒
If Yes, is the Indirect Cost Rate a:	☐ Negotiated Rate Click or tap here to enter text.% ☐ De Minimis Rate

Official County Contact for Award: Jeannie Sutton, Director, Strategic Resources and Government Affairs; 2115 Second St., Fort Myers, FL 33901; Phone: (239) 822-8438; Email: JSutton@leegov.com

CDBG-DR SUBRECIPIENT AGREEMENT

The following information is provided pursuant to 2 CFR 200.332(a)(1)

Federal Award Identification Number (FAIN)/ HUD CDBG-DR Grant No.:	B-23-UN-12-0002
Assistance Listing Number (formerly CFDA #):	14.218 Community Development Block Grants/Entitlement Grants
Federal Register Notice & Public Law:	FR-6393-N-01: PL-117-328
Federal Award (HUD Grant Agreement) Date:	11/20/2023
Agreement No.:	DR10262
Responsible Entity (RE):	Lee County
Lead and Responsible Department:	Office of Strategic Resources and Government Affairs
CDBG-DR Funding Source/Program:	US Department of Housing and Urban Development
Subrecipient Name:	Town of Fort Myers Beach
Subrecipient ID (Unique Entity Identifier via SAM.gov):	UKJXK48PKKH2
Subrecipient Period of Performance (Start Date):	1/1/2025
Subrecipient Period of Performance (End Date):	12/30/2028
Total Amount Obligated via Agreement:	\$4,681,844.90
Project/Activity ID(s):	DR10262
Federal Award Program/Project/Activity Description:	CDBG-DR/Critical Infrastructure/Town of Fort Myers Beach/North Island Water Tower
Does the Federal award include an Indirect Cost Rate for Subrecipient?	Yes ☐ No ☒
If Yes, is the Indirect Cost Rate a:	☐ Federally Negotiated Rate % ☐ De Minimis Rate 15%

Official County Contact for Award: Jeannie Sutton, Director, Strategic Resources and Government Affairs;
2115 Second St., Fort Myers, FL 33901; Phone: (239) 822-8438; Email: JSutton@leegov.com

**SUBRECIPIENT AGREEMENT BETWEEN
THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AND**

This **AGREEMENT** between Lee County, a political subdivision and charter county of the State of Florida, hereinafter referred to as “**COUNTY**,” and Town of Fort Myers Beach, a local government/municipality registered under the laws of Florida Statute, Chapters 165 and 166, hereinafter referred to as “**SUBRECIPIENT**” will become effective upon the date (“Effective Date”) signed by the Board of County Commissioners (BOCC).

SECTION I: RECITALS

WHEREAS, pursuant to Public Law (P.L.) 117-328, the “Department of Housing and Urban Development Appropriations Act, 2023” (hereinafter referred to as the “Appropriation Act”), and the “Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG–DR Consolidated Waivers and Alternative Requirements Notice,” 88 Federal Register (FR) 32046 (May 18, 2023); (hereinafter referred to as the “Federal Register Guidance”), the U.S. Department of Housing and Urban Development (hereinafter referred to as “HUD”) has awarded \$1,107,881,000 (a \$963,375,000 allocation for unmet disaster recovery needs with an additional \$144,506,000 mitigation set aside) of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to the **COUNTY** for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C.) 5301 *et seq.*) and described in the *Lee County Action Plan for CDBG-DR Funds* (hereinafter referred to as the “Action Plan”) for the Consolidated Appropriation Act (P.L. 117-328). The **COUNTY** is also hereinafter referred to from time to time as “Grantee.”

WHEREAS, the **COUNTY** believes it is in the public interest to serve as a pass-through entity by awarding and/or providing CDBG-DR funding for certain activities to **SUBRECIPIENTS** for the benefit of Lee County residents. CDBG-DR funding made available for use by the **SUBRECIPIENT** under this Agreement constitutes a subaward of the Grantee’s Federal award, for which the use of the subaward funds must conform to the **COUNTY’S** intent as stated in the applicable Notice of Funding Availability (NOFA) Application, and attachments, and/or exhibits, and all other terms and conditions as specified.

WHEREAS, the **COUNTY** has legal authority to disburse funds as a subaward under the Federal award and to enter into this Agreement with the **SUBRECIPIENT**, who by signing this Agreement, represents and warrants to the **COUNTY** that it will comply with all the requirements of the subaward described herein.

WHEREAS, the Action Plan has been developed to give the maximum feasible priority to activities that will benefit low- and moderate-income families and the aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent (or another percentage permitted by HUD in a waiver) of the grant amount is expended for activities that benefit such persons.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, therefore the **COUNTY** and the **SUBRECIPIENT** agree as follows:

SECTION II: SCOPE OF WORK AND ACTIVITIES

The **COUNTY** provides the **SUBRECIPIENT** the award under this Agreement to perform project activities under the **COUNTY’S** CDBG-DR Critical Infrastructure Program. Any proposal, application, or exhibit associated with this CDBG-DR funding award are binding and incorporated herein as a part of this **AGREEMENT**.

The **SUBRECIPIENT** shall submit to the **COUNTY** the required information and documentation to complete *Exhibits A (Scope of Work and Activities – Program/Project Activity Overview) & B (Scope of Work and Activities – Project Activity Scope of Work Description)*. If there is a disagreement between the **COUNTY** and **SUBRECIPIENT**, with respect to the formatting and content requirements of the Exhibit, the **COUNTY'S** has sole and absolute discretion; the **COUNTY'S** decisions shall prevail.

The **SUBRECIPIENT** must provide a statement of work, in accordance with 24 CFR 570.503 detailing the work to be performed, a schedule for completing the work, and a budget. The statement of work as prescribed by the **COUNTY** under *Exhibits A and B* must provide sufficient data and detail to provide a sound basis for the **COUNTY** to monitor performance.

The **SUBRECIPIENT** agrees to abide by all applicable state and Federal laws, rules and regulations, including but not necessarily limited to, the Federal laws and regulations set forth at 24 CFR 570, 2 CFR 200, the Federal Register Guidance, and the **COUNTY'S** Action Plan. This includes core CDBG-DR tenets and requirements as stated below:

SUBSECTION II.A. – MID REQUIREMENT: The **SUBRECIPIENT** must conduct all activities and expend all CDBG-DR award funds granted by the **COUNTY** in the “most impacted and distressed” (MID) areas resulting from the qualifying major disaster in 2022, which is in response to Hurricane Ian (Federal Emergency Management Agency (FEMA) Disaster No. 4673 – DR). As noted in the Federal Register Guidance (88 FR 32046), the HUD-identified MID area for this disaster allocation is all of Lee County.

SUBSECTION II.B. – ELIGIBLE ACTIVITIES: CDBG–DR funds are provided for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (HCDA), as amended (42 United States Code (U.S.C.) 5301 et seq.), related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation of related risk. The **SUBRECIPIENT** must utilize CDBG-DR funds, as prescribed under 24 CFR 570 Subpart C – Eligible Activities, and for alternative requirements and waivers as prescribed within the Federal Register Guidance. Furthermore, the **SUBRECIPIENT** shall conduct its project to align with the approved eligible activity(ies) found under the most-recent approved Action Plan for the **COUNTY'S** CDBG-DR Critical Infrastructure Program.

SUBSECTION II.C. – NATIONAL OBJECTIVE: The **SUBRECIPIENT** must meet the criteria for one of the CDBG-DR program's national objectives. For this scope of work, the **SUBRECIPIENT** must adhere to the following national objective type, as defined at 24 CFR 570.208 and alternative requirements under the Federal Register Guidance, and as reflected as an approved national objective type for this CDBG-DR program within the Action Plan:

- ☒ Activities designed to meet community development needs having a particular urgency (“Urgent Needs”)

SUBSECTION II.D. – CDBG-DR MITIGATION SET-ASIDE AND STORM “TIE-BACK”: The **COUNTY** is responsible for informing the **SUBRECIPIENT** of whether CDBG-DR funding is awarded for an activity(ies) to address an unmet recovery need, a mitigation and resilience measure, or both. Depending on the recovery or mitigation designation by the **COUNTY**, the **SUBRECIPIENT** is responsible for documenting proof of the designation. For recovery activities, the **SUBRECIPIENT** must demonstrate that their activities “tie-back” to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated. For mitigation set-aside activities, the **SUBRECIPIENT** must document how its activity(ies) (1) meet the definition of mitigation activities; (2) address the current and future risks as identified in the **COUNTY'S** mitigation needs assessment in the MID areas under its Action Plan; (3) is a CDBG-DR eligible activity under title I of the HCDA (or otherwise eligible pursuant to a waiver or alternative requirement); and (4) still meets a national objective. In some cases, the

COUNTY may require the **SUBRECIPIENT** to provide evidence of the activity meeting both the CDBG-DR “tie-back” and mitigation measures justification. The **COUNTY** will spell out specific requirements for the **SUBRECIPIENT**, its project, and the project’s eligible activity under Exhibit A – Scope of Work and Activities – Program/Project Activity Overview and Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description.

SECTION III: **TERM OF AGREEMENT**

This Agreement shall begin on 1/1/2025 (“*the Effective Date*”) and end on 12/30/2028, unless suspended or terminated as specified in SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION.

The **COUNTY** and the **SUBRECIPIENT** agree that this Agreement shall be electronically signed, and that any electronic signatures appearing on this Agreement shall have the same force and effect as a written signature for the purposes of validity, enforceability, and admissibility. The **COUNTY** and **SUBRECIPIENT** shall maintain this Agreement, including any amendments, in its files.

The **COUNTY** shall not grant any extension of the Agreement unless the **SUBRECIPIENT** provides written justification that is satisfactory to the **COUNTY**, in its sole discretion, and the **COUNTY’S** authorized organizational representative approves such extension in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS of this Agreement.

SECTION IV: **AGREEMENT MODIFICATIONS AND AMENDMENTS**

SUBRECIPIENT must submit a written request, via the County’s approved method for submitting such request, for an Agreement amendment which details the nature of and justification for the requested change and the desired effective date of the change(s). The **COUNTY** reserves the right to approve or deny all Agreement amendments on the basis that such approval or denial is in the **COUNTY’S** best interest. An approved amendment shall be documented on the Agreement amendment form and signed by both parties.

The Assistant County Manager over the **COUNTY’S** Office of Strategic Resources and Government Affairs (SRGA), the BoCC, or their designee may approve amendments to the Agreement, in accordance with the **COUNTY’S** *Hurricane Ian CDBG-DR Subrecipient Manual* and *Internal Grant Management Manual*. As noted within the Manual, the **COUNTY** reserves the right to review the request from the **SUBRECIPIENT** and determine whether an amendment is required or whether County Manager or BOCC approval is needed.

The **COUNTY** also affirms that it may unilaterally modify or amend any Manuals referenced throughout this Agreement without prior notification or agreement by the **SUBRECIPIENT**. Additionally, the **COUNTY** affirms that while it will seek agreement with the **SUBRECIPIENT** on proposed amendments to any Exhibits which are referenced throughout this Agreement, the **COUNTY** may unilaterally modify or amend any such Exhibits **COUNTY**, in its sole discretion, deems necessary to comply with federal policies or regulations.

As noted in the **COUNTY’S** Action Plan, substantial amendments to the Action Plan are defined as (1) a change in program benefit or eligibility criteria; (2) the addition or deletion of an activity(ies); (3) the allocation or reallocation of funds which exceeds or is expected to exceed 5 percent of the current total approved budget; (4) a material change occurs which impacts information and analysis on which the Action Plan was based on to fund certain priority activities (e.g., impact on anticipated beneficiaries, project or activity scope, significant demographic changes, or new significant contributing factors on unmet needs in the jurisdiction); and/or upon HUD’s written notification specifying a material change that requires the revision. The **SUBRECIPIENT** understands that requests for Agreement amendments of the nature described herein, and which involve new or alteration of existing activities that will significantly change the scope, location, or objectives of the approved

activity or beneficiaries must first receive HUD approval before consideration by the **COUNTY** to amend the Agreement.

SECTION V: COMPENSATION AND ALLOWABLE PAYMENTS

SUBSECTION V.A. – AGREEMENT PAYMENT: The **SUBRECIPIENT** agrees to accept as full compensation the total amount not to exceed \$ 4,681,844.90. The **COUNTY'S** standard method of payment to the **SUBRECIPIENT** is on a reimbursement basis. Payments under this method will be authorized only for work completed and/or services delivered during the term of the Agreement as stated in SECTION III: TERM OF AGREEMENT and prior to the payment request date. The **COUNTY** reserves the right to consider a written request from the **SUBRECIPIENT** for projects that require advanced payments in accordance with 2 CFR 200.305 and 24 CFR 570.502.

The **SUBRECIPIENT** will provide supporting documentation of eligible expenses as stated within this SUBSECTION and the applicable exhibits, forms, and attachments contained with this Agreement. Payment is subject to the provisions of SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION. Funding is contingent upon the availability of CDBG-DR funds and the obligation of said CDBG-DR funds through the **COUNTY'S** annual fiscal year (FY) budget appropriation process.

The **COUNTY** has agreed to reimburse the **SUBRECIPIENT** for approved budget line items listed for the project and its activities under the **COUNTY'S** CDBG-DR Critical Infrastructure Program. The **SUBRECIPIENT** shall expend the allocation as follows:

	Most Impacted and Distressed (MID)
Activity Funds (Direct Project Costs)	\$4,447,752.66
Activity Delivery Funds	\$234,092.24
TOTAL	\$4,681,844.90

Furthermore, “not to exceed” line items and activity budgets under this Agreement shall be identified within the approved budget under the *Project Budget and Expense (Sources and Uses) Worksheet*.

After the **COUNTY** has approved funding and the Office of Strategic Resources and Government Affairs (SRGA) has issued an Agreement related to the funded project, the **SUBRECIPIENT** should sign and return the Agreement within 30 days for execution. In addition, the **SUBRECIPIENT** should begin to draw down funds as agreed upon within the project milestones set out under the *Project Schedule and Milestones* reporting deliverable unless additional time is authorized by the **COUNTY**. Failure to return the signed Agreement or begin spending funds within the agreed upon time frame may result in reduction or forfeiture of funds.

By execution of this Agreement, the **SUBRECIPIENT** attests that necessary written administrative procedures, processes, and fiscal controls are in place for the operation of its CDBG-DR program for which the **SUBRECIPIENT** received funds from the **COUNTY**. These written administrative procedures, processes, and fiscal controls must, at a minimum, comply with applicable state and Federal law, rules, and regulations, Federal Register Guidance, and the terms of this Agreement. The **SUBRECIPIENT** agrees to remedy any deficiencies in its written administrative procedures, processes, and fiscal controls identified by the **COUNTY** or duly authorized CDBG-DR authorities.

The **SUBRECIPIENT** shall request all funds in the manner prescribed by the **COUNTY**, utilizing the Payment Request Form(s) as outlined under SUBSECTION VI.A. REPORTING AND AGREEMENT

DELIVERABLES. Except as set forth herein, or unless otherwise authorized in writing by the **COUNTY**, costs incurred for eligible activities or allowable costs prior to the Effective Date of this Agreement are ineligible for funding with CDBG-DR funds.

If funds are not available to fully execute the project associated with this Agreement because of actions by the United States Congress, the Federal Office of Management and Budget, the **COUNTY** or the provision of SECTION XIII. ASSURANCE, CERTIFICATIONS, AND COMPLIANCE, all obligations on the part of the **COUNTY** to make any further payment of funds will terminate and the **SUBRECIPIENT** shall submit its administrative closeout report within thirty (30) calendar days from the receipt of notice from the **COUNTY**.

SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS): The **SUBRECIPIENT** shall expend CDBG-DR funds only for allowable costs and eligible activities which are incurred during the Agreement period, in accordance with federal cost principles at 2 CFR 200 Subpart E and 24 CFR 570 Subpart C, respectively. The **SUBRECIPIENT** shall ensure that its contractors, subcontractors, and consultants only expend funding under this Agreement for allowable costs resulting from the obligations incurred during the Agreement period as specified under SECTION III. TERM OF AGREEMENT.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds paid in excess of the amount to which the **SUBRECIPIENT** or its contractors, subcontractors, or consultants are entitled under the terms and conditions of this Agreement.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds received for an activity if the activity does not meet an approved National Objective in accordance with 24 CFR 570.208 and the terms of this Agreement.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds not spent in accordance with the conditions of this Agreement or applicable law. For the scenarios detailed above, such reimbursement shall be sent to the **COUNTY**, by the **SUBRECIPIENT**, within thirty (30) calendar days from the **SUBRECIPIENT'S** receipt of notification of such noncompliance.

The **COUNTY** may also defer payment to and/or require repayment from the **SUBRECIPIENT** for noncompliance with Agreement deliverables, program performance requirements, or sufficient documentation to meet regulatory and statutory requirements, including cross-cutting requirements. Funds expended for activities that do not meet a HUD national objective will be required to be repaid by the **SUBRECIPIENT** to the **COUNTY**. If, as a result of monitoring or audit, the **COUNTY** determines that submitted costs are not documented, a payment may be deferred. If costs are found to be unallowable and payment has been made, no future payments will be made until the full amount of overpayment is remitted to the **COUNTY** or a repayment agreement is established by the **COUNTY**. If the monitoring or audit occurs after the term of this Agreement, the **SUBRECIPIENT** will be required to remit funds to the **COUNTY** in accordance with the repayment conditions below.

The **SUBRECIPIENT** agrees to return to the **COUNTY** any overpayments due to disallowed cost, pursuant to the terms of this Agreement and/or Federal requirements. Such funds shall be considered **COUNTY** funds and must be refunded to the **COUNTY** within thirty (30) days of receiving notice from the **COUNTY** in writing regarding the overpayment. Should repayment not be made in a timely manner, the **COUNTY** will charge interest of one (1) percent per month compounded on the outstanding balance after forty (40) calendar days after the date of notification or discovery. The **SUBRECIPIENT** will be required to reimburse the **COUNTY** for disallowed costs or fines resulting from acts of noncompliance.

The **COUNTY'S** determination that an expenditure is eligible does not relieve the **SUBRECIPIENT** of its duty to repay the **COUNTY** in full for any expenditures that are later determined by the **COUNTY** or the

Federal Government, in each of its sole discretion, to be an ineligible expenditure or a Duplication of Benefits.

If requested by the **COUNTY**, all refunds, return of improper payments, or repayments due to the **COUNTY** under this Agreement are to be made payable to Lee County and mailed directly to the **COUNTY**, pursuant to SECTION XIX. NOTICES and this Agreement.

The **SUBRECIPIENT** has responsibility for identifying and recovering grant funds that were expended in error, disallowed, or unused. The **COUNTY'S** provision of training, technical assistance, quality assurance and quality control reviews are in no way intended to alleviate the **SUBRECIPIENT** of the responsibility to administer activities in accordance with all federal, state, and local requirements, including the requirements outlined within this Agreement. The **SUBRECIPIENT** acknowledges full responsibility to return funds to the **COUNTY** in the event that HUD or other auditing agency determines that activities or costs are disallowed.

The **SUBRECIPIENT** will report all suspected or verified fraud to the **COUNTY**, regardless of whether the suspected or verified fraud is associated with disallowed cost or other perceived harm to the **SUBRECIPIENT** or the **COUNTY**.

Mandatory Disclosure of Violations: In accordance with the revised 2 CFR 200.113 and the requirements set forth in FAR 73 FR 67064, the **SUBRECIPIENT** must promptly disclose, in writing, to the **COUNTY**, the federal awarding agency, and the Office of Inspector General, any credible evidence of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations, including violations under the False Claims Act. This obligation extends to the **SUBRECIPIENT** and any subgrantees or contractors associated with the federal award. Failure to disclose such violations may result in remedies for non-compliance, including suspension or termination of the award, as outlined in 2 CFR 200.338 and 2 CFR 200.339.

SECTION VI: **REPORTS AND EXHIBITS**

SUBSECTION VI.A – REPORTING AND AGREEMENT DELIVERABLES: The **SUBRECIPIENT** shall provide the **COUNTY** with all reports and information set forth in the **COUNTY'S** approved system, including monthly performance reports and documentation outlined in all applicable exhibits to enable the Grantee to submit the required reporting to HUD within the Disaster Recovery Grant Reporting (DRGR) system.

The **SUBRECIPIENT'S** monthly reports, include administrative activity, financial activity, and program activity, must include sufficiently detailed summaries of the current status, progress, and completed work. The **SUBRECIPIENT** is responsible for all reporting of work of all contractors, subcontractors, and other entities under contract or agreement related to this Agreement.

At a minimum the following information will be required to be submitted in the system of record by the **SUBRECIPIENT**. Upon request from the **COUNTY**, the **SUBRECIPIENT** shall provide additional program or activity updates and information. If all required reports and copies are not sent to the **COUNTY** within the agreed-upon submission schedule or are otherwise not completed in a manner acceptable to the **COUNTY**, payments may be withheld in accordance with SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) until the reports are completed. If the **COUNTY** withholds such payments, it shall notify the **SUBRECIPIENT** in writing of its decision, reasons for withholding payment, and the remedy for corrective action the **SUBRECIPIENT** must follow. The **COUNTY** may also take other action as stated within this Agreement or allowable by law.

The **SUBRECIPIENT'S** reporting deliverables include, but are not limited to, the following information:

1. **Project Schedule and Milestones:** A table or description of the work task, project start and end dates, other significant milestones (e.g., 50% complete), and timelines for the **SUBRECIPIENT** to submit outputs or deliverables to the **COUNTY**.
2. **Project Budget and Expense (Sources and Uses) Worksheet:** The **SUBRECIPIENT** must provide budget narratives and tables to describe all funding sources and the potential uses of those funding sources for the purposes of completing the project. This narrative will include, but may not be limited to, (a) a description and justification of the proposed costs, (b) a description of project implementation support with **SUBRECIPIENT** or vendor staff, (c) sources of leveraged funds committed by the **SUBRECIPIENT** to the project, and (d) timelines for the projected expenditure of CDBG-DR funds.
3. **Payment Request Form:** The means by which the **COUNTY** and the **SUBRECIPIENT** document project and activity expenses and requests for payment. The **SUBRECIPIENT** shall utilize this form when submitting or requesting any costs for payment and the form must be accompanied by legible supporting documentation to indicate the reasonableness, allowability, and appropriate procurement of the expense(s).

As noted under SECTION III. TERM OF AGREEMENT and SECTION V. COMPENSATION AND ALLOWABLE PAYMENTS, all payments are reimbursements for eligible expenses or services defined as uncompensated expenses rendered during the Agreement term and paid prior to the final payment request due date. Copies of supporting documentation are required as part of the Payment Request for review of grant compliance and before payment will be authorized by the **COUNTY** to the **SUBRECIPIENT**. Reimbursement for eligible expenses will be made after review and authorization of a correct and complete Payment Request Form and required back up documentation. In accordance with the Federal Register Guidance, the **COUNTY** must be payor of last resort, meaning that if services are eligible to be billed to any other entity or funding source, including but not limited to, Medicaid, third party insurance or any other entity or funding source, the **COUNTY** will not pay for that service.

Appropriate back-up/supporting documentation may include cancelled checks, vendor invoices, authorized purchase orders, attendance/service logs, other funder invoices, expenditure spreadsheets or other original documentation, as well as a copy of the **SUBRECIPIENT'S** check issued with authorized signature. For construction contracts, inspection reports from qualified officials should be submitted with the appropriate monthly payment request.

The **SUBRECIPIENT** must submit the *Payment Request Form* with an authorized signature. Cancelled checks, paystubs, payroll reports, bank statements, and/or other documentation from vendors that expenses have been paid or services provided may be verified.

As applicable, processing of payment requests is also subject to the requirements and conditions as set forth within the **COUNTY'S Hurricane Ian CDBG-DR Subrecipient Manual**.

4. **Monthly Activity Report:** The **SUBRECIPIENT** must identify information for this report that ties actual, real-time project and expenditure status to the approved activity budget, scope of work, and projected outcomes. Narratives on budget activity, project progress or delays, and performance measures are included within this report.
5. **Demographics and Beneficiary Report:** The **SUBRECIPIENT** must report on data and include documentation, such as maps detailing service areas, number of individual persons benefitting from the project, and other demographic information on households, where applicable, to indicate the public benefit of the project and activity.
6. **Project Amendment Request:** As referenced under SECTION IV. AGREEMENT MODIFICATIONS

AND AMENDMENTS, the **SUBRECIPIENT** must notify the County and provide information on any project or activity changes within a project amendment request for the **COUNTY** to determine whether the request rises to the level of an amendment to the Agreement.

7. **Single Audit Certification Form:** The **SUBRECIPIENT**, if a nonprofit or governmental organization, must complete a form to certify whether it has expended \$750,000 in federal and/or state funding within the **SUBRECIPIENT'S** given Fiscal Year.
8. **Davis-Bacon and Related Acts (DBRA) Labor Standards Reports (as applicable):** When an activity triggers DBRA requirements, the **SUBRECIPIENT** must report and submit information on assigned labor compliance staff, labor compliance review processes and outcomes, bid and contract requirements documentation, work classification and minimum prevailing wage rates, written clearance of labor compliance issue resolutions, file maintenance plans, and payroll review plans.
9. **Section 3 Reports (as applicable):** When an activity triggers Section 3 requirements, the **SUBRECIPIENT** is required to submit data and information on Targeted Section 3 worker labor hours, Section 3 worker labor hours, total worker labor hours, and other qualitative efforts which the **SUBRECIPIENT** and their vendors took in an attempt to reach or achieve Section 3 goals.
10. **Closeout Report:** The **SUBRECIPIENT** must report project completion data and provide documentation of closeout processes in relation to this project and activity(ies).

The **SUBRECIPIENT'S Agreement deliverables (as identified within "Exhibits")**, which the **SUBRECIPIENT** must follow, include, but are not limited to, the following information:

11. **Exhibit A: Scope of Work and Activities – Program/Project Activity Overview:** Brief description on the identified and agreed-upon CDBG-DR Program eligible activity, National Objective to be achieved for the activity and measures, as applicable, the number of individuals benefitting as a result of the project and its activities, and the appropriate CDBG-DR storm tie-back or resilience need being met, in accordance with SECTION II. SCOPE OF WORK AND ACTIVITIES.
12. **Exhibit B: Scope of Work and Activities – Project Activity Scope of Work Description:** Detailed scope of work defining the plan, design, and approach for the activity.
13. **Exhibit C: Financial/Grant Management System Budget Worksheet:** The high level, official budget for the project as approved under SECTION V.A. AGREEMENT PAYMENT. Any adjustments to this budget will require an amendment in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS.
14. **Exhibit D: Indirect Cost Rate Allocation Plan (as applicable):** Pursuant to 2 CFR 200.414, the **SUBRECIPIENT** is entitled to apply the 15% de minimis indirect cost rate without requiring further approval from the **COUNTY**. Alternatively, if the **SUBRECIPIENT** has a federally negotiated indirect cost rate, they may elect to use that rate, which shall be accepted by the **COUNTY** without additional negotiation or approval. The terms of this Agreement shall reflect the applicable indirect cost rate as established under this Exhibit.
15. **Exhibit E: Projected Performance Measures and Outcomes Form:** The **COUNTY** will utilize the **SUBRECIPIENT'S** detailed scope of work to establish and project out specific performance metrics which the **SUBRECIPIENT** is required to meet to as a condition of project completion and closeout. The **COUNTY** will select the performance measure based on the eligible activity and proposed scope of work approved within the Notice of Funding Availability (NOFA) Application for the **Critical Infrastructure Program**.

16. **Exhibit F: Application:** The **SUBRECIPIENT'S** approved application is attached to this Agreement for identification and understanding of **SUBRECIPIENT'S** responses to critical project components.
17. **Exhibit G: Certificate(s) of Insurance:** In accordance with SECTION X.B. INSURANCE REQUIREMENTS, the **SUBRECIPIENT** must supply insurance coverage for the implementation of the project. This Exhibit will contain those required insurance coverages of the **SUBRECIPIENT**.
18. **Exhibit H: Certification of CDBG-DR Compliance Provisions:** This Exhibit outlines the compliance provisions which the **SUBRECIPIENT** must follow as a requirement of the federal CDBG-DR funding award. The **SUBRECIPIENT** must certify adherence with these conditions.
19. **Exhibit I: CDBG-DR Special Terms and Conditions:** The **COUNTY** may identify specific conditions, including but not limited to, training, technical assistance, capacity building, and policy development, which the **SUBRECIPIENT** must complete as a condition of receiving the CDBG-DR funding award.
20. **Exhibit J: Subrecipient Staff Organization:** In addition to annual certifications of continued operations, the **SUBRECIPIENT** is required to provide evidence of staff who will be responsible for conducting certain actions during project implementation. This Exhibit contains the contact information of those individual staff members.
21. **Exhibit K: CDBG-DR Program Subrogation Agreement:** As noted under SUBSECTION XIII.E. DUPLICATION OF BENEFITS and the Federal Register Guidance, the **SUBRECIPIENT**, as a recipient of federal assistance, must sign a Subrogation Agreement before the **COUNTY** can disburse CDBG-DR assistance to the **SUBRECIPIENT**.

An electronic signature or a scanned copy of the report with signature is acceptable for all reports or exhibits included above for which signatures are required. The **COUNTY** will instruct the **SUBRECIPIENT** on the approved System of Record under which the **SUBRECIPIENT** is expected to provide this data and information.

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

The **COUNTY** notates in the *Subrecipient Agreement Document Checklist*, the required forms and reports the **SUBRECIPIENT** must submit. These reports and forms include, but are not limited to, activity performance reports, payment request forms, program information forms, budget analysis reports, closeout reports, and periodic certifications as described above.

The **SUBRECIPIENT** should submit all reports and forms electronically in a computer-readable format using the approved System of Record submission method specified by the **COUNTY**. When required, reports or exhibits must be certified by signature. An electronic signature is acceptable for all reports, forms, and attachments within the *Subrecipient Agreement Checklist*.

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

SUBSECTION VI.B. – EXTERNAL REPORTING AND ORGANIZATIONAL DOCUMENT REQUIREMENTS: The **COUNTY** or its agents may also require the **SUBRECIPIENT** to submit additional non-project related reports, documentation, and information which are beneficial to determine the **SUBRECIPIENT'S** capacity, compliance, and performance related to this this Federal award compliance. The **COUNTY** may request external reports, including but not limited to, prior and current fiscal year audits, other agency monitoring reports or reviews under other funding sources, organizational

documents, and prior grant closeout reports. The **SUBRECIPIENT** agrees to provide such reports, documentation, and information requested by the County or its agents.

SECTION VII: AUDITS, MONITORING, AND RECORDS

SUBSECTION VII.A. – AUDITS AND INSPECTIONS: In accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508, the **SUBRECIPIENT** will allow the **COUNTY**, Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives right of access to any documents, papers, or other records which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the **SUBRECIPIENT'S** non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

The Clerk of Courts Internal Audit Division, Lee County employees, HUD, or any of their duly authorized representatives have the right of timely and reasonable access to any books, documents, papers, or other records, including electronic storage media, of the **SUBRECIPIENT** or Certified Public Accountant (CPA) that are pertinent to the Agreement, in order to make audits, examinations, excerpts, transcripts and copies of such documents in accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508.

If noncompliance with this Agreement or material weaknesses in the organization are noted, the **COUNTY** or other authorized representatives have the right to unlimited access to records during an audit or inspection. This includes timely and reasonable access to the **SUBRECIPIENT'S** personnel for the purpose of interview and discussion related to such documents.

SUBSECTION VII.B. – INDEPENDENT AUDIT REQUIREMENTS: Under the Single Audit Act and in accordance with the provisions of 2 CFR 200.501, the **SUBRECIPIENT** must conduct a single or program-specific audit if it expends \$1,000,000 or more in Federal awards from all sources during its fiscal year.

The **SUBRECIPIENT** shall also comply with the Federal Audit Clearinghouse (FAC) rules and directives, including but not limited to the pertinent report submission provisions of 2 CFR 200.512, when such provisions are applicable to this Agreement.

For **SUBRECIPIENTS** who are Nonprofit Corporations and do not trigger the Single Audit Act requirements or provisions under 2 CFR 200.501, the **SUBRECIPIENT** must submit an independent certified, audited financial statement of the most recent or immediate prior fiscal year, including the management letter and written response. The **COUNTY** may consider exceptions on an individual basis, to include other supporting audit documents, such as a current CPA's peer review letter or monthly financial statements within the last 60 days, to meet this requirement.

In accordance with 2 CFR 200.514, a complete, independent financial audit of the **SUBRECIPIENT'S** financial accounting statements, in accordance with Generally Accepted Accounting Principles (GAAP) and/or current Generally Accepted Government Auditing Standards (GAGAS), as applicable, is required and must include the following:

1. Auditor's opinion;
2. Requisite reports on internal control and compliance, if required;
3. Management letter addressing internal controls (Note: If there were no items to be addressed, the letter must still be completed and state that no comments were noted);
4. Management's response to such letter;
5. The programs that are funded by this Agreement either in the statement of functional expenses, revenues and expenditures, footnotes, schedule of Federal awards and state financial assistance or as supplemental data in the financial statements. The statement should be consistent with programs

detailed in the corresponding proposal(s), exhibit(s), and attachment(s).

The **SUBRECIPIENT** must submit the audit reports electronically to the **COUNTY** within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or within nine months after the end of the **SUBRECIPIENT'S** audit period. If applicable, any associated corrective action plan must be submitted. Failure to submit the report within the required time frame can result in the withholding of payment, or termination of the Agreement by the **COUNTY**.

The audit must be conducted by an independent, licensed certified public accountant expressing an unmodified opinion on their current peer review and must be in accordance with the General Accounting Office (GAO) Yellow Book, Generally Accepted Government Auditing Standards, 2 CFR 200 Subpart F – Audit Requirements, as applicable, the Florida Single Audit Act (F.S. 215.97) as applicable, and the Auditor General Rule 10.550 (Government) or 10.650 (Not For Profit) as applicable.

SUBSECTION VII.C. – SUBRECIPIENT RISK ASSESSMENTS AND MONITORING: In accordance with 2 CFR 200.332, the **COUNTY**, as HUD's Grantee and a pass-through entity, must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purposes of determining the appropriate subrecipient monitoring. To enable those periodic assessments, the **SUBRECIPIENT** must provide information and documentation as required to the **COUNTY**. The **COUNTY'S** risk assessments results will be used to support the **COUNTY'S** oversight strategies and the level and frequency of monitoring, technical assistance, training to the **SUBRECIPIENT**.

The **SUBRECIPIENT** agrees to permit the **COUNTY** and persons duly authorized by the **COUNTY**, HUD, and other Federal, state, or local agencies, as applicable, or any authorized representatives under these agencies, to have access to and inspect all records, papers, documents, facility's goods and services, and project activity sites of the **SUBRECIPIENT** including interviews of any clients and employees of the **SUBRECIPIENT** to assess satisfactory performance and compliance of the full terms and conditions of this Agreement, in accordance with 2 CFR 200 (specifically 200.332), 24 CFR 570, and the Federal Register Guidance and to the extent permitted by the law, after giving the **SUBRECIPIENT** reasonable notice of such inspection.

The **SUBRECIPIENT** must submit to monitoring of its project activity by the **COUNTY** and persons duly authorized, as necessary, to ensure the CDBG-DR subaward is used for authorized purposes in compliance with Federal statutes, regulations and the terms and conditions of this Agreement.

Monitoring will include: (1) reviewing financial and performance reports required by the Grantee; (2) following up and ensuring that the **SUBRECIPIENT** takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the **SUBRECIPIENT** from the Grantee detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the **SUBRECIPIENT** from the Grantee as required by 2 CFR 200.521. Any limited monitoring review scope of the terms and conditions within this Agreement does not relieve the **SUBRECIPIENT** of its obligation to manage the grant in accordance with all applicable rules and sound management practices.

Following such monitoring and in accordance with 2 CFR 200.521, the **COUNTY** will deliver to the **SUBRECIPIENT** a written report regarding management decisions which notate how activities are being conducted and whether corrective action(s) by the **SUBRECIPIENT** need to be taken to address deficiencies. The **SUBRECIPIENT** will rectify all noted deficiencies documented by the **COUNTY** within the specified period of time indicated in the monitoring report or provide the **COUNTY** with a reasonable and acceptable justification for not correcting the noted deficiencies as defined by the **COUNTY**. The **SUBRECIPIENT'S** failure to correct or provide the **COUNTY** with accepted justification for the deficiencies within the time specified by the **COUNTY** may result in withholding of payments or being

deemed in breach or default of this Agreement and may result in the termination of this Agreement.

In response to **SUBRECIPIENT** deficiencies or other instances of capacity concerns prior to this Agreement, the **COUNTY** may also impose additional conditions on the use of the CDBG-DR funds, as noted under *Exhibit I – CDBG-DR Special Terms and Conditions*. This Exhibit ensures future compliance through trainings, technical assistance, and capacity building in an effort to correct or avoid early noncompliance.

SUBSECTION VII.D. – RECORDKEEPING REQUIREMENTS: The **SUBRECIPIENT** must comply with the recordkeeping requirements of 24 CFR 570.506, as amended by the Federal Register Guidance's Consolidated Notice waivers and alternative requirements, which describes the types of records which must be kept by the **SUBRECIPIENT** and the **COUNTY** for the Federal CDBG-DR award.

The **SUBRECIPIENT** must comply with the longer of the records retention requirements contained within the Uniform Administrative Requirements (UAR) at 2 CFR 200.334 and State of Florida GS1-SL, except that the **SUBRECIPIENT** must:

1. Retain records for individual CDBG-DR activities for 5 years after the Agreement has ended, as prescribed in State of Florida GS1-SL.
2. Maintain records for individual activities subject to the reversion of assets provisions at 24 CFR 570.503 or change of use provisions at 24 CFR 570.505 for as long as those provisions continue to apply to the activity(ies).
3. Maintain records for individual activities in which there are outstanding loan balances, other receivables, or contingent liabilities until such receivables or liabilities have been satisfied and for 5 years following that satisfaction.

In accordance with 24 CFR 570.506, the **SUBRECIPIENT** shall also maintain books, records and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by the **COUNTY** under this Agreement. The **SUBRECIPIENT** must also retain all financial, client demographics, and programmatic records, supporting documentation, statistical records, and other records, which are necessary to document purchases, expenses, revenue, income, and assets of the **SUBRECIPIENT** by funding source, program, and functional expenses category during the term of this Agreement.

If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the retention period, the records shall be retained by the **SUBRECIPIENT** until all litigation, claims, or audit findings involving the records have been resolved and final action taken in accordance with 2 CFR 200.334. Additional types of records are further described under *Exhibit H – Certification of CDBG-DR Compliance Provisions*.

The records retention period, as described within this Subsection, may be longer depending on other funding sources for activities. It is the **SUBRECIPIENT'S** further obligation to comply with all Federal and State of Florida retention schedules if other schedules shall apply.

The **SUBRECIPIENT**, including all its employees or agents, contractors, subcontractors, and consultants to be paid from CDBG-DR funds provided under this Agreement, shall allow access to its records at reasonable times for audits, inspections and monitoring as described in this Section and Subsections.

The **SUBRECIPIENT** specifically acknowledges its obligations under 2 CFR 200.338 (further detailed within SUBSECTION XIII.K. PERSONALLY IDENTIFIABLE INFORMATION), and to comply with F.S., 119.0701, as amended from time to time, with regard to public records, and shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the **COUNTY**

- in order to perform the services required under this Agreement;
2. Upon request from the **COUNTY'S** custodian of public records, provide the **COUNTY** with a copy of the requested records or allow the 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;
 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
 4. Meet all requirements for retaining public records and transfer, at no cost to the **COUNTY**, all public records in possession of **SUBRECIPIENT** upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the **COUNTY** in a format that is compatible with the information technology system of the **COUNTY**.

IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, <http://www.leegov.com/publicrecords>.

SECTION VIII: CONTRACTOR STATUS

SUBSECTION VIII.A. – INDEPENDENT CONTRACTOR: It is the Parties' intention that the **SUBRECIPIENT** will be an independent contractor and not the **COUNTY'S** employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Florida revenue and taxation law, Florida Worker's Compensation law and Florida Unemployment Insurance Law. The **SUBRECIPIENT** will retain sole and absolute discretion in the judgment of the manner and means of carrying out the **SUBRECIPIENT'S** activities and responsibilities hereunder. The **SUBRECIPIENT** agrees that it is a separate and independent enterprise from the public employer, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the **SUBRECIPIENT** and the **COUNTY**, and the **COUNTY** will not be liable for any obligation incurred by the **SUBRECIPIENT**, including, but not limited to, unpaid minimum wages and/or overtime premiums.

SUBSECTION VIII.B. – SUBCONTRACTS: Primary roles and responsibilities of the **SUBRECIPIENT** cannot be subcontracted. It is mutually agreed that any program component that is subcontracted by the **SUBRECIPIENT** must have a written contract. The **SUBRECIPIENT** must provide written notice to the **COUNTY** of all subcontractors, as well as provide copies of all contracts entered into with subcontractors, upon the **COUNTY'S** request. Procurement and/or bidding of non-primary roles and responsibilities must be awarded on a fair and non-collusive basis and must be in compliance with all applicable Lee County, State of Florida, and Federal procurement standards at 2 CFR 200.318-327. The **SUBRECIPIENT** shall not enter into a transaction with a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. For projects and services receiving federal funds, the **SUBRECIPIENT** shall also not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List, in accordance with 2 CFR 200.214. The **SUBRECIPIENT** must ensure each subcontractor conforms to the terms and conditions of this Agreement, *Exhibit H – Certification of CDBG-DR Compliance Provisions*, and *Exhibit F – Application*, as applicable, and must be subject to indemnification as stated in SUBSECTION X.A. INDEMNIFICATION AND LIABILITY below.

SUBSECTION VIII.C. – CONTRACTS AND FEDERAL PROCUREMENT STANDARDS: If the **SUBRECIPIENT** contracts any of the work required under this Agreement, a copy of the proposed contract template and any proposed amendments, extensions, revisions, or other changes thereto, must be forwarded to the **COUNTY** Program Manager for prior written approval. For each contract, the **SUBRECIPIENT** shall report to the **COUNTY** as to whether that contractor or any subcontractors hired by the contractor, is a minority business and women's business enterprise, as defined in section 288.703, F.S. and in accordance with 24 CR 570.506, 24 CFR 570.507, and 2 CFR 200.321. The **SUBRECIPIENT** shall comply with the procurement standards at 2 CFR 200.318 - 200.327 and 2 CFR 200.330 when procuring property and services under this Agreement. The **SUBRECIPIENT** shall include the following terms and conditions in any contract pertaining to the work required under this Agreement:

1. The period of performance or date of completion;
2. The performance requirements;
3. That the contractor is bound by the terms of this Agreement;
4. That the contractor is bound by all applicable state and Federal laws, rules, and regulations;
5. That the contractor shall hold the **COUNTY** and the **SUBRECIPIENT** harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
6. The obligation of the **SUBRECIPIENT** to document in the **SUBRECIPIENT'S** reports the contractor's progress in performing its work under this Agreement;
7. The requirements of Appendix II to 2 CFR 200 - Contract Provision for Non-Federal Entity Contract Under Federal Awards - (refer to *Exhibit H – Certification of CDBG-DR Compliance Provisions*)

The **SUBRECIPIENT** must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.609 and 2 CFR 200.214), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

The **SUBRECIPIENT** shall maintain oversight of all activities performed under this Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Agreement.

SECTION IX: **CONFLICTS OF INTEREST**

The **SUBRECIPIENT** agrees that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of activities required under this Agreement. The **SUBRECIPIENT** further agrees that no person having any such interest shall be employed or engaged for said performance. The **SUBRECIPIENT** agrees that no employee, officer, agent of the **SUBRECIPIENT** or its subrecipients shall participate in the selection, award, or administration of a contract or construction bid if a conflict-of-interest, either real or implied, would be involved. The **SUBRECIPIENT** or its subrecipient employees, officers and agents should refrain from accepting gratuities, favors or anything of monetary value from contractors or potential contractors based on the understanding that the receipt of such an item of value would influence any action or judgment of the **SUBRECIPIENT**.

The **SUBRECIPIENT** is subject to the requirements at 24 CFR 570.611 and 2 CFR 200.318, as applicable, which includes developing or maintaining written standards of conduct and a conflict-of-interest policy that complies with the process for promptly identifying and addressing such conflicts.

Any potential conflict of interest shall be reported using the **COUNTY'S** disclosure form.

SECTION X: **RISK MANAGEMENT**

SUBSECTION X.A. – INDEMNIFICATION AND LIABILITY: To the fullest extent permitted by applicable

law, **SUBRECIPIENT** shall protect, defend, indemnify, save and hold the **COUNTY**, the Board of County Commissioners, its agents, officials, and employees harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, for claims based on the negligence, misconduct, or omissions of the **SUBRECIPIENT** resulting from the **SUBRECIPIENT'S** work as further described in this Agreement and its attachments, which may arise in favor of any person or persons resulting from the **SUBRECIPIENT'S** performance or nonperformance of its obligations under this Agreement except any damages arising out of personal injury or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the **COUNTY**, its officials, commissioners, employees or agents, subject to the limitations as set out in Florida general law, Section 768.28, Florida Statutes, as amended from time to time. Further, the **SUBRECIPIENT** hereby agrees to indemnify the **COUNTY** for all reasonable expenses and attorney's fees incurred by or imposed upon the **COUNTY** in connection therewith for any loss, damage, injury, liability, or other casualty. The **SUBRECIPIENT** additionally agrees that the **COUNTY** may employ an attorney of the **COUNTY'S** own selection to appear and defend any such action, on behalf of the **COUNTY**, at the expense of the **SUBRECIPIENT**. The **SUBRECIPIENT** further agrees to pay all reasonable expenses and attorney's fees incurred by the **COUNTY** in establishing the right to indemnity.

The **SUBRECIPIENT** further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the Agreement. All individuals hired are employees of the **SUBRECIPIENT** and not of the **COUNTY**.

The **SUBRECIPIENT** further agrees to assume sole responsibility, training and oversight of the parties it deals with or employs to carry out the terms of this Agreement to the extent set forth in Section 768.28, F.S. The **SUBRECIPIENT** shall hold the **COUNTY** harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. Nothing herein shall be construed as consent by the **SUBRECIPIENT** to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

If the **SUBRECIPIENT** is a state agency or subdivision, as defined in Section 768.28, F.S., then the **SUBRECIPIENT** agrees to be fully responsible for its negligent or tortious acts of omissions, which result in claims or suits against the **COUNTY**. The **SUBRECIPIENT** agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, F.S. Nothing herein shall be construed as consent by the state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

Nothing herein is intended to serve as a waiver of sovereign immunity by the **COUNTY** or the **SUBRECIPIENT**.

The provisions of this SUBSECTION X.A. INDEMNIFICATION AND LIABILITY shall survive the termination of this Agreement.

SUBSECTION X.B. – INSURANCE REQUIREMENTS

INSURANCE – NONPROFIT SUBRECIPIENTS

The **SUBRECIPIENT** agrees to secure and maintain the insurance coverage outlined below during the term of this Agreement. The **SUBRECIPIENT** agrees that this insurance requirement shall not relieve or limit **SUBRECIPIENT'S** liability and that the **COUNTY** does not in any way represent that the insurance required is sufficient or adequate to protect the **SUBRECIPIENT'S** interests or liabilities but are merely minimums. It is the responsibility of the **SUBRECIPIENT** to ensure that all subcontractors comply with the insurance requirements.

Certificate(s) of Insurance **namimg Lee Board of County Commissioners as Certificate Holder and additional insured** will be attached to this Agreement as an Exhibit (*Exhibit G – Certificate(s) of*

Insurance). Name and address for Certificate Holder should be: Lee Board of County Commissioners, P.O. Box 398, Fort Myers, FL 33902. Certificate(s) must be provided for the following coverages at the time of Agreement execution and upon policy renewal. Renewal certificates are due to the **COUNTY** on or before the expiration date.

1. **Workers' Compensation**: Statutory benefits as defined by Section 440, F.S., encompassing all operations contemplated by this Agreement to apply to all owners, officers, and employees. Employers' liability will have minimum limits of:
 - \$100,000 per accident
 - \$500,000 disease limit
 - \$100,000 disease limit per employee
 2. **Commercial General Liability**: Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:
 - \$500,000 bodily injury per person (BI)
 - \$1,000,000 bodily injury per occurrence (BI)
 - \$500,000 property damage (PD) or
 - \$1,000,000 combined single limit (CSL) of BI and PD
- The General Liability Policy Certificate shall name "**Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials**" as "**Additional Insured**". The **SUBRECIPIENT** agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess.
3. **Business Auto Liability**: The following Automobile Liability will be required and coverage shall apply to all owned, hired, and non-owned vehicles used with minimum limits of:
 - \$100,000 bodily injury per person (BI)
 - \$300,000 bodily injury per occurrence (BI)
 - \$100,000 property damage (PD) or
 - \$300,000 combined single limit (CSL) of BI and PD
 4. **Directors & Officers Liability**: Entity coverage to cover claims against the organization directly for wrongful acts with limits not less than \$100,000.
 5. **Fidelity Bonding**: Covering all employees who handle the agency's funds. The bond amount must be equivalent to the highest daily cash balance or a minimum amount of \$50,000.

INSURANCE – GOVERNMENT/MUNICIPALITY SUBRECIPIENTS

Documentation of the above coverage requirements are not applicable to local governments or municipalities that are self-insured.

SUBSECTION X.C. – NOTICE OF CANCELLATION OR MODIFICATION: The **COUNTY** will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Lee County Risk Manager, P. O. Box 398, Ft. Myers, FL 33902.

SECTION XI: SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION

In accordance with the Federal Register Guidance, 2 CFR 200.208, 2 CFR 200.339, Appendix II to 2 CFR 200, 24 CFR 570.503, and other rights which may be available under law, the following Subsections identify suspension and termination of the Agreement, with and without cause, the potential events of default by the **SUBRECIPIENT**, and potential remedies by the **COUNTY** for noncompliance by the **SUBRECIPIENT** of

any and all requirements of this Agreement, including any exhibits, attachments, and terms and conditions herein:

SUBSECTION XI.A. – SUSPENSION: The **COUNTY** reserves the right to suspend, withhold, withdraw, or recapture funding for failure to comply with the requirements of this Agreement. If the **SUBRECIPIENT** fails to submit required documents by the due date, the **COUNTY** can suspend the Agreement and withhold payments until all requirements are satisfied.

In the event the **SUBRECIPIENT** ceases operation for any reason or files for protection from creditors under bankruptcy law, any remaining unpaid portion of this Agreement, less funds for expenditures already incurred, shall be retained by the **COUNTY** and the **COUNTY** shall have no further funding obligation to the **SUBRECIPIENT** with regard to those unpaid funds.

SUBSECTION XI.B. – EVENTS OF DEFAULT: If any of the following events occur (“Events of Default”), the **COUNTY** may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in SUBSECTION XI.C. REMEDIES or pursue any remedy at law or in equity, without limitation:

1. Any warranty or representation made by the **SUBRECIPIENT**, in this Agreement with the **COUNTY**, is or becomes false or misleading in any respect, or if the **SUBRECIPIENT** fails to keep or perform any of the obligations, terms, or covenants in this Agreement with the **COUNTY**, and/or has not cured them in a timely fashion and/or is unable or unwilling to meet its obligations under this Agreement and/or as required by statute, rule, or regulation;
2. Any material adverse change occurred in the financial condition of the **SUBRECIPIENT** at any time during the term of this Agreement and the **SUBRECIPIENT** fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by the **COUNTY**;
3. The **SUBRECIPIENT** fails to submit any required reports or submits any required report with incorrect, incomplete or insufficient information or fails to submit additional information as requested by the **COUNTY**;
4. The **SUBRECIPIENT** fails to perform or timely complete any of its obligations under this Agreement, including participation in the **COUNTY'S** measures for technical assistance and training;
5. Both the **SUBRECIPIENT** and the **COUNTY** agree that in the event the **COUNTY** elects to make payments or partial payments after any Events of Default, it does so without waiving the right to exercise remedies allowable herein or at law and without becoming liable to make any further payment; or,
6. Neither the **SUBRECIPIENT** nor the **COUNTY** (Parties) shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the **SUBRECIPIENT**, the **COUNTY**, or either Parties' employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar causes wholly beyond both Parties' control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the **SUBRECIPIENT** shall take all reasonable measures to mitigate any and all resulting delays or disruptions in the **SUBRECIPIENT'S** performance obligation under this Agreement. If the delay is excusable under this Subsection, the delay will not result in any additional charges or cost under the Agreement to either Parties. In the case of any delay the **SUBRECIPIENT** believes is excusable under this Subsection, the **SUBRECIPIENT** shall notify the **COUNTY** in writing of the delay or potential delay and describe the cause of the delay either (1) with ten (10) calendar days after the cause that creates or will create the delay first arose, if the **SUBRECIPIENT** could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date the **SUBRECIPIENT** first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. The foregoing shall constitute the **SUBRECIPIENT'S** sole remedy or excuse with respect to delay. Providing notice in accordance with this Subsection is a condition precedent to such remedy. The **COUNTY**, at its sole discretion, will determine if the delay is excusable under this

Subsection and will notify the **SUBRECIPIENT** of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against the **COUNTY**. The **SUBRECIPIENT** shall not be entitled to an increase in the Agreement price or payment of any kind from the **COUNTY** for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, the **SUBRECIPIENT** shall perform at no increased cost, unless the **COUNTY** determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to the **COUNTY**, in which case, the **COUNTY** may do any or all of the following: (1) accept allocated activity(ies) performance or deliveries from the **SUBRECIPIENT**, provided that the **SUBRECIPIENT** grants preferential treatment to the **COUNTY** with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by the **SUBRECIPIENT** for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity or (3) terminate the Agreement in whole or in part.

SUBSECTION XI.C. – REMEDIES: If an Event of Default occurs, the **COUNTY** may, in its sole discretion and without limiting any other right or remedy available, provide thirty (30) calendar days written notice to the **SUBRECIPIENT**, and if the **SUBRECIPIENT** fails to cure within those thirty (30) calendar days, the **COUNTY** may choose to exercise one or more of the following remedies, either concurrently or consecutively:

1. Terminate this Agreement upon written notice by the **COUNTY**, sent in conformity with SECTION XIX. NOTICES;
2. Begin any appropriate legal or equitable action to enforce performance of this Agreement;
3. Withhold or suspend payment of all or any part of a request for payment; Demand the **SUBRECIPIENT** return to the **COUNTY** any funds used for any failed/incomplete activities, ineligible activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and
4. Exercise any corrective or remedial actions, including but not limited to:
 - a. Request additional information from the **SUBRECIPIENT** to determine the reasons for or the extent of noncompliance or lack of performance;
 - b. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
 - c. Advise the **SUBRECIPIENT** to suspend, discontinue, or refrain from incurring costs for any activities in question.
5. Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude the **COUNTY** from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement or failure by the **COUNTY** to require strict performance does not affect, extend, or waive any other right or remedy available or affect the later exercise of the same right or remedy by the **COUNTY** for any other default by the **SUBRECIPIENT**.

SUBSECTION XI.D. – TERMINATION BY COUNTY: Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **COUNTY** may, at any time and for other reasons not mentioned above (“for convenience”), cancel this Agreement by giving twenty-four (24) hours written notice to the **SUBRECIPIENT** by Certified Mail, Process Server or Hand Delivery following a determination by the County Manager or designee, at its sole discretion, that such cancellation is in the best interest of the people of the **COUNTY**. From the date of cancellation, neither party shall have any further obligation unless specified in the termination notice.

If the financing for this project is contingent upon funding sources other than Lee County as identified in the *application* for this Agreement, and such funds become unavailable, the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours written notice.

SUBSECTION XI.E. – TERMINATION BY SUBRECIPIENT: Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **SUBRECIPIENT** may, at any time and for other reasons not mentioned above (“for convenience”), cancel this Agreement by giving seventy-two (72) hours prior written notice to the **COUNTY** by Certified Mail or Process Server of such and specifying the effective date.

The **COUNTY'S** obligation to make any payments under any provision of this Agreement shall cease on the effective date of termination.

In the event that this Agreement is terminated, the **SUBRECIPIENT** shall not incur new obligations under the terminated portion of the Agreement after the date the **SUBRECIPIENT** has received the notification of termination. The **SUBRECIPIENT** shall cancel as many outstanding obligations as possible. The **COUNTY** shall disallow all costs incurred after the **SUBRECIPIENT'S** receipt of the termination notice. The **COUNTY** may, to the extent authorized by law, withhold payments to the **SUBRECIPIENT** for the purpose of set-off until the exact amount of damages due to the **COUNTY** from the **SUBRECIPIENT** is determined.

In accordance with 24 CFR 570.503, upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** any CDBG-DR funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-DR funds.

SECTION XII: **USE AND REVERSION OF ASSETS, REAL PROPERTY**

The **SUBRECIPIENT** must ensure that any equipment or fixed assets purchased in whole or in part with CDBG-DR funds be adequately safeguarded and assure such assets are used solely for authorized purposes. The purchase, use, management and disposition of equipment and other capital assets must comply with 24 CFR 200.313, 24 CFR 200.439, the applicable Federal Register Guidance, and 24 CFR 570. See SECTION XI: SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION regarding the revision of any CDBG-DR funds or assets upon termination or expiration of this agreement. Per 24 CFR 570.502(a)(8), in all cases when equipment purchased with CDBG funds is sold, the net proceeds are considered program income, and shall be returned to the **COUNTY** within 30 days of receipt of the proceeds.

Any real property under the **SUBRECIPIENT'S** control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to the **SUBRECIPIENT** in the form of a loan) in excess of \$25,000 must (1) be used to meet a national objective until five years after expiration or termination of this Agreement (24 CFR 570.505), unless otherwise agreed upon by the Parties, or except as otherwise set forth herein or (2) if not used to meet a national objective, the **SUBRECIPIENT** shall pay to the **COUNTY** an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for the acquisition or improvement of the property for five years after expiration or termination of this Agreement.

The rights and remedies under this Section are in addition to any other rights or remedies provided by law or under this Agreement.

SECTION XIII: **ASSURANCE, CERTIFICATIONS, AND COMPLIANCE**

The **SUBRECIPIENT** agrees that compliance with these assurances and certifications constitutes a condition of continued receipt of or benefit from CDBG-DR funds provided through this Agreement, and that it

is binding upon the **SUBRECIPIENT**, its successors, transferees, and assignees for the period during which services are provided and activities are performed. Additional requirements of the assurances, certifications, and compliance measures below can be further detailed or outlined in the Agreement's exhibits, forms, and attachments.

SUBSECTION XIII.A. – IMMIGRATION LAWS AND CITIZENSHIP STATUS: The **COUNTY** will not intentionally award Agreements to any **SUBRECIPIENT** who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act (INA).

The **COUNTY** shall consider the employment by the **SUBRECIPIENT** of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the Agreement by the **COUNTY**.

Additionally, the **SUBRECIPIENT** must follow requirements to verify citizenship of CDBG-DR fund recipients in certain circumstances. In accordance with 49 CFR 24.408, the **SUBRECIPIENT** cannot provide relocation assistance to a person who has not provided certification of U.S. citizenship or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the **SUBRECIPIENT** that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States. The **COUNTY** may require the **SUBRECIPIENT** to follow other verification requirements as prescribed within the Federal Register Guidance, regulations, or within the Action Plan.

Furthermore, the **SUBRECIPIENT** shall ensure that CDBG-DR funds, which are passed through Lee County, are restricted to people legally able to reside in the United States.

SUBSECTION XIII.B. - E-VERIFY REQUIREMENTS: The **SUBRECIPIENT** must verify employment eligibility of all new employees hired during the Agreement term through the U.S. Department of Homeland Security's E-Verify system.

Section 448.095, F.S., requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
2. A private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract.

E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to the employer to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: <https://www.e-verify.gov/>.

If the **SUBRECIPIENT**, or its contractors, consultants, or subrecipients, does not use E-Verify, they shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the Effective Date of this Agreement.

SUBSECTION XIII.C. – NATIONAL OBJECTIVE: All activities funded with CDBG-DR funds must meet

the criteria for one of the CDBG program's National Objectives. The **SUBRECIPIENT** certifies that the activities carried out under this Agreement shall meet the stated national objective as outlined under SUBSECTION II.C. NATIONAL OBJECTIVE. Furthermore, the **SUBRECIPIENT** certifies and acknowledges that it understands documentation and records requirements for the stated national objective type(s), as defined at 24 CFR 570.208, 24 CFR 570.506, and any and all alternative requirements under the Federal Register Guidance in relation to relevant national objective type(s) as stated in the above Subsection.

SUBSECTION XIII.D. – USE OF FUNDS AND ORDER OF ASSISTANCE: CDBG–DR Appropriations Acts generally include a statutory order of assistance for Federal agencies which require Grantees to verify whether funds made available by FEMA or the U.S. Army Corps of Engineers (USACE) are available for an activity, or the costs are reimbursable by FEMA or the USACE, before awarding CDBG-DR assistance for the cost of carrying out the same activity.

The **SUBRECIPIENT** shall not use CDBG–DR funds for activities reimbursable by or for which funds are made available by FEMA or the U.S. Army Corps of Engineers (USACE). The **SUBRECIPIENT** must verify and inform the **COUNTY** if FEMA and USACE funds are available prior to award or expenditure of CDBG-DR funds to an eligible activity within the Scope of Work contained under Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description. Exhibit H – Certification of CDBG-DR Compliance Provisions further outlines Duplication of Benefits certifications which the **SUBRECIPIENT** must adhere to. Failure to do so can result in a return of funds as further outlined within this Agreement under SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SUBSECTION XIII.E. DUPLICATION OF BENEFITS.

SUBSECTION XIII.E. – DUPLICATION OF BENEFITS: The **SUBRECIPIENT** certifies that it shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 et seq.) and described within Appropriations Acts and Federal Register Guidance. The **SUBRECIPIENT** must comply with HUD's requirements for Duplication of Benefits (DOB), as described in the Federal Register Guidance (Section IV.A.1. – Grant Administration; Duplication of Benefits (DOB)) and HUD guidance (including HUD training materials), including specific Order of Assistance requirements as noted under SUBSECTION XIII.D. USE OF FUNDS AND ORDER OF ASSISTANCE. The **SUBRECIPIENT** shall carry out the activities under this Agreement in compliance with the **COUNTY's** procedures to prevent DOB. The **SUBRECIPIENT** shall also sign a Subrogation Agreement (see Exhibit K – CDBG-DR Program Subrogation Agreement).

In accordance with the Federal Register Guidance at 88 FR 32053 – Section IV.A.1.(d)(v) Applicable Rules, Statutes, Waivers, and Alternative Requirements: Reassess Unmet Need When Necessary, the **SUBRECIPIENT** certifies that they will notify the **COUNTY** immediately of any funding source changes and/or additions from other sources that are different from that shown in the **SUBRECIPIENT'S application**. This notification must include a statement explaining how this change in funding affects the provisions of the project and activity requirements as well as the use of and continued need for CDBG-DR funds through the **COUNTY**.

The **SUBRECIPIENT** shall either (1) maintain all funds provided under this Agreement in a separate bank account or (2) ensure that the **SUBRECIPIENT'S** accounting system shall have sufficient internal controls to separately track expenditure of all funds under this Agreement, in accordance with 2 CFR 200.302. In cases where the project and its activities are funded by more than one funding source (other funds besides CDBG-DR funds) where potential duplicative assistance could exist, the **SUBRECIPIENT** shall not commingle CDBG-DR funds provided under this Agreement with any other funds, projects or programs, when those funds are determined to be for the same purpose and same use, in accordance with the Federal Register Guidance. 88 FR 32050, Section IV.A.1.(a) – Overview of Grant Process, The Stafford Act – and Section 312 of the Stafford Act makes recipients of Federal disaster assistance liable

for repayment of the amount of Federal disaster assistance that duplicates benefits available for the same purpose from another source (42 U.S.C. 5155(c)). The **COUNTY** may, in its sole discretion, disallow costs made with commingled funds that were designated as being available for the same purpose and use as the CDBG-DR funds and require reimbursement for such costs as described herein (SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS)).

SUBSECTION XIII.F. – CIVIL RIGHTS REQUIREMENTS: The **SUBRECIPIENT** further assures that all contractors, subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs, projects, and activities are not discriminating against those participants or employees in violation of statutes, regulations, guidelines and standards. By acceptance of this CDBG-DR funding, the **SUBRECIPIENT** assures and certifies the following:

1. That they will comply with all applicable Federal, state and local anti-discrimination laws pertaining to nondiscrimination in programs receiving Federal financial assistance, including but not limited to:
 - a. Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations – including that recipients/grantees of Federal financial assistance are required to take reasonable steps to ensure meaningful access to persons who are Limited English Proficiency (LEP), as per Executive Order 13166 and the Federal Register Guidance, to items such as, but not limited to, project outreach, project, or activity materials including communique in the form of digital (website) media and paper materials.
 - b. Section 109 - Title I of the Housing & Community Development Act of 1974
 - c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
 - d. Age Discrimination Act of 1975 (42 U.S.C. 610 et. seq.)
 - e. Fair Housing Act
2. That they will comply with the Americans with Disabilities Act of 1990 (“ADA”) (P.L. 101-336, as codified at U.S.C. 42.126 (sections 12101-12213) and as amended, and 28 CFR 35); the Florida Civil Rights Act, as amended, Chapter 76, F.S.; Title VII of the Civil Rights Act of 1964, as amended; and laws which gives civil rights protections to individuals with disabilities, guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. A Single-Point-of-Contact shall be required if the agency employs 15 or more employees. The Single-Point-of-Contact will ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section 504 and the ADA and coordinate activities and reports with the **SUBRECIPIENT’S** Single-Point-of-Contact.
3. That if clients are to be transported under this Agreement, **SUBRECIPIENT** will comply with the provisions of Chapter 427, Florida Statutes, which requires the coordination of transportation for the disadvantaged.
4. That if personnel in programs under this Agreement work directly with children/youths and vulnerable or disabled adults, the **SUBRECIPIENT** will comply with applicable provisions under Florida Statutes 943.0542; 943.04351; 393.0655; 402, regarding employment screening.
5. That activities under this Agreement shall provide for access to equal participation of religious or faith-based organizations, where applicable, in accordance with 24 CFR 570.200 and Executive Order 13279.

Additional requirement information can be accessed at the following websites:

- [Office of Fair Housing and Equal Opportunity \(FHEO\) Fair Housing Rights and Obligations](#)
- [FHEO main website](#)
- [Guidelines for promoting Fair Housing for individuals with Limited English Proficiency \(LEP\)](#)

These requirements are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion (creed), sex, national origin, age, familial status or disability. Affirmative

marketing plans and use of universal design features for construction and rehabilitative projects should be incorporated when possible.

All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement, or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Different styles/types/sizes of logos and information regarding brochures can be found on the Fair Housing and Equal Opportunities HUD website.

SUBSECTION XIII.G. – DETECTION AND PREVENTION OF FRAUD, WASTE, AND ABUSE: In accordance with the Federal Register Guidance, the **SUBRECIPIENT** certifies that they will administer their programs under procedures, supervision, safeguards, and such other methods as may be necessary to prevent fraud, waste, and abuse, and that it will target its services and activities to those who need them the most. Additionally, the **SUBRECIPIENT** certifies that their written standards of conduct and their conflict-of-interest policy will supplement their anti-fraud, waste, and abuse (AFWA) initiatives, and that the **SUBRECIPIENT** may be required to take part in fraud, waste, and abuse (FWA) training and will work with the **COUNTY** to develop a FWA complaint and reporting process, including reporting such complaints to the **COUNTY**.

SUBSECTION XIII.H. – INELIGIBLE ACTIVITIES: The **SUBRECIPIENT** assures that it will not conduct or expend CDBG-DR funds on any activities which are deemed ineligible by the Federal Register Guidance (88 FR 32077, Section III.G.), federal regulations (most notably at 24 CFR 570.207), the Action Plan, and all other applicable laws.

SUBSECTION XIII.I. – PROGRAM INCOME: The **SUBRECIPIENT** shall report to the **COUNTY** all program income (as defined at 24 CFR 570.500 or in the Federal Register Guidance governing the CDBG-DR funds) generated by activities carried out with CDBG-DR funds made available under this Agreement as part of the **SUBRECIPIENT'S** periodic reporting outlined under SECTION VI. REPORTS AND EXHIBITS and SECTION VII. AUDITS, MONITORING, AND RECORDS.

The **SUBRECIPIENT** must return to the **COUNTY**, prior to closeout, any program income generated by the project and its activities. The **COUNTY** certifies that it shall use program income in accordance with the applicable requirements of 2 CFR 200.307 and alternative requirements and waivers as prescribed under the Federal Register Guidance at 88 FR 32074, Appendix B: CDBG-DR Consolidated Notice - Section III.E. Program Income (in place of requirements at 24 CFR 570.500 and 24 CFR 570.504), and the terms of this Agreement. The **SUBRECIPIENT** shall return program income to the **COUNTY** if a program income balance exists, or program income is generated after closeout. In all cases, any program income received that is not used to continue the disaster recovery activity will not be subject to the waivers and alternative requirements of the Federal Register Guidance or the **COUNTY'S** CDBG Entitlement program, if program income is transferred to that program.

SUBSECTION XIII.J. – CITIZEN PARTICIPATION AND PUBLIC WEBSITE REQUIREMENTS: The **COUNTY**, as a Grantee, certified to HUD that it has a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in waivers and alternative requirements under the Federal Register Guidance). Additionally, the **COUNTY**, as a Grantee, certified to HUD that it will maintain a comprehensive CDBG-DR public website that permits individuals and entities awaiting assistance and the general public to see how all grant funds are used and administered. The Action Plan also details how the **COUNTY** will adhere to both requirements.

The **SUBRECIPIENT** certifies that it will adhere to requirements by the **COUNTY** to provide documentation and information which informs both the citizen participation and public website

requirements. Further details on information needed to meet these requirements are spelled out in the exhibits, attachments, and forms as part of this Agreement.

SUBSECTION XIII.K. – PERSONALLY IDENTIFIABLE INFORMATION (PII): As previously referenced under SUBSECTION VII.D. RECORDKEEPING REQUIREMENTS and in accordance with 2 CFR 200.1 and 2 CFR 200.338, Personally Identifiable Information (PII) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Protected PII means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, and educational transcripts. This does not include PII that is required by law to be disclosed.

PII must always be safeguarded, even in instances of public records requests. No Federal awarding agency may place restrictions on the non-Federal entity that limits public access to the records of the non-Federal entity pertinent to a Federal award, *except for protected PII or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency.*

The **SUBRECIPIENT** certifies that they understand the PII definitions as noted above, and in accordance with their internal controls under 2 CFR 200.303, the SUBRECIPIENT must implement reasonable measures to safeguard Personally Identifiable Information (PII) and other sensitive data. These measures should form part of the SUBRECIPIENT's internal control framework to ensure compliance with federal regulations. The SUBRECIPIENT is responsible for maintaining appropriate safeguards to prevent unauthorized access, use, or disclosure of such information, consistent with cybersecurity best practices and the applicable federal, state, and local laws governing data protection.

Additionally, the **COUNTY**, pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a "covered entity," as the law defines that term. Any "personal health information" (PHI) as defined by the law that the **COUNTY** receives pursuant to this Agreement in connection with this project and its activities, as applicable, is subject to the disclosure and security requirements of HIPAA. Transfer of information to the **COUNTY** sufficiently "de-identified" to no longer be considered PHI is encouraged as being in the best interest of client PHI confidentiality to the extent that public services are unaffected. Methods to accomplish the highest levels of public service coupled with PHI confidentiality will be an ongoing task of the affected staffs of the **COUNTY** and the **SUBRECIPIENT**.

SUBSECTION XIII.L. – NECESSARY AND REASONABLE REQUIREMENTS: The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for the Federal Awards in 2 CFR 200 Subpart E (Federal Cost Principles) apply to all CDBG-DR Grantees and their Subrecipients. The **SUBRECIPIENT** certifies that all costs incurred under this Agreement are necessary and reasonable for the performance of its project and/or activities. The Cost Principles are made applicable to local governments through 24 CFR 570.502. The **SUBRECIPIENT** must consider factors described at 2 CFR 200.404(a-e) when determining which types and amounts of cost items incurred under this Agreement are necessary and reasonable.

SUBSECTION XIII.M. – COPYRIGHT, PATENT AND TRADEMARK: In accordance with 2 CFR 200.1 and 2 CFR 200.135, trademarks, copyrights, patents and patent applications and property, are identified as intangible property, or property having no physical existence. The **SUBRECIPIENT** may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this CDBG-DR award. HUD, through the **COUNTY** as its pass-through entity, reserves a royalty-free,

nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. The **SUBRECIPIENT** is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR 401 ("Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements").

Any and all patent rights accruing under, or in connection with, the performance of this Agreement are hereby reserved to the **COUNTY**. Any and all copyrights accruing under, or in connection with, the performance of this Agreement are hereby transferred by the **SUBRECIPIENT** to the **COUNTY**.

1. If the **SUBRECIPIENT** has a pre-existing patent or copyright, the **SUBRECIPIENT** shall retain all rights and entitlement to that pre-existing patent or copyright unless this Agreement expressly provides otherwise.
2. If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement or in any way connected with it, the **SUBRECIPIENT** shall refer the discovery or invention to the **COUNTY** for a determination whether the **COUNTY** will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the **COUNTY**. If any books, manuals, films, or other copyrightable material are produced, the **SUBRECIPIENT** shall notify the **COUNTY**. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the **SUBRECIPIENT** to **COUNTY**. Within thirty (30) calendar days of execution of this Agreement, the **SUBRECIPIENT** shall disclose all intellectual properties relating to the performance of this Agreement which give rise to a patent or copyright. The **SUBRECIPIENT** shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and the **COUNTY** shall have the right to all patents and copyrights which accrue during performance of this Agreement.

SUBSECTION XIII.N. – FEDERAL TERMS AND CONDITIONS: For Federal CDBG-DR funded programs, the **SUBRECIPIENT** has or will develop and maintain the capacity to carry out disaster recovery activities in a timely manner and will ensure compliance with applicable Uniform Administrative Requirements as described in 2 CFR 200, Community Development Block Grants (CDBG) regulations at 24 CFR 570, the Federal Register Guidance, the Action Plan, and all other established, applicable HUD regulations, acts, and statutes, as now in effect and as may be amended from time to time. The **COUNTY** outlines full CDBG-DR Compliance Provisions for the **SUBRECIPIENT** under Exhibit H – Certification of CDBG-DR Compliance Provisions and details program management standards within the respective program's manual.

SUBSECTION XIII.O. – STATE AND LOCAL GOVERNMENT REQUIREMENTS: The **SUBRECIPIENT** agrees to the following statements as it relates to state and/or local government requirements:

1. The **SUBRECIPIENT** will comply with all applicable laws, ordinances, and regulations of the United States, the State of Florida, the **COUNTY**, and the municipalities as said laws, ordinances, and regulations exist and are amended from time to time. In entering into this Agreement, the **COUNTY** does not waive the requirements of any **COUNTY** or local ordinance or the requirements of obtaining any permits or licenses that are normally required to conduct business or activity contemplated by the **SUBRECIPIENT**.
2. The **SUBRECIPIENT** will comply with Chapter 39.201, Florida Statutes, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).
3. The **SUBRECIPIENT** will comply with Chapter 415.1034, Florida Statutes, that any person who

knows or has reasonable cause to suspect that a vulnerable and or disabled adult has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

4. The **SUBRECIPIENT** will comply with and implement this Agreement in a manner satisfactory to Lee County and HUD and consistent with all applicable laws, regulations, and policies and procedures that may be required as a condition of Lee County providing the grant funds, including but not limited to, all applicable program administration and compliance requirements set forth by this Agreement, and in accordance with the CDBG-DR NOFA Application, CDBG-DR Action Plan, and any other documentation previously provided by the **SUBRECIPIENT**, attached as Exhibit F – Application, and made a part hereof.
5. Lee County's provision of grant funds under this Agreement is specifically conditioned on the **SUBRECIPIENT's** compliance with this provision and all terms and conditions of this Agreement, the most recently published version of Lee County's *Hurricane Ian CDBG-DR Subrecipient Manual* and *Internal Grant Management Manual*, and the CDBG-DR *Critical Infrastructure Program Policies and Procedures Manual*, which can be accessed on <https://cdbgdr.leegov.com>, and any amendments thereto, related Federal Register Guidance (including Guidance, which is provided under future Federal Register Notices), and the requirements of the authorities cited above, as the same may be amended from time to time.
6. The **SUBRECIPIENT** will acknowledge support for activities funded wholly or in part by CDBG-DR funds provided by HUD and the **COUNTY**. In publicizing, advertising, or describing the program, state "Funding provided by Lee Board of County Commissioners and HUD."
7. The **SUBRECIPIENT** will notify the **COUNTY** of any changes to the **SUBRECIPIENT** organization to include Board Membership (roster), Articles of Incorporation and Bylaws within ten (10) working days of the effective date.
8. If needed, **SUBRECIPIENT** may be called upon to assist the **COUNTY** during a natural disaster or emergency. This may include, but is not limited to, the use of the **SUBRECIPIENT'S** facility to assist with Emergency Food Stamp preregistration if the facility is operations and use of staff to assist with case management and post-disaster shelter assessments. **SUBRECIPIENT** will be responsible to notify United Way 211 via phone, email, or through submission of online survey form, immediately after a disaster declaration if the location is accessible and operational and of any **SUBRECIPIENT** staff who are available to assist with recovery efforts.

SECTION XIV: OTHER PROVISIONS AND CONDITIONS

If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Agreement.

Any power of approval or disapproval granted to the **COUNTY** under the terms of this Agreement shall survive the term of this Agreement.

All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

In the event travel is pre-approved by the **COUNTY**, any bills for travel expenses shall be submitted and reimbursed in accordance with section 112.061, F.S., the rules promulgated thereunder and 2 CFR 200.474.

If the **SUBRECIPIENT** is allowed to temporarily invest any advances of CDBG-DR funds under this Agreement, any interest income shall either be returned to the **COUNTY**.

The **SUBRECIPIENT** acknowledges being subject to Florida's Government in the Sunshine Law (section 286.011, F.S.) with respect to the meetings of the **SUBRECIPIENT'S** governing board or the meetings of any subcommittee making recommendations to the governing board. The **SUBRECIPIENT** agrees that all such aforementioned meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, F.S.

The **SUBRECIPIENT** shall comply with section 519 of P.L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

Upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** any CDBG-DR funds remaining at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG-DR funds.

SECTION XV: CITIZEN COMPLAINTS

The **SUBRECIPIENT** is responsible for tracking and reporting citizen complaints to the **COUNTY** under the following types of complaints and/or inquiries: (1) Program or Project Appeals, where applicable; (2) HUD complaints; (3) Fair Housing complaints; and (4) Fraud, Waste, and Abuse (FWA) complaints. The **SUBRECIPIENT** must adopt the **COUNTY's** written citizen complaint policy or provide their own policy that provides citizens with the address, phone number, and times for submitting complaints and grievances. The policy must also provide that timely written answers to written complaints and grievances will be provided within 15 working days, where practicable, or the **SUBRECIPIENT** must document why additional time for the response is required.

SECTION XVI: LEGAL AUTHORIZATION

The **SUBRECIPIENT** certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The **SUBRECIPIENT** certifies that the undersigned person has the authority to legally execute and bind the **SUBRECIPIENT** to the terms of this Agreement. The **COUNTY** may, at its discretion, request documentation evidencing the undersigned has authority to bind the **SUBRECIPIENT** to this Agreement as of the Effective Date; any such documentation is incorporated herein by reference.

Prior to the execution of this Agreement, the **SUBRECIPIENT** warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation, or any other legal or financial condition that would in any way prohibit, restrain, or diminish the **SUBRECIPIENT'S** ability to satisfy its obligations. The **SUBRECIPIENT** shall immediately notify the **COUNTY** in writing if its ability to perform is compromised in any manner during the term of this Agreement.

SECTION XVII: AGREEMENT DISPUTE RESOLUTION PROCEDURE

Any dispute between the Parties with respect to provisions contained in a Lee County Office of Strategic Resources and Government Affairs Agreement or issues that arise pertinent to an Agreement shall be resolved as follows:

The Parties may, by mutual agreement, attempt to resolve their dispute in the following manner within a thirty (30) day period. If both parties are in agreement, the thirty (30) daytime period can be extended for an additional ten (10) days.

1. Duly authorized representatives shall meet as often as mutually agreeable to discuss in good faith the dispute and to negotiate a mutually agreeable resolution. Authorized representatives for SRGA include the Agreement Coordinator and Program Manager.
2. During the course of the dispute process, requests made by one Party to the other for non-privileged information, reasonably related to the dispute, shall be responded to in good faith.
3. If the dispute is unable to be resolved between the authorized representatives within the specified time period, it will be forwarded to the Department Director for resolution. A decision by the Director will be issued within ten (10) days.
4. If the dispute remains unresolved after the Department Director's decision, the parties may proceed to litigation. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens. This Agreement and the rights and obligations of the Parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles. Unless otherwise agreed in writing, the **SUBRECIPIENT** will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.
5. Either Party may at any time commence formal court proceedings, which shall be immediately communicated, and will end the informal Dispute Resolution process as described in Paragraph 1-3 above.

SECTION XVIII: AGREEMENT CLOSEOUT

The **SUBRECIPIENT** must complete a closeout checklist and final closeout reports to ensure complete and final documentation of all finance and program activities. The closeout checklist and reports must be submitted to the **COUNTY** within 90 days after the end date of this agreement.

The closeout checklist must include documentation and certification that:

1. All CDBG-DR funds have been expended within the exception of any closeout liabilities or contingent liabilities (24 CFR 570.509(a)(1));
2. All work financed with CDBG-DR funds has been completed, is eligible, and meets a national objective, including activities financed through escrow accounts, loan guarantees, or similar mechanisms; performance and expenditure reports have been submitted and account for program income and administrative expenditures (24 CFR 570.509(a)(2-5)); and
3. All other responsibilities under this Agreement have been met or the **COUNTY** has determined that there is no further benefit in keeping the Agreement open to secure performance (24 CFR 570.509(a)(6)).

The final closeout reports must include the following:

1. Final Project Performance Measures and Outcomes Form (*Exhibit E*);
2. Final *Monthly Activity Report* (with final progress narrative);
3. Updated *Project Budget and Expense (Sources and Uses) Worksheet* (including program income);

4. *Final Payment Request Form*; and
5. Inventory of property acquired or improved with CDBG funds. The inventory should identify real property acquired with over \$25,000 of CDBG funds including its current use, to facilitate compliance with requirements for the continuing eligible use of property at 24 CFR 570.505.

Based on the **SUBRECIPIENT'S** final reports and other relevant information, the **COUNTY** may execute a closeout agreement that specifies closeout costs or contingent liabilities that are subject to payment with CDBG-DR funds after the closeout agreement is signed; continuing responsibilities after closeout; or other provisions appropriate to special circumstances.

As specified in 2 CFR 200.345, the closeout of a CDBG-DR award to a **SUBRECIPIENT** does not affect:

1. The **COUNTY's** right to disallow costs and/or recover funds on the basis of a later audit or other review.
2. The **SUBRECIPIENT's** obligation to return funds due to the **COUNTY** from subsequent refunds, corrections, or other transactions.
3. The **COUNTY** and **SUBRECIPIENT'S** obligation to comply with records retention as specified in 2 CFR 200, Subpart D—Post Federal Award Requirements, Records Retention and Access, including 2 CFR 200.334-338, as modified by 24 CFR 570.502(a)(7)(ii).
4. The **SUBRECIPIENT's** responsibilities for property management and disposition:
 - o For real property in 24 CFR 570.503(b)(7).
 - o For other property, as applicable in 2 CFR 200, Subpart D, Post Federal Award Requirements, Property Standards, including:
 - 2 CFR 200.310 (Insurance coverage).
 - 2 CFR 200.312 (Federally owned and exempt property).
 - 2 CFR 200.313 and 24 CFR 570.502(a)(6) (Equipment).
 - 2 CFR 200.314 (Supplies).
 - 2 CFR 200.315 (Intangible property).
 - 2 CFR 200.316 (Property trust relationship).
 - Audit requirements in 2 CFR 200, Subpart F.

SECTION XIX: NOTICES

Official notices concerning this Agreement will be directed to the following authorized representatives below, either in writing, by hand delivery, first class, or certified mail with return receipt requested at the addresses below, or in electronic format, by electronic mail:

SUBRECIPIENT

Name: Andy Hyatt
Title: Town Manager
Agency: Town of Fort Myers Beach
Address: 2525 Estero Boulevard, Fort Myers
Beach, FL 33931
Telephone: 239-313-0895
Email: andyhyatt@fmbgov.com

COUNTY

Name: Jeannie Sutton
Title: Director
Agency: Office of Strategic Resources and
Government Affairs
Address: 1500 Monroe St., Fort Myers, FL 33901
Telephone: (239) 822-8438
Email: JSutton@leegov.com

The signatures of the two persons shown below are designated and authorized to sign all applicable reports:

Andy Hyatt
Name (printed/typed)

Glen V. Salyer
Name (printed/typed)

Signature

Signature

Town Manager
Title

Assistant County Manager
Title

In the event that the **SUBRECIPIENT** designates different representatives after execution of this Agreement, notice of the name and address of the new representative will be rendered in writing or electronically by authorized officer of the **SUBRECIPIENT** to the **COUNTY**.

SECTION XX: ALL TERMS AND CONDITIONS INCLUDED

This Agreement and its attachments, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of this Agreement is legally determined unlawful or unenforceable, the remainder of the Agreement shall remain in full force and effect and such terms or provisions shall be stricken.

IN WITNESS THEREOF, the **SUBRECIPIENT** and the **COUNTY** have caused this Agreement and all Agreement Exhibits, Attachments, Reports, and Forms as indicated on the *Subrecipient Agreement Document Checklist* to be executed by their undersigned officials as duly authorized.

SUBRECIPIENT: TOWN OF FORT MYERS BEACH

BY: _____

Signature

_____ Date

Name (print)

ATTEST:
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

County Attorney's Office

EXHIBIT A
SCOPE OF WORK AND ACTIVITIES
PROGRAM/PROJECT ACTIVITY OVERVIEW

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the Critical Infrastructure Program NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to inform and update the County's approved System of Record for program and project eligibility with core HUD CDBG-DR requirements. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record.

Program/Project Activity Overview

Project Name: North Island Water Tower Complex Rehabilitation

CDBG-DR Program eligible activity: Rehabilitation/reconstruction of public facilities

The National Objective to be achieved for each activity as a result of this Project: Activities designed to meet community development needs having a particular urgency ("Urgent Needs").

Per 24 CFR 570.208(c), to comply with the national objective of meeting community development needs having a particular urgency, and activity must be designed to alleviate existing conditions which the grantee certifies:

1. Pose a serious and immediate threat to the health or welfare of the community;
2. Are of recent origin or recently became urgent;
3. The grantee/subgrantee is unable to finance the activity on its own; and,
4. Other resources of funding are not available to carry out the activity.

In accordance with FR-6393-N-01, this activity is using the Urgent Need national objective which is allowed for a period of 36 months after the applicability date of the Lee County's Allocation Announcement Notice (May 18, 2023).

The method of measuring the National Objective, if LMI: Not Applicable – activity will not meet a LMI national objective

The number of individuals benefiting as a result of this Project:

- Total beneficiaries: 6,670
- Total low/mod beneficiaries: 2,055

CDBG-DR storm tie-back and/or Mitigation resilience measure: The Town of Fort Myers Beach was devastated by the unprecedented impacts of Hurricane Ian, and the Town still has many unmet needs today. Prior to Hurricane Ian, two water tanks supplied potable water to the entire island. Since Ian destroyed the North Water Tower Complex, the Town has relied on a single water tank for potable water, leaving residents and businesses exposed to the risk of potable

water loss, should the single remaining tank become damaged, contaminated, or otherwise inoperable. Reconstruction of the North Water Tower complex with increased resiliency measures will ensure that a critical FEMA lifeline – potable water – is preserved for all residents and businesses in the Town of Fort Myers Beach. Creating a resilient and sustainable network of critical infrastructure is a primary community goal for the Town of Fort Myers Beach, and replacement of the North Island Water Tower and repair / reconstruction of the surrounding complex is foundational for the Town's recovery. The urgency and importance of this project cannot be overstated. Through this project, CDBG-DR funds will be used to address the critical unmet need for a reliable, resilient, and sustainable supply of potable water for all residents and businesses in the Town of Fort Myers Beach. This is a critical infrastructure project that will provide both immediate and long-term impacts for a community that was devastated by Hurricane Ian.

EXHIBIT B
SCOPE OF WORK AND ACTIVITIES
PROJECT ACTIVITY SCOPE OF WORK DESCRIPTION

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the Critical Infrastructure Program NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to inform and update the County's approved System of Record for key performance measures and project budget cost eligibility. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record and/or under a formal amendment in accordance with the Agreement.

Project Activity Scope of Work Description ("Work")

The Town of Fort Myers Beach seeks Community Development Block Grant Disaster Recovery (CDBG-DR) funding through the Lee County Critical Infrastructure Program to support the critically necessary replacement and repair of the North Island Water Tower Complex. The Town of Fort Myers Beach, along with other coastal communities, absorbed the brunt of Hurricane Ian's impacts in Lee County. Recovery efforts since Ian's landfall have highlighted the need for a consistent supply of potable water, consistent with the FEMA Water Systems lifeline category.

The North Island Water Tower Complex is one of two potable water facilities on the island; together, the two facilities were responsible for holding and distributing potable water to all residents and businesses in the Town of Fort Myers Beach. Hurricane Ian heavily impacted the North Island Water Tower Complex, damaging the lower level of the pump building and all above-ground valves and pumps. The storage area and grounds were scoured by 15-feet of storm surge. Post-Ian inspection deemed the tank itself unusable; as such, the Town of Fort Myers Beach has operated with a single water tank since Hurricane Ian. With only a single operational water tank, the Town is in a critical situation because it is more susceptible to potential impacts of future emergency events that could decommission the only remaining source of potable water on the island.

The scope of this critical infrastructure project includes (1) removal of the existing, unusable tank, (2) replacement of the current tank with a new concrete poly-lined tank for water storage, (3) construction of the control building and ancillary structures which house necessary equipment, valves, pumps, and piping, (4) elevation of pumps and valves, (4) replacement of storage areas necessary for maintenance equipment, (5) major security upgrades, such as fencing and around-the-clock monitoring systems, and (6) other improvements that, through pre-construction due diligence, are determined to be necessary to ensuring and monitoring a secure potable water supply for the Town of Fort Myers Beach. The project will be constructed in accordance with all current building codes and the control building will be hardened. All improvements will be built in compliance with

current FEMA flood elevations, such that components of the facility and structures themselves are elevated above base flood elevation. The scope of work also includes all design, permitting, and construction-phase oversight services that may be necessary to ensure that the project is implemented successfully. Procurement activities will be conducted in accordance with 2 CFR 200.320 and with applicable Florida Statutes.

Given the unprecedented impacts of Hurricane Ian upon the Town of Fort Myers Beach, access to a critical resource such as potable water is paramount to the community. With CDBG-DR funding to support this project, the Town can provide residents with a resilient drinking water supply and system and reliable access to potable water for daily activities, such as drinking, cooking, and cleaning. Completion of this project will enable the town to maintain dependable access to clean drinking water for all residents on the island by building a resilient facility that is more likely to withstand future natural and climate-related hazards than pre-Ian potable water infrastructure.

The project proposed by the Town of Fort Myers Beach, with the support of CDBG-DR funding, will fully restore and secure a critical FEMA lifeline - potable water supply - for the Town of Fort Myers Beach. The completed project will increase the resiliency of the Town's potable water infrastructure by installing a system designed to withstand future natural and climate-related hazardous events.

By constructing resilient and secure potable water infrastructure, this project will create confidence in local residents and businesses that a dependable supply of water will be available for daily activities such as drinking, cleaning, and cooking. Reliable infrastructure is foundational for continued residential and commercial recovery, development, and growth in areas that were completely devastated by Hurricane Ian.

Design and Approach: The Town of Fort Myers Beach employs staff with experience in completing projects of a similar size and scope, and has secured the services of Tidal Basin Group, which has extensive experience in implementation and oversight of projects utilizing federal, state, and/or local governmental grant funds. The combination of Town staff oversight and contractual support ensures adequate experience and capacity for effective administration and oversight of all compliance requirements. Additional information regarding Town staff and contractual support is provided below:

Andrew Hyatt: Mr. Hyatt has more than 26 years of management and leadership experience in both the private and public sectors, with 18 of those years in municipal government and 13 years as a Town or City manager. Andy has an Associate's degree in general business from Cleveland State Community College in Cleveland, Tenn. From the University of Tennessee at Chattanooga, he has a Bachelor's degree in political science and a Master's degree in public

administration. Mr. Hyatt will perform general oversight of project implementation and completion.

Frank Kropacek: Mr. Kropacek has more than 30 years of experience in local, county and state government administration ranging from contracts, contract negotiation, procurement, and project management to organizational administration. He attended the University of Wisconsin Whitewater studying Geology and Geophysics. Mr. Kropacek will be the Town's primary day-to-day contact for all project activities and will directly oversee and coordinate planning implementation.

Joe Onzick: Mr. Onzick served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and Bachelor's of Science degree in mathematics from Wheaton College. As the Town's Financial Director, Mr. Onzick will oversee fund accounting and financial compliance for the planning project.

To supplement Town staff's expertise and capacity, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed. Tidal Basin serves as the grant manager for Hendry County, FL overseeing the County's three Hurricane Irma CDBG-DR funded grants totaling over \$5.5M. Tidal Basin also serves in the same capacity for the Orange County Drainage District in Orange County, TX and for various municipal subrecipients in Puerto Rico. The team will coordinate with Lee County and the Town of Fort Myers Beach to ensure HUD compliance, proper reporting, and adherence to the proposed schedule to the project. Tidal Basin will ensure procurements adhere to 2 CFR 200, Davis Bacon Labor Compliance is adhered to, Section 3 reporting is completed, and all costs can be tied to the eligible activity and national objective tied to the project.

Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras & Associates, LLC collectively have more than 70 years of combined experience working in high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG Disaster Recovery (CDBG-DR) funding, with team members having performed compliance and oversight of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf Coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the southeast with

comprehensive project implementation and compliance services from project inception to grant closeout, including grant writing and submission, implementing policies and procedures, overseeing financial controls, preparing monthly, quarterly, semi-annual, and annual reporting, recordkeeping, monitoring, overseeing and supporting procurement compliance, preparing reimbursement requests, preparing amendments to grant agreements and budget modifications, and preparing project closeout documentation. Gouras & Associates also works to educate contractors and clients on compliance with the applicable state and federal regulations and laws, including the applicable procurement guidelines, MBE/WBE solicitation and outreach, labor standards compliance requirements, and HUD Section 3 compliance requirements.

Major Project Milestones

Milestone	Due Date
Design and Permitting Complete	12/31/2026
Construction Begins	04/30/2027
50% Construction	01/30/2028
Closeout and Final Reimbursement Request	12/31/2028

EXHIBIT C
FINANCIAL AND GRANT MANAGEMENT SYSTEM BUDGET WORKSHEET

The information provided under this Exhibit is retrieved from the Subrecipient Agreement. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations within the County's financial accounting system for the awarded CDBG-DR funds. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

Financial and Grant Management System Budget Worksheet

As noted within the Agreement, the Subrecipient's allocation of CDBG-DR funding for this project is broken down in the following manner:

	Most Impacted and Distressed (MID)
Activity Funds (Direct Project Costs)	\$4,447,752.66
Activity Delivery Funds	\$234,092.24
Total	\$4,681,844.90

EXHIBIT D
INDIRECT COST RATE ALLOCATION PLAN

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and the Subrecipient's approved application in response to the Critical Infrastructure Program NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations for an indirect cost rate within the County's financial accounting system. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

Indirect Cost Rate Allocation Plan

When applicable, documentation that supports the indirect cost rate and Activity Delivery Cost must be included under this Exhibit. The County is responsible for reviewing and approving the Subrecipient's indirect cost allocation plan or proposal included below. Calculated Modified Total Direct Costs (MTDCs) subject to a: **Not applicable – an indirect cost rate will not be utilized or requested from the subrecipient under this Agreement.**

See the plan or proposal above for further details and requirements of when the Subrecipient is set to receive indirect costs. The County also identifies financial data and information in Exhibit C for the Subrecipient's use in the submission of Payment Request Forms, Single Audits, and other reports which require the County's accounting of CDBG-DR funding through its financial system.

EXHIBIT E

PROJECTED PERFORMANCE MEASURES AND OUTCOMES FORM

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and, if applicable, the Subrecipient's approved application in response to the _ NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up detailed performance management goals for the Subrecipient to meet through implementing and completing the project.

The Subrecipient will report via the monthly activity report on how the project has progressed on reaching the target numbers of the projected performance measure(s). Subrecipients will work with the County to ensure any updates to this Exhibit are subsequently reviewed and approved within the System of Record in accordance with the Agreement.

Projected Performance Measures and Outcomes

When applicable, documentation which supports the performance measure(s) is taken from the Subrecipient's stated project scope of work ("projected outcomes"). The following table provides those measures which the Subrecipient must report performance on related to meeting performance goals:

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
Rehabilitation/ reconstruction of public facilities	# of buildings (non-residential)	
	# of Linear feet of green public improvement	
	# of Non-business Organizations benefitting	
	# of public facilities	1
	# of Linear feet of Public Improvement	
	# of Acres wetlands	
	# of Linear miles of Public Improvement	
	# of cable feet of public utility	
	# of Properties	
	# of Elevated Structures	
	# of Businesses	
MIT - Public Facilities and Improvements-Non Covered Projects	# acres of newly added or improved green space	
	# acres of wetlands created	
	# cubic feet of stormwater storage added	
	% decrease in affluent discharged	
	% decrease in area inundated by flooding	
	% decrease in disruption hours to residents and businesses from impacts of storm events	
	% decrease in NFIP CRS score	

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
	% decrease in road closures in target area during a flood event	
MIT - Public Facilities and Improvements-Non Covered Projects (cont'd)	% decrease water surface elevation level during a flood with a qualifying event	
	\$ estimated flood loss avoidance	
	\$ Funds allocated for water management/flood mitigation improvements	
	\$ Funds allocated for water-quality improvements	
	% increase in acres of cropland protected from flooding	
	% increase in groundwater infiltration	
	% increase in number of acres converted to open space	
	% increase in pumping capacity	
	# linear feet of streams restored	
	# occupied structures in floodplain	
	# of acres green infrastructure created	
	# of acres green space created	
	# of acres green space preserved	
	# of acres no longer vulnerable to flood events	
	# of acres of native vegetation planted	
	# of acres with improved multiple hazard risk mapping	

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
	# of brownfield acres converted to wetland	
	# of buildings (non-residential)	
	# of containment systems constructed	
	# of Elevated Structures	
	# of fewer outages of critical facilities and utilities	
	# of green infrastructure projects constructed	
	# of greenspace users	
	# of Linear feet of Public Improvement	
	# of Linear Feet of Sewer Lines	
MIT - Public Facilities and Improvements-Non Covered Projects (cont'd)	# of linear feet of trails constructed	
	# of Linear Feet of Water Lines	
	# of Linear miles of Public Improvement	
	# of Non-business Organizations benefitting	
	# of non-invasive species trees planted on project sites	
	# of properties protected from future flooding	
	# of properties with access above 100-yr flood level	
	# of public facilities # of pump stations repaired/replaced	

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
	# of reduced hours streets are flooded	
	# of residents protected from future flooding	
	# of Section 3 Labor Hours	5,600
	# of small water retention devices/systems installed	
	# of storm water projects implemented	
	# of Targeted Section 3 Labor Hours	280
	# of Total Labor Hours	22,400
	# of vacant lots repurposed	
	# of water control structures repaired/replaced	
	% reduction in emergency maintenance costs	
	% reduction in energy costs	
	% reduction in loss of service	
	% reduction of sanitary sewer overflows	
	% reduction of watershed nitrate loading	
	% reduction of water surface elevation level	
	# of structures harden against future flood events	
	# of Persons	

EXHIBIT F

APPLICATION

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the Critical Infrastructure Program NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below as a reference point to establish the original, approved conditions under which the original project was considered. The County will review this Exhibit when considering changes to the Agreement or other project details as outlined within the System of Record. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record and/or under a formal amendment in accordance with the Agreement.

Application

Please see the following documentation below: The full, approved project application, submitted by the Subrecipient, for which this Agreement was completed. Supporting documentation submitted by the Subrecipient as part of the application process is incorporated by reference and is maintained within the System of Record. In the event of conflicts or inconsistencies, the documents shall be given precedence in the following order:

- 1. Subrecipient Agreement*
- 2. Critical Infrastructure Program NOFA.*
- 3. Critical Infrastructure Program Guidelines*
- 4. Notice to Proceed*
- 5. Subrecipient's application in response to the Notice of Funding Availability*



Lee County
Southwest Florida

Critical Infrastructure Program

Organization Information

- ▶ Organization Name: Town of Fort Myers Beach
- ▶ Address: 2731 Oak Street Fort Myers Beach, FL 33931
- ▶ Telephone: (239) 765-0202
- ▶ Federal Employer ID #: 65-0632342
- ▶ Organization Website: <https://fortmyersbeachfl.gov/>
- ▶ Unique Entity Identifier: J87EFSEEQ884

Authorized Organization Representative

- ▶ Name: Andrew Hyatt
- ▶ Title: Town Manager

Contact Person

- ▶ Name: Jason Freeman
- ▶ Title: Legislative Liaison / Deputy Clerk
- ▶ Email: jasonf@fmbgov.com
- ▶ Telephone: (239) 266-4673

Partner Organization

- ▶ Will your organization be partnering with any other organizations? No

Project Information

► Name: North Island Water Tower Complex Rehabilitation

Project Type

- | | |
|---|--|
| ☐ Water/Sewer Line Install | ☐ Water Treatment Plant |
| ☐ Lift Stations | ☐ Drainage Improvements |
| ☐ Pump Stations | ☐ Electrical/Utilities Burial/Replacement |
| ☐ Wastewater Treatment Plant | |
| ☐ Backup Generator: Must be a permanent fix to the structure. No portable generators | |

► Other: Replacement of Potable Water Tank and Related Facilities

Target Service Location

- | | |
|--|--|
| ☐ City of Cape Coral | ☐ Town of Fort Myers Beach |
| ☒ City of Fort Myers | ☐ Village of Estero |
| ☐ City of Bonita Springs | ☐ Unincorporated Lee County |
| ☐ City of Sanibel | ☐ All of Lee County |

National Objective

► National Objective: Urgent Need

Provide a description how the proposed project will meet the selected National Objective

As a direct result of Hurricane Ian, the designated activity area meets the definition of a blighted area under 163.340, F.S. The project area includes a substantial number of deteriorated or deteriorating structures leading to economic distress, including both unsafe conditions and deterioration of the project site and improvements.

Additionally, as a direct result of the impacts of Hurricane Ian, public improvements throughout the area are in a general state of deterioration and more than 25% of properties throughout the area exhibit physical deterioration of buildings/improvements due to damage from Hurricane Ian.

National Objective Descriptions

National Objective	Description
L/M Income Area Benefit	Census block groups that align with the service area maps
L/M Income Limited Clientele	The infrastructure improvements benefit a specific persons who are presumed by HUD to be principally LMI (abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS or migrant farm workers)
L/M Income Job Creation or Retention	The project proposes activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons. Must include income certifications or describe method on how LMI job creation will be documented
Urgent Need	Does the narrative description on the application under Urgent Need provide specific examples of needs that have urgency, including how the existing conditions pose a serious and immediate threat to the health and welfare of the community?
Slums and Blight	Does the designated activity area meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law? Additionally, the area must meet one of the two conditions: • Public improvements throughout the area are in a general state of deterioration; or • At least 25 percent of the properties throughout the area exhibit one or more of the following: • Physical deterioration of buildings/improvements; • Abandonment of properties; • Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings; • Significant declines in property values or abnormally low property values relative to other areas in the community; or • Known or suspected environmental contamination

The scope of the project

The Town of Fort Myers Beach seeks Community Development Block Grant Disaster Recovery (CDBG-DR) funding through the Lee County Critical Infrastructure Program to support the critically necessary replacement and repair of the North Island Water Tower Complex. The Town of Fort Myers Beach, along with other coastal communities, absorbed the brunt of Hurricane Ian's impacts in Lee County. Recovery efforts since Ian's landfall have highlighted the need for a consistent supply of potable water, consistent with the FEMA Water Systems lifeline category.

The North Island Water Tower Complex is one of two potable water facilities on the island; together, the two facilities were responsible for holding and distributing potable water to all residents and businesses in the Town of Fort Myers Beach. Hurricane Ian heavily impacted the North Island Water Tower Complex, damaging the lower level of the pump building and all above-ground valves and pumps. The storage area and grounds were scoured by 15-feet of storm surge. Post-Ian inspection deemed the tank itself unusable; as such, the Town of Fort Myers Beach has operated with a single water tank since Hurricane Ian. With only a single operational water tank, the Town is in a critical situation because it is more susceptible to potential impacts of future emergency events that could decommission the only remaining source of potable water on the island.

The scope of this critical infrastructure project includes (1) removal of the existing, unusable tank, (2) replacement of the current tank with a new concrete poly-lined tank for water storage, (3) construction of the control building and ancillary structures which house necessary equipment, valves, pumps, and piping, (4) elevation of pumps and valves, (4) replacement of storage areas necessary for maintenance equipment, (5) major security upgrades, such as fencing and around-the-clock monitoring systems, and (6) other improvements that, through pre-construction due diligence, are determined to be necessary to ensuring and monitoring a secure potable water supply for the Town of Fort Myers Beach. The project will be constructed in accordance with all current building codes and the control building will be hardened. All improvements will be built in compliance with current FEMA flood elevations, such that components of the facility and structures themselves are elevated above base flood elevation. The scope of work also includes all design, permitting, and construction-phase oversight services that may be necessary to ensure that the project is implemented successfully. Procurement activities will be conducted in accordance with 2 CFR 200.320 and with applicable Florida Statutes.

Given the unprecedented impacts of Hurricane Ian upon the Town of Fort Myers Beach, access to a critical resource such as potable water is paramount to the community. With CDBG-DR funding to support this project, the Town can provide residents with a resilient drinking water supply and system and reliable access to potable water for daily activities, such as drinking, cooking, and cleaning. Completion of this project will enable the town to maintain dependable access to clean drinking water for all residents on the island by building a resilient facility that is more likely to withstand future natural and climate-related hazards than pre-Ian potable water infrastructure.

The projected outcome(s) of the project

The project proposed by the Town of Fort Myers Beach, with the support of CDBG-DR funding, will fully restore and secure a critical FEMA lifeline - potable water supply - for the Town of Fort Myers Beach. The completed project will increase the resiliency of the Town's potable water infrastructure by installing a system designed to withstand future natural and climate-related hazardous events.

By constructing resilient and secure potable water infrastructure, this project will create confidence in local residents and businesses that a dependable supply of water will be available for daily activities such as drinking, cleaning, and cooking. Reliable infrastructure is foundational for continued residential and commercial recovery, development, and growth in areas that were completely devastated by Hurricane Ian.

The unmet or mitigation need that is being addressed by the project and how it aligns with community goals

The Town of Fort Myers Beach was devastated by the unprecedented impacts of Hurricane Ian, and the Town still has many unmet needs today. Prior to Hurricane Ian, two water tanks supplied potable water to the entire island. Since Ian destroyed the North Water Tower Complex, the Town has relied on a single water tank for potable water, leaving residents and businesses exposed to the risk of potable water loss, should the single remaining tank become damaged, contaminated, or otherwise inoperable. Reconstruction of the North Water Tower complex with increased resiliency measures will ensure that a critical FEMA lifeline – potable water – is preserved for all residents and businesses in the Town of Fort Myers Beach.

Creating a resilient and sustainable network of critical infrastructure is a primary community goal for the Town of Fort Myers Beach, and replacement of the North Island Water Tower and repair / reconstruction of the surrounding complex is foundational for the Town's recovery. The urgency and importance of this project cannot be overstated. Through this project, CDBG-DR funds will be used to address the critical unmet need for a reliable, resilient, and sustainable supply of potable water for all residents and businesses in the Town of Fort Myers Beach. This is a critical infrastructure project that will provide both immediate and long-term impacts for a community that was devastated by Hurricane Ian.

Description of your agency's experience completing projects of a similar size and scope, including federal, state, and/or local government grant experience and capacity of the organization to administer the project and oversee all compliance requirements.

The Town of Fort Myers Beach employs staff with experience in completing projects of a similar size and scope, and has secured the services of Tidal Basin Group, which has extensive experience in implementation and oversight of projects utilizing federal, state, and/or local governmental grant funds. The combination of Town staff oversight and contractual support ensures adequate experience and capacity for effective administration and oversight of all compliance requirements. Additional information regarding Town staff and contractual support is provided below:

Andrew Hyatt: Mr. Hyatt has more than 26 years of management and leadership experience in both the private and public sectors, with 18 of those years in municipal government and 13 years as a Town or City manager. Andy has an Associate's degree in general business from Cleveland State Community College in Cleveland, Tenn. From the University of Tennessee at Chattanooga, he has a Bachelor's degree in political science and a Master's degree in public administration. Mr. Hyatt will perform general oversight of project implementation and completion.

Frank Kropacek: Mr. Kropacek has more than 30 years of experience in local, county and state government administration ranging from contracts, contract negotiation, procurement, and project management to organizational administration. He attended the University of Wisconsin Whitewater studying Geology and Geophysics. Mr. Kropacek will be the Town's primary day-to-day contact for all project activities and will directly oversee and coordinate planning implementation.

Joe Onzick: Mr. Onzick served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and Bachelor's of Science degree in mathematics from Wheaton College. As the Town's Financial Director, Mr. Onzick will oversee fund accounting and financial compliance for the planning project.

To supplement Town staff's expertise and capacity, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed. Tidal Basin serves as the grant manager for Hendry County, FL overseeing the County's three Hurricane Irma CDBG-DR funded grants totaling over \$5.5M. Tidal Basin also serves in the same capacity for the Orange County Drainage District in Orange County, TX and for various municipal subrecipients in Puerto Rico. The team will coordinate with Lee County and the Town of Fort Myers Beach to ensure HUD compliance, proper reporting, and adherence to the proposed schedule to the project. Tidal Basin will ensure procurements adhere to 2 CFR 200, Davis Bacon Labor Compliance is adhered to, Section 3 reporting is completed, and all costs can be tied to the eligible activity and national objective tied to the project.

Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras & Associates, LLC collectively have more than 70 years of combined experience working in high-level

state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG Disaster Recovery (CDBG-DR) funding, with team members having performed compliance and oversight of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf Coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the southeast with comprehensive project implementation and compliance services from project inception to grant closeout, including grant writing and submission, implementing policies and procedures, overseeing financial controls, preparing monthly, quarterly, semi-annual, and annual reporting, recordkeeping, monitoring, overseeing and supporting procurement compliance, preparing reimbursement requests, preparing amendments to grant agreements and budget modifications, and preparing project closeout documentation. Gouras & Associates also works to educate contractors and clients on compliance with the applicable state and federal regulations and laws, including the applicable procurement guidelines, MBE/WBE solicitation and outreach, labor standards compliance requirements, and HUD Section 3 compliance requirements.

The applicant's plan of executing the Subgrantee Agreement

Not Applicable. This project will be directly implemented by the Town of Fort Myers Beach and will not involve a subgrantee.

The applicant's plan for Oversight and Monitoring of Subgrantee

Not Applicable. This project will be directly implemented by the Town of Fort Myers Beach and will not involve a subgrantee.

Please provide a project administration team highlighting roles and responsibilities of each individual participating in program participation and management.

The project administration team will be led by Mr. Andrew Hyatt, with programmatic activities overseen by Mr. Frank Kropacek and financial activities overseen by Mr. Joe Onzick. Additional information regarding each team member is included below:

Andrew Hyatt: Mr. Hyatt has more than 26 years of management and leadership experience in both the private and public sectors, with 18 of those years in municipal government and 13 years as a Town or City manager. Andy has an Associate's degree in general business from Cleveland State Community College in Cleveland, Tenn. From the University of Tennessee at Chattanooga, he has a Bachelor's degree in political science and a Master's degree in public administration. Mr. Hyatt will perform general oversight of project implementation and completion.

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The partner's experience undertaking projects of similar complexity and providing public services

N/A

The partner's plan for Maintenance and Operations

N/A

Please provide a project administration team highlighting roles and responsibilities of each individual participating in program participation and management

N/A

Describe how the proposed project integrates mitigation measures and strategies to reduce natural hazard risks, including climate-related risks. Mitigation measures include but are not limited to, reducing risks to people and property; public service interruption for members who are most vulnerable to natural and climate-related risks; and/or community lifelines

The Town of Fort Myers Beach is acutely aware of the heightened vulnerability its community faces in light of natural and climate-related hazards. In response, our proposed project for rebuilding and updating the Town's North Island Water Tower Complex places a premium on integrating advanced mitigation measures and resilience-building strategies designed to reduce risks to both people and property, ensure the continuity of essential public services during disasters, and safeguard community lifelines critical for recovery and daily life.

The Town's methodology involves a multi-faceted approach to identifying and addressing natural hazard risks. Initially, the Town's consultants will conduct a thorough review using the ERR checklists provided by HUD to catalog all of the relevant environmental factors including land-use and floodplain management to identify any issues for mitigation. This review will inform the development of mitigation efforts and best management practices required of the hired contractor when constructing the project. The goal is to not only comply with, but exceed current standards for resilience, incorporating the latest science and best practices in disaster risk reduction. Moreover, the Town will instruct the project engineer to incorporate resilient infrastructure designs to the greatest extent practicable, including elevation of project components above base flood elevation, utilization of reinforced construction materials, and the integration of green infrastructure to manage stormwater and reduce flood risk. These measures are aimed at minimizing damage during disasters, ensuring rapid recovery in the aftermath of future disasters, and reducing long-term costs of rebuilding and insurance.

Ultimately, the Town's project will be designed and completed to enhance the long-term resilience of Fort Myers Beach by embedding sustainability and resilience into the community lifeline – potable water. Through the use of mitigation strategies and best management practices throughout project construction, coupled with a commitment to ongoing evaluation and adaptation of those strategies, the Town will further its goal of providing reliable and resilient potable water infrastructure that can more effectively withstand future disasters and climate-related hazards. This forward-thinking approach ensures that the community's recovery and development are built on a foundation of resilience, protecting its people, the economy, and the Town's unique way of life for generations to come.

Identify the risks or hazards being reduced and the impacts that those hazards have on people and property

This project will address critical risks and hazards, primarily those related to natural disasters and climate change, to ensure the resilience and reliability of Fort Myers Beach's water supply system. Risks or hazards that will be mitigated by completion of this project include those further described below. By addressing these risks, the project not only restores essential infrastructure but also enhances the resilience of Fort Myers Beach to future natural hazards and climate-related risks. The improved North Island

Water Tower Complex will provide a reliable and secure potable water supply, protecting the health, safety, and well-being of residents and supporting the community's long-term recovery and resilience. (1) Hurricane and Tropical Storm Damage: Hurricanes and tropical storms, like Hurricane Ian, can cause extensive damage to infrastructure, including water storage tanks, control buildings, and associated equipment.

Impacts of Hurricane and Tropical Storm Damage on People and Property: Damage to any water tower complex can lead to a loss of potable water supply, creating a public health crisis. Lack of access to clean water can result in waterborne diseases, impacting the health and well-being of residents. Property damage can include water contamination and structural damage to homes and businesses reliant on the water supply. Since Ian destroyed the North Water Tower, the Town has relied on a single water tank for potable water, leaving residents and businesses exposed to the risk of potable water loss, should the single remaining tank become damaged, contaminated, or otherwise inoperable.

Mitigation through this Project: The new concrete poly-lined tank will be designed to withstand severe weather conditions, reducing the likelihood of damage during future hurricanes and tropical storms. This resilience will help to ensure a continuous supply of potable water, protecting public health and property.

(2) Flooding and Storm Surge: Flooding and storm surges, often accompanying hurricanes and heavy rain events, pose a significant threat to low-lying areas, including critical infrastructure like water systems.

Impacts of Flooding and Storm Surge on People and Property: Flooding can inundate and damage pumps, valves, and control systems, rendering the water supply inoperable. Elevated pumps and valves mitigate this risk, ensuring continuous operation and reducing the likelihood of water supply disruption. The impact on property includes damage structures and other facilities located in the North Island Water Tower Complex, further compounding the risk of an inoperable water supply system.

Mitigation through Project: Elevating pumps, valves, equipment, and other structures above the base flood elevation will protect them from flood damage, increasing the likelihood that the water system will remain operational during and after storm surges and heavy rainfall events. Elevation of critical components will help to maintain water service continuity and minimizes property damage.

(3) Sea Level Rise: Long-term sea level rise, a result of climate change, increases the risk of chronic flooding and exacerbates storm surge impacts.

Impacts of Sea Level Rise on People and Property: Persistent flooding can lead to regular interruptions in water service, damage to infrastructure, and increased maintenance costs. The elevation of critical components and robust construction of new facilities reduce these risks, safeguarding water quality and availability for residents and businesses.

Mitigation through Project: By constructing elevated and durable infrastructure, the project addresses the challenges posed by sea level rise, ensuring that the water system remains functional and reliable despite changing environmental conditions. (4) Environmental Contamination: Damage to water infrastructure can lead to contamination from debris, chemicals, and pathogens entering the water supply.

Impacts of Environmental Contamination on People and Property: Contaminated water poses severe health risks, including gastrointestinal illnesses and other diseases. The secure and modern design of the new tank, along with enhanced security measures, will

help to prevent contamination, ensuring a safe water supply for the community.

Mitigation through Project: The construction of a modern, secure water storage tank and ancillary structures with robust safety features will prevent environmental contamination, ensuring the water supply remains clean and safe for consumption.

(5) Vandalism and Security Threats: Infrastructure can be vulnerable to vandalism, theft, and other security threats, which can compromise the water supply.

Impact of Vandalism and Security Threats on People and Property: Security breaches can disrupt water services, leading to outages and potential contamination. Enhanced security measures, such as fencing and monitoring systems, mitigate these risks, ensuring uninterrupted and safe water supply.

Mitigation through Project: The project includes significant security upgrades, such as fencing and around-the-clock monitoring systems, which will protect the water infrastructure from vandalism and other security threats, ensuring the reliability and safety of the water supply.

By addressing these risks, the project not only restores essential infrastructure but also enhances the resilience of Fort Myers Beach to future natural hazards and climate-related risks. The improved water tower complex will provide a reliable and secure potable water supply, protecting the health, safety, and well-being of residents and supporting the community's long-term recovery and resilience.

Describe the value of the proposed project to the community. Describe the anticipated short-term impacts during normal circumstances, as well as how the project will enhance resilience in the long term and during extreme events. Description should include qualitative or quantitative data

Replacement of the water tower complex in the Town of Fort Myers Beach will yield significant long-term benefits and positive short-term impacts. In the immediate term, the project will enhance the reliability of the water supply, ensuring that residents and businesses have consistent access to potable water. This reliable water supply is crucial for maintaining public health, supporting local businesses, and sustaining the daily life of the community.

In normal circumstances, rebuilding the water tower complex will, upon completion, immediately restore the Town's potable water system to full functionality, as it has been operating at reduced capacity with only one storage tank since Hurricane Ian. The new infrastructure will improve the overall efficiency of water storage and distribution, reducing the need for frequent maintenance and operational costs. Modern and efficient systems will promote sustainable water management practices, which are essential for addressing challenges such as climate change, population growth, and increased water demand. The enhanced security measures, including fencing and monitoring systems, will protect the water supply from contamination and other threats, further ensuring the health and safety of the community.

In the long term, the benefits of the project extend to increased resilience against natural disasters and climate-related risks. The new water tower complex will be designed to more effectively withstand severe weather conditions, such as hurricanes, floods, and

storm surges, thereby minimizing the risk of water supply disruptions during and after extreme weather events. Elevated pumps and reinforced structures will help Fort Myers Beach maintain a functional and reliable water system, even in the face of future natural disasters. This resilience will significantly contribute to the town's overall disaster preparedness and recovery capabilities.

Furthermore, the project will support the economic stability and growth of Fort Myers Beach. A reliable water infrastructure is critical for the thriving tourism industry and other local businesses. The new water tower complex will help maintain property values and attract new businesses, fostering economic development and prosperity.

By investing in resilient and durable infrastructure, the town will achieve significant long-term cost savings. The reduced risk of damage from natural disasters, combined with lower maintenance requirements and increased efficiency, will lower expenses over time, allowing funds to be allocated to other essential services and projects. This investment will also enhance community confidence in local governance, fostering a sense of security and stability among residents. In conclusion, the replacement of the water tower complex in the Town will provide both immediate and long-term benefits, enhancing the town's resilience, economic prosperity, and environmental sustainability. The project will ensure a reliable and secure potable water supply, protecting the health, safety, and well-being of the community while preparing it for future challenges and extreme events.

Timelines of critical tasks to be accomplished for each proposed activity, including a description of the steps you will take to complete the funded activities and describe any dependencies or actions that need to happen before you can start on the activities

1. Execution of a Subrecipient Agreement: Award + 1 month.

The Town, upon receiving notification of award, will submit required policies and other documentation to Lee County for review and comment. After thorough review, the Subrecipient Agreement will be presented to the Town Council for approval. Once executed the Subrecipient Agreement will be submitted to Lee County for final execution.

Final Deliverable: An executed Subrecipient Agreement for the North Island Water Tower Complex Rehabilitation project.

Prerequisite Dependencies or Actions: Receipt of a Subrecipient Agreement from Lee County.

2. Completion of Engineering Procurement: Award + 4 months.

The Town of Fort Myers Beach will solicit Statements of Qualifications from Florida Certified Engineering firms to complete the design and permitting activities necessary for project completion. Procurement activities will be conducted in accordance with 2 CFR 200 Procurement Standards (2 CFR 200.317-327) and Florida Statute 287.055. In compliance with these requirements, the Town will ensure that professional services are competitively solicited and a price for the contract is negotiated prior to contract execution. This process will be documented, along with the Town's determination for use of an RFQ, rather than Invitation to Bid (ITB) or a Request for Proposals (RFP).

Final Deliverable: An executed contract for professional engineering services.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement, Lee County review of procurement documentation, Lee County authorization to execute a contract for Engineering Services.

3. Completion of Project Design and Permitting: Award + 16 Months.

The Florida Certified Engineer selected for this project will complete all project design and permitting activities. Throughout project design, the project engineer will work closely with Town Staff responsible for project oversight. The project engineer will provide comprehensive services for the replacement of the water tower complex in the Town of Fort Myers Beach. These services include conducting developing conceptual and detailed designs for the new infrastructure, with a particular focus on resiliency against natural disasters and climate-related hazards. The engineer will ensure regulatory compliance and assist with permitting, while managing the project from inception to completion, including construction supervision and coordination with contractors. The engineer will provide additional services, as needed, such as surveys, geotechnical assessments, wetlands delineations, etc. The engineer will also work closely with the Town and Tidal Basin to ensure that final contract documents address the federal provisions required by Appendix II to 2 CFR Part 200, mitigation activities required by the final ERR, and applicable terms and conditions of the CDBG-DR Subrecipient Agreement, such as Section 3, Davis-Bacon, utilization of MBE/WBE contractors and subcontractors, registration with SAM.gov, confirmation of debarment and suspension

status for all contractors and subcontractors, etc.

Final Deliverable: Permit documents for project construction; plans, specifications, and contract documents for solicitation of construction bids.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; Execution of a contract for engineering services.

4. Completion of the Environmental Review Record (ERR): Award + 16 Months.

Concurrently with project design and permitting efforts, the Town will work with Tidal Basin and Gouras & Associates to compile the HUD-required environmental review record. Activities for compilation of the ERR may include, but are not limited to: compilation of project information for distribution to interested federal, state, local, and tribal stakeholders; coordination of stakeholder feedback related to project information; compilation of an 8-Step Process (if required); completion of HUD-issued environmental worksheets to assess possible areas of impact; analysis of publicly available environmental resources such as EPA's NEPAAssist Tool, USFWS's iPac Tool, the National Wetlands Inventory, and others, to assess potential environmental impacts; publication of required public notices for floodplain and/or wetlands impacts (when applicable), Findings of No Significant Impact (FONSIs), and Notices of Intent to Request Release of Funds (RROFs). Should interested stakeholders request or require additional studies or reports of a technical nature (e.g., wetlands delineations, ESA's, Cultural Resources Surveys, etc.), the Town will task the project engineer with completion of said studies or reports and will coordinate ensure that interested stakeholders are able to review requested documentation.

Upon certification of the ERR, the Town will publish required public notices, consider comments received, and submit the final ERR package, including HUD Form 7015.15, to Lee County for review and issuance of Authority to Use Grant Funds (AUGF). The Town will ensure that no choice-limiting actions are taken prior to issuance of AUGF.

Final Deliverable: A certified Environmental Review Record and receipt of AUGF from Lee County

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; execution of a project-specific Task Order with Tidal Basin, which will include compilation of the ERR.

5. Completion of Construction Procurement: Award + 19 Months.

The Town of Fort Myers Beach will competitively solicit bids for renovation and rehabilitation of the North Water Tower Complex, in accordance with 2 CFR 200.320(b)(1) and applicable Florida Statutes. The engineer will compile an Opinion of Probable Construction Costs prior to acceptance of bids. After bids are accepted, the engineer will review all bids received to ensure that bid prices are reasonable and that the low bidder is qualified to complete the scope of work. The Town will take the affirmative steps listed at 2 CFR 200.321(b) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. The project engineer will coordinate all pre-bid and pre-construction conferences, in conjunction with the Town and Tidal Basin, during which critical federal compliance requirements will be reviewed in detail (e.g., Davis-Bacon Act Requirements, Section 3 Requirements, MBE/WBE outreach requirements, prohibition on participation of debarred or suspended entities, etc.).

Final Deliverable: An executed construction contract for North Water Tower Complex Rehabilitation activities.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; Execution of a contract for engineering services; Completion of plans, specifications, and contract documents necessary for solicitation of bids; Completion of the ERR and issuance of AUGF.

6. Completion of Construction Activities: Award + 33 months.

The construction contractor procured by the Town of Fort Myers Beach will construct the North Water Tower Complex Rehabilitation project in accordance with the plans, specifications, and contract documents issued by the project engineer and the Town of Fort Myers Beach. The project engineer will closely oversee construction activities to ensure quality of work, and the Town, with support from Tidal Basin, will oversee and document compliance with applicable labor standards and Section 3 requirements. Throughout this phase, the general contractor will submit weekly Certified Payroll Reports to ensure that workers are paid in accordance applicable wage rates. The general contractor will also submit documentation of Section 3 compliance on a weekly, monthly and quarterly basis to ensure adherence to quantitative benchmarks and qualitative efforts.

Final Deliverable: Completion of North Island Water Tower Complex Rehabilitation construction activities; Delivery of as-builts for the project.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; Execution of a contract for engineering services; Completion of plans, specifications, and contract documents necessary for solicitation of bids; Completion of the ERR and issuance of AUGF; Execution of a contract for construction activities.

7. Project Closeout: Award + 36 Months.

Upon completion of construction activities, the Town and Tidal Basin will work with Lee County to submit all documentation required for closeout of the Subrecipient Agreement.

Final Deliverable: Lee County acceptance of final closeout documentation.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; Execution of a contract for engineering services; Completion of plans, specifications, and contract documents necessary for solicitation of bids; Completion of the ERR and issuance of AUGF; Execution of a contract for construction activities; Completion of Construction Activities.

Define project milestones (i.e. Design, Construction, Progress Meetings, Certification of Completion, Closeout, or any other milestones as applicable)

Project milestones include:

1. Execution of a Subrecipient Agreement.
2. Completion of Engineering Procurement.
3. Completion of the Environmental Review Record (ERR).
4. Completion of Project Design and Permitting.

5. Completion of Construction Procurement.
6. Completion of Construction Activities.
7. Completion of Project Closeout.

Monthly spending plans and proposed draw down schedules

The Town of Fort Myers Beach anticipates the following monthly spending plan and proposed draw down schedule for project activities throughout the 36-month period of performance for completion of the North Water Tower Complex Rehabilitation project. Estimated project spending and drawdowns total \$5,000,000.00.

Month 1 – Month 4: \$6,944.44 per Month (Through completion of engineering procurement).

Month 5 – Month 16: \$41,736.11 per Month (Through completion of design, permitting, and completion of the environmental review record).

Month 17 – Month 19: \$14,444.44 per Month (Through construction procurement).

Month 20 – Month 33: \$314,801.59 per Month (Through construction completion).

Month 34 – Month 36: \$6,944.44 per Month (Through completion of project closeout).

Proposed reporting for outcomes achieved

The Town will hold regularly scheduled status meetings with the consultant team as well as the hired engineer and construction contractor to monitor progress, address unforeseen circumstances and challenges, and develop strategies to mitigate timeline and budgetary risks related to such challenges.

The Town will submit all reports required by Section VI: Reports of any Subrecipient Agreement executed between the Lee County Board of County Commissioners and the Town of Fort Myers Beach, in the manner and frequency established therein. Required reporting may include, but is not limited to, activity performance reports, payment request forms, program information forms, budget analysis, closeout reports, and periodic certifications by the Town, to be specified in Section VI: Reports.

The Town of Fort Myers Beach's commitment to ensuring the success and accountability of the North Island Water Tower Complex Rehabilitation project is demonstrated through its structured approach to project management and oversight. This approach is designed to keep the project timeline on track, adaptable, and transparent to all stakeholders involved. Regularly scheduled status meetings with the Town, the Town's consultant team, and the project engineer are a critical component of the Town's approach to project activities. These meetings serve multiple purposes, including providing a forum for continuous progress monitoring and enabling the Town and the teams to stay aligned on project goals, timelines, and deliverables. They also offer an opportunity to promptly identify and address any unforeseen challenges or obstacles that may arise, ensuring

that such issues are managed proactively to mitigate potential impacts on the project's timeline and budget. This dynamic and responsive communication strategy is essential for maintaining momentum and ensuring that the project outcomes remain aligned with the community's needs and expectations.

Moreover, the Town's adherence to the reporting requirements outlined in Section VI: Reports of the Subrecipient Agreement with the Lee County Board of County Commissioners further underscores its dedication to transparency and accountability. These requirements ensure that all activities, from budget management to performance metrics, are documented and reported in a consistent and comprehensive manner. The variety of reports required—including activity performance reports, payment request forms, and closeout reports—provides a structured framework for tracking the project's financial and operational progress. This not only facilitates effective project management, but also ensures compliance with the funding requirements, reinforcing the Town's commitment to stewardship of public funds.

Detailed reporting and regular consultations with the consultants and engineering teams are designed to preemptively identify risks to the project's timeline and budget, allowing for the development of strategic responses to such risks. This could include reallocating resources, adjusting timelines, or modifying project scopes to accommodate changing circumstances, ensuring that the project continues to move forward efficiently.

In summary, the Town's approach to monitoring progress, coupled with its rigorous reporting protocol, is a testament to its commitment to delivering a completed project on schedule that will benefit the Town for the future. By implementing these strategies, the Town of Fort Myers Beach not only safeguards the project against potential risks but also ensures that the project is conducted with the highest levels of efficiency, transparency, and accountability.

Describe the process carried out to determine cost estimations prior to applying

The process adopted by the Town of Fort Myers Beach to ascertain cost estimations for its North Island Water Tower Complex Rehabilitation project prior to applying for funding was both strategic and methodical, ensuring a realistic and informed budgetary foundation for the application. This proactive approach involved a series of steps aimed at accurately capturing the financial requirements of the proposed planning activities, reflecting the Town's commitment to fiscal responsibility and project feasibility.

The Town consulted with two other municipalities that have completed projects of similar size and scope to determine a reasonable budget for construction activities. These consultations were instrumental in gathering valuable insights into the current market rates for construction costs for potable water projects. By soliciting estimates from multiple municipalities, the Town was able to establish a benchmark for anticipated construction costs, ensuring that the budget reflected the true scope and complexity of the work required. At this time, the Town has determined that \$2.1 million budget is appropriate for removal and replacement of the water tower, with an additional \$2.0 million budgeted for all other construction activities necessary to complete the water tower complex.

The Town utilized industry standard percentages to estimate the budget needed for ADC's, engineering design and permitting, additional engineering services, and construction-phase engineering and inspection. The Town acknowledges that the cost-plus-percentage of construction cost method of contracting is strictly prohibited by 2 CFR 200 and affirms that any contract executed will strictly utilize allowable contracting methods appropriate to the specific activities to be performed. The industry standard percentages indicated below have been utilized in this case for budgeting purposes only. The Town has budgeted activity delivery costs at 5% of the total award request based on the Lee County NOFA for CDBG-DR Critical Infrastructure Program limitation of ADCs. This rate is consistent with industry standard budgeting for ADCs, providing a realistic estimate for the costs project specific ADCs. Activities may include project specific management and oversight services and project specific compliance with the terms and conditions of the related award. ADC's may also include activities such as participation in meetings, strategy sessions, etc.; coordination with the selected project engineer to ensure compliance with the project-specific scope, schedule, and budget as approved in the grant agreement; compilation of required project-specific progress reporting; compilation of project-specific reimbursement requests and financial reporting; coordination and oversight support for procurement of engineering services and documentation of federal procurement compliance for same; coordination and oversight support for procurement of a construction contractor and documentation of federal procurement compliance for same; documentation of environmental compliance for project-specific activities; and documentation of project-specific labor standards compliance, including Davis Bacon and Section 3 Requirements; and other project-specific services as requested by the Town. ADC services will be provided by Tidal Basin and all ADC activities will pertain to implementation of the North Water Tower Complex Rehabilitation project. The Town has budgeted basic engineering and design services at approximately 11% of construction costs, consistent with FEMA Cost Curve A for a \$4.1 million construction budget (https://www.fema.gov/sites/default/files/2020-03/public-assistance-cost-estimating-tool-for-engineering-and-design-services_12-21-2015.pdf).

The Town has included a budget line item for permitting activities and other studies (e.g.,

geotechnical reports, boundary surveys, wetlands delineations, environmental site assessments, cultural resource surveys, asbestos surveys, etc.) that may be needed for project completion. Determination of permitting costs and costs for other studies is often unknown until engineering due diligence is underway; as such, the Town has incorporated a budget line item estimated at 2% of construction costs. Once an engineering firm is selected and necessary permits are determined, a more specific estimate for these costs can be established.

The Town has budgeted construction-phase engineering and inspection (CEI) costs at 3% of construction costs, consistent with FEMA's Cost Estimating Tool for Engineering and Design Services (https://www.fema.gov/sites/default/files/2020-03/public-assistance-cost-estimating-tool-for-engineering-and-design-services_12-21-2015.pdf).

Describe additional steps you will take, if approved, to manage costs, change orders, and ensure the project is completed on time and within budget

To manage costs associated with contractual services, the Town of Fort Myers Beach plans to enter into firm fixed price, lump sum agreements for completion of construction activities, engineering design and permitting, and ADCs. Should the firm fixed price, lump sum method of contracting not be appropriate for any category of required services, the Town may use a time-and-materials type contract that includes a ceiling price; however this method of contracting will only be used after a determination that no other contract type is suitable, consistent with 2 CFR 200.318(j). Change orders will only be considered if the circumstances prompting a contractual change were reasonably unforeseeable or unknowable at the time of contract execution and additional services due to such conditions are necessary for successful completion of the contractual scope of work. Furthermore, change orders will only be considered if funding for such a change order is available and proposed change order costs are determined to be reasonable and necessary.

The Town will hold regularly scheduled status meetings with the consultant teams, the project engineer, and the construction contractor to monitor progress, address unforeseen circumstances and challenges, and develop strategies to mitigate timeline and budgetary risks related to such challenges.

Describe the cost and plan for funding for operations and maintenance.

Upon completion of the water tower complex, the Town of Fort Myers Beach will implement a detailed operations and maintenance (O&M;) plan to ensure its long-term functionality and reliability. The estimated annual cost for O&M; includes routine inspections, preventive maintenance, repairs, and system upgrades to address wear and tear. These tasks will be performed by trained Town staff, ensuring familiarity with the system and prompt attention to any issues. The costs will be covered through a combination of water utility revenues, municipal budget allocations, and potential grants or subsidies (when available) aimed at supporting infrastructure resilience. This proactive approach to funding O&M; will help safeguard the investment in the new infrastructure,

providing a continuous and reliable water supply for the community.

Describe how the project is innovative, based on national best practices, and designed in accordance with an existing evidence-based program

During proposal scoring, consideration will be given to the selection of an engineering firm with proven use of innovative concepts, national best practices, and existing evidence-based programs that may be applicable to potable water and drinking water projects in post-disaster, coastal communities. Incorporation of this as a selection metric in the RFQ will ensure that the selected engineering firm is both experienced in potable water-based projects that are forward-thinking and innovative and is also capable of providing actionable designs that can be of function and utility in both short- and long-term Town development.

The commitment to innovation and adherence to national best practices and evidence-based programs is a cornerstone of the Town of Fort Myers Beach's approach to the North Island Water Tower Complex Rehabilitation project, particularly in the context of post-disaster and coastal community resilience. This commitment will be operationalized through the selection process for an engineering firm, ensuring that the chosen firm brings knowledge, experience, and creativity to the project.

The selected engineer will be instructed to design a project that, to the extent feasible, will employ state-of-the-art materials and technology designed to maximize efficiency and minimize environmental impact. The concrete poly-lined tank is specifically chosen for its superior performance in harsh environmental conditions. Advanced pumping and valve systems will be incorporated, designed to be energy-efficient and easy to maintain. Security measures will include high-definition surveillance cameras and secure access controls to ensure comprehensive monitoring and safety of the facility. Other possible best practices may include utilization of LED lighting, low-impact construction practices, and the incorporation of green spaces around the facility to promote biodiversity and aid in natural water filtration.

A description of how you will coordinate with other planning, community development, and/or recovery or resilience projects and initiatives that are underway

The Town of Fort Myers Beach will coordinate the water tower complex replacement project with existing planning, community development, and resilience initiatives to maximize efficiency and ensure comprehensive community benefits. Collaboration with ongoing infrastructure and resilience projects, such as flood mitigation efforts, stormwater management upgrades, and coastal protection initiatives, will be a priority. By aligning the water tower project with these initiatives, the Town can leverage shared resources and expertise.

The Town will engage with local planning and development departments to integrate the water tower project into the broader community development strategy. This integration will ensure that the project supports and enhances other ongoing and planned improvements in the area, such as housing developments, transportation upgrades, and public space enhancements.

By coordinating with other projects and initiatives, the Town of Fort Myers Beach aims to create a cohesive and resilient community infrastructure that not only meets immediate needs but also prepares for future challenges. This collaborative approach will enhance the effectiveness and sustainability of the water tower complex and contribute to the overall resilience and development of the town.

Furthermore, the Town of Fort Myers Beach was awarded funding for Comprehensive and Long-Term Recovery Planning efforts through the Lee County Recovery and Resiliency Planning Program. As reliable availability of potable water is a critical FEMA lifeline, this project will be foundational to resiliency planning recommendations identified through that project.

Describe how you will coordinate with other partners carrying out related activities and/or projects

The Town of Fort Myers Beach will coordinate with various partners to enhance the impact and efficiency of the North Water Tower Complex Rehabilitation project. As needed, the Town may conduct meetings or workshops with neighboring municipalities, regional planning councils, and state and federal agencies to facilitate information sharing and alignment with other infrastructure initiatives. Interdepartmental coordination within the Town's government will ensure cohesive planning. Collaboration with utility providers and contractors will optimize service integration and reduce construction conflicts. The Town will also consider regional resilience initiatives and, as required, work with state and federal agencies to secure permits and technical support. This collaborative approach will ensure the project's success and contribute to the community's long-term resilience and development.

A description of the area of need that will be addressed

Prior to Hurricane Ian, the Town relied on two water towers to store and distribute potable water to its residents and businesses; however, hurricane and storm surge damage to the North Water Tower Complex rendered the North Tower completely unusable. Since that time, the Town has persisted with one operational water tower for the entire island. This reduction in water storage capacity has severely impacted the community. The single remaining water tower is insufficient to meet the demands of both residents and the large number of tourists who visit the area, particularly during peak seasons. This limited capacity compromises the town's ability to ensure a consistent and reliable supply of safe drinking water, which is essential for public health, sanitation, and firefighting capabilities.

The lack of adequate water infrastructure also threatens the local economy. Fort Myers Beach is a popular tourist destination, and the tourism and hospitality industries are crucial to the town's economic well-being. The unreliable water supply can deter tourists, disrupt business operations, and impede economic recovery efforts, prolonging the community's recovery from the hurricane.

Moreover, Fort Myers Beach is vulnerable to natural disasters, including hurricanes, storm surges, and flooding. The destruction of the North Water Tower Complex has highlighted the need for resilient infrastructure that can withstand such events. Replacing the destroyed water tower with a more robust and disaster-resistant system is essential for the town's long-term resilience and sustainability.

Addressing this critical need by restoring and enhancing the water storage capacity will significantly improve the health, safety, and economic stability of Fort Myers Beach. This project will ensure that the town can provide a reliable and secure potable water supply, supporting both current residents and future generations, and bolstering the community's overall resilience against future natural disasters and climate-related hazards.

A description of the intended impact the plan will have on the community and area of high need

Rehabilitation of the North Water Tower Complex in Fort Myers Beach is intended to have profound and far-reaching impacts on the community, addressing several critical areas of high need that have been exacerbated by Hurricane Ian.

Restoration of Reliable Water Supply: The primary impact of the project will be the restoration of a reliable and secure potable water supply for the entire island. With the new water tower in place, the Town will once again have sufficient capacity to meet the water needs of both residents and the influx of tourists. This will ensure that the community has consistent access to safe drinking water, which is vital for public health, hygiene, and sanitation. **Enhanced Public Health and Safety:** By reinstating and improving the water infrastructure, the project will significantly enhance public health and safety. Reliable access to potable water reduces the risk of waterborne diseases and ensures that sanitation systems function effectively. Additionally, the enhanced infrastructure will provide adequate water pressure and volume necessary for firefighting, contributing to the overall safety and emergency preparedness of the community.

Economic Stability and Growth: A reliable water supply will support the economic stability and growth of Fort Myers Beach. The tourism and hospitality industries, which are key drivers of the local economy, depend on a consistent and adequate water supply. The project will help attract and retain visitors, ensuring that businesses can operate smoothly and efficiently. This, in turn, will contribute to the town's economic recovery and long-term prosperity.

Increased Resilience to Natural Disasters: The new water tower complex will be designed with resilient features to withstand future natural disasters and climate-related hazards. Elevated pumps, reinforced structures, and secure facilities will ensure that the water supply remains operational during extreme weather events, minimizing the risk of service interruptions. This increased resilience will enhance the community's overall preparedness and ability to recover quickly from future disasters.

Improved Quality of Life: Overall, the project will improve the quality of life for the residents of Fort Myers Beach. Access to a reliable water supply is fundamental to daily living, and the enhanced infrastructure will provide peace of mind and stability for the community. The project will support the well-being of current residents and future generations, fostering a more resilient and vibrant community.

By addressing these high-need areas, the replacement of the North Water Tower Complex will have a transformative impact on Fort Myers Beach, ensuring that the town can thrive and adapt to future challenges.

A description of the intended beneficiaries of the project, including any HUD-defined vulnerable populations and communities who are the intended beneficiaries of the project

The intended beneficiaries of the water tower complex replacement project are all residents of Fort Myers Beach, who will experience significant improvements in their daily lives due to a reliable and secure potable water supply. Geographically, this includes all of Census Tracts 601 and 602. All residents of those Tracts are considered intended beneficiaries, including HUD-defined vulnerable populations within those areas. According to 2020 U.S. Census records, 56.3% of the Town's population is considered elderly (65+); the national average is 17.3%. In addition, 11.1% of the Town's population under 65 is disabled; the national average is 8.9%. While potable water supply is critical to all residents of the island, these two groups are particularly susceptible to disproportionate impacts of inadequate water infrastructure and will greatly benefit from the enhanced resilience and reliability of the new water tower complex.

Additionally, the project will support the local tourism-dependent economy, benefiting business owners and workers who rely on a stable water supply for their livelihoods. By ensuring a consistent and safe water supply, the project will contribute to the overall health, safety, and economic stability of the entire Fort Myers Beach community, fostering an inclusive environment where all residents can thrive.

A project area map and corresponding beneficiary data from the HUD Low and Moderate Income Summary Data (LMISD) dataset and mapping tool is attached.

The applicable census tracts and block groups that are projected to benefit from the project. Census data can be found here: [Low- and Moderate-Income Area Data](#)

	Census Tract	Block Group
1	0601.02	1,2,3,4,5
2	0602.01	1,2,3
3	0602.02 / 0602.03	1,2 / 1,2

The types of entities benefitting from the plan

- ☒ Residents
 ☒ Businesses
- ☒ Local Government
 ☐ Other:

- If “Residents” is selected, list the projected number of beneficiaries and number of LMI beneficiaries who will benefit from the project

Total Number of Beneficiaries:	6670
Total LMI Beneficiaries:	2055

The target populations from the table below who will benefit from the project

- ☒ Populations presumed by HUD to be LMI persons:
 - Abused children
 - Elderly persons (62 and older)
 - Battered spouses
 - Homeless persons
 - Severely disabled adults (as defined by the Census)
 - Illiterate adults
 - Persons living with AIDS
 - Migrant farm workers
- ☒ Vulnerable populations, as defined by HUD in the Consolidated Notice:
 - Groups or communities whose circumstances present barriers to obtaining or understanding information or accessing resources, based on such factors as the following:
 - Geography
 - Markets
 - Prevalent housing stock and tenure
 - History
 - Prejudice
- ☒ Underserved communities, as defined by HUD in the Consolidated Notice:
 - Populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life

A description of the method used to identify the intended beneficiaries of the project if it were implemented

A single water system provides potable water to the entire island and Town of Fort Myers Beach. Implementation of this project will enhance the resilience and reliability of the potable water system for all island residents and businesses by restoring two water towers to the system. Given that the North Tower will enhance the single system that serves the entire island, the intended beneficiaries include all residents of the island.

This project will be of particular benefit to the elderly and disabled populations in the Town of Fort Myers Beach. According to 2020 U.S. Census records, 56.3% of the Town's population is considered elderly (65+); the national average is 17.3%. In addition, 11.1% of the Town's population under 65 is disabled; the national average is 8.9%. While potable water supply is critical to all residents of the island, these two groups are particularly susceptible to disproportionate impacts of inadequate water infrastructure and will greatly benefit from the enhanced resilience and reliability of the new water tower complex.

A description of the community outreach and engagement that has happened to date, including a description of the stakeholders and approaches to outreach and engagement

The Town of Fort Myers Beach notified the public of its intention to apply for infrastructure funds through the Lee County – CDBG Critical Infrastructure program. Notice was published in a newspaper of local circulation in block/display ad format on Friday, May 17, 2024, and included instructions for submitting written comments via email and instructions for submitting written comments in person. Interested parties were invited to make public comments at the Town Meeting held on Monday, May 20, 2024; written comments were accepted through Thursday, May 23, 2024.

No comments were received.

A description and justification of the proposed costs

The total project budget for rehabilitation of the North Island Water Tower Complex is estimated at \$5,000,000. Additional information regarding detailed budget line items is provided below:

Construction Activities: \$4,100,000.00. Construction funds will be utilized for (1) removal of the existing, unusable tank, (2) replacement of the current tank with a new concrete poly-lined tank for water storage, (3) construction of the control building and ancillary structures which house necessary equipment, valves, pumps, and piping, (4) elevation of pumps and valves, (4) replacement of storage areas necessary for maintenance equipment, (5) major security upgrades, such as fencing and around-the-clock monitoring systems, and (6) other improvements that, through pre-construction due diligence, are determined to be necessary to ensuring and monitoring a secure potable water supply for the Town of Fort Myers Beach.

The Town consulted with two other municipalities that have completed projects of similar size and scope to determine a reasonable budget for construction activities and has determined that \$2.1 million budget is appropriate for removal and replacement of the water tower, with an additional \$2.0 million budgeted for all other construction activities necessary to complete the water tower complex.

Activity Delivery Costs: \$250,000.00. ADC funds will be utilized for project specific management and oversight services and project specific compliance with the terms and conditions of the related award. ADC's may also include activities such as participation in meetings, strategy sessions, etc.; coordination with the selected project engineer to ensure compliance with the project-specific scope, schedule, and budget as approved in the grant agreement; compilation of required project-specific progress reporting; compilation of project-specific reimbursement requests and financial reporting; coordination and oversight support for procurement of engineering services and documentation of federal procurement compliance for same; coordination and oversight support for procurement of a construction contractor and documentation of federal procurement compliance for same; documentation of environmental compliance for project-specific activities; and documentation of project-specific labor standards compliance, including Davis Bacon and Section 3 Requirements; and other project-specific services as requested by the Town. The Town has budgeted activity delivery costs at 5% of the total award request based on the Lee County NOFA for CDBG-DR Critical Infrastructure Program limitation of ADCs. This rate is consistent with industry standard budgeting for ADCs, providing a realistic estimate for the costs project specific ADCs. ADC services will be provided by Tidal Basin and all ADC activities will pertain to implementation of the North Water Tower Complex Rehabilitation project.

Engineering Fees: \$450,000.00. Engineering funds will be utilized for costs associated with basic engineering and design services normally performed by an engineering firm on construction projects. Such services include preliminary engineering analysis, preliminary design, final design, and construction-phase professional services.

Permitting / Studies: \$80,000.00. Funds specific to permitting and studies will be utilized for costs related to permitting activities and other studies that may be necessary throughout the life of the project. Permitting includes all activities necessary for issuance of a required permit, such as initial assessment of permits required, development of permit applications, submission of permit applications, and coordination with permitting agencies from application submission to issuance of a permit. Other studies include any

other studies that may be needed to secure permitting, complete the Environmental Review Record, or ensure that engineering and design of project components; this may include geotechnical reports, topographical surveys, wetlands delineations, environmental site assessments, cultural resource surveys, asbestos surveys, etc.

Construction-Phase Engineering & Inspection (CEI): \$120,000.00. Funds for CEI services will be utilized for costs related to basic construction management activities. These may include activities such as daily or weekly site inspections and monitoring of construction methods to meet specified standards; site supervision to ensure safety and efficiency on the construction site, adhering to regulations and best practices; compliance monitoring to verify adherence to local, state, and federal regulations, ensuring all necessary permits are obtained and maintained; and compilation of detailed CEI Reports to track construction progress, including daily logs and inspection reports.

A description of whether the project will be implemented with applicant staff, vendor support and/or other

The project will be implemented by a team comprised of Town staff and vendor support. Town of Fort Myers Beach employs staff with experience in completing projects of a similar size and scope, including Mr. Andrew Hyatt, Mr. Frank Kropacek, and Mr. Joe Onzick. To supplement staff expertise and capacity, the Town has secured the services of Tidal Basin Group, which has extensive experience in implementation and oversight of projects utilizing federal, state, and/or local governmental grant funds. Tidal Basin Group is further supported by Gouras & Associates, LLC, whose team members collectively have more than 70 years of combined experience working with state and federal funding, including CDBG-DR funding, and projects of all scopes and sizes.

The Town will competitively procure the services of an engineering firm licensed in the state of Florida to complete all design, permitting, other studies, and construction-phase engineering and inspection. The Town will competitively procure a properly licensed construction contractor to implement all construction activities based upon the plans, specifications, and contract documents developed by the project engineer.

A description of the timeframe, dependencies, and methods for obligating grant funds, and how the applicant plans to ensure funds are spent timely. A description of how the applicant will address and control for dependencies, if applicable

The Town of Fort Myers Beach anticipates completion of project activities through two contractual agreements for professional services and one contractual agreement for construction services. The timeframe for execution of each, as well as dependencies that may affect execution of each contract is further described below:

Contract A - Contractual Activity Delivery Services:

The Town of Fort Myers Beach has competitively procured the services of Tidal Basin Group to supplement Town staff in project-specific activity delivery services. An existing

contract is in place with Tidal Basin Group. Upon award of planning funds, a task order can be issued to obligate grant funds for project-specific activity delivery services. The Town anticipates that funding under this contract will be expended consistently throughout the project's period of performance.

Timeframe associated with Contract A: Award + 1 month through project closeout.

Dependencies associated with Contract A: Issuance of an award for planning funds.

Contract B - Engineering, Permitting, and CEI Services (including other studies):

The Town of Fort Myers Beach will competitively procure a Florida-licensed professional engineering firm to complete all project engineering and design, secure all necessary permitting, perform all construction-phase oversight, and complete other studies that may be required throughout the life of the project. Upon project award, the Town will develop procurement documents and solicit Statements of Qualifications from firms qualified to perform these services. The Town anticipates that funding under this contract will be expended as follows:

- Engineering and Design Services: 75% of Basic Engineering Fee expended consistently throughout project design; 5% of Basic Engineering Fee expended throughout construction bidding; 20% of Basic Engineering Fee expended throughout construction phase activities.
- Permitting and Other Studies: 100% of Permitting/Other Study Fees expended during the project design phase.
- Construction-Phase Engineering and Inspection: 100% of CEI Fees expended consistently throughout the construction phase.

Timeframe associated with Contract B: Award + 4 months to Award + 33 months.

Dependencies associated with Contract B: Issuance of a grant award; Completion of Engineering Procurement; Execution of an Engineering Contract. To address and control for dependencies, the Town will ensure that an RFQ for solicitation of engineering services developed promptly upon award of project funding.

Contract C - Construction Activities:

The Town of Fort Myers Beach will competitively procure a qualified and licensed construction company to construct the project based on the plans, specifications, and contract documents prepared by the project engineer. The Town anticipates that funding under this contract will be expended consistently throughout the project's construction phase.

Timeframe associated with Contract C: Award + 21 months to Award + 33 months.

Dependencies associated with Contract C: Issuance of a grant award; Completion of Engineering Procurement; Execution of an Engineering Contract; Completion of project design and permitting; Completion of the ERR and issuance of AUFG; Completion of Construction Procurement; Execution of a Construction Contract. To address and control for dependencies, the Town will regularly coordinate with the project engineer to ensure that pre-construction activities are progressing on-budget and on-schedule.

Budget Form

Description	CDBG-DR Funds Requested	Leveraged Funds	Project Cost
Activity Delivery Costs			
Environmental Review Costs	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
File Management	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Inspections	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Program Administration	\$250,000.00	\$0.00	\$250,000.00
Source of External Funds	N/A		
Construction			
Bonding/Insurance	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Construction Management	\$120,000.00	\$0.00	\$120,000.00
Source of External Funds	N/A		
Debris Removal	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Demolition	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Fixtures/Equipment	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
General Contractor	\$4,100,000.00	\$0.00	\$4,100,000.00
Source of External Funds	N/A		
Landscaping	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Maintenance of Traffic	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Mobilization	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Site Preparation	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Planning/Design			
Development of Bidding Document	\$50,000.00	\$0.00	\$50,000.00
Source of External Funds	N/A		

Drawings/Blueprints	\$400,000.00	\$0.00	\$400,000.00
Source of External Funds	N/A		
Land Acquisition	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Permitting	\$80,000.00	\$0.00	\$80,000.00
Source of External Funds	N/A		
Site Plan	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Surveys	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Testing	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		

Funding Summary

CDBG-DR Funds Requested	Leveraged Funds	Project Cost
\$5,000,000.00	\$0	\$5,000,000.00

Duplication of Benefits

Source of Funds	Amount	Status of Funds
FEMA Building Resilient Infrastructure and Communities (BRIC)	\$0.00	N/A
Purpose of Funds:	N/A	
FEMA Hazard Mitigation Grant Program (HMGP)	\$0.00	N/A
Purpose of Funds:	N/A	
FEMA Public Assistance (PA)	\$0.00	Identified
Purpose of Funds:	The Town is currently working with FEMA to secure funding that would contribute to the implementation of this project; however, at this time, funding has not been committed. No other leveraged funding sources are currently committed to the organization for this project. Should leveraged funds from any source be committed to this project, the Town of Fort Myers Beach will promptly notify Lee County and adjust CDBG-DR funding awarded to ensure that no Duplication of Benefits exists.	
Local (Municipal) Funds	\$0.00	N/A
Purpose of Funds:	N/A	
Other CDBG-DR Funds (from Florida COM)	\$0.00	N/A
Purpose of Funds:	N/A	
Other State Funds	\$0.00	N/A
Purpose of Funds:	N/A	
Resilient Florida	\$0.00	N/A
Purpose of Funds:	N/A	
US Army Corps of Engineers (USACE)	\$0.00	N/A
Purpose of Funds:	N/A	
US Department of Transportation	\$0.00	N/A
Purpose of Funds:	N/A	
Total	\$0.00	

Capacity to perform financial management and oversight

The Town of Fort Myers Beach will manage financial aspects of project implementation in accordance with established financial management policies and procedures. Financial management will be overseen by the Town's Financial Director, Mr. Joe Onzick. Mr. Onzick served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and a Bachelor of Science in Mathematics from Wheaton College. As the Town's Financial Director, Mr. Onzick oversees fund accounting and financial compliance for the project.

To supplement the Town staff's expertise and capacity for financial management and oversight, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed. Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras & Associates collectively have more than 70 years of combined experience working in high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG-DR funding, with team members having performed compliance and management of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the Southeast with comprehensive project implementation and compliance services from project inception to grant closeout.

Capacity to perform grant management functions as demonstrated through prior experience managing grants with in-house staff or with a grant management consultant

The Town of Fort Myers Beach staff members listed below will perform respective grant management functions for the project:

Andrew Hyatt: Mr. Hyatt has more than 26 years of management and leadership experience in both the private and public sectors, with 18 of those years in municipal government and 13 years as a town or city manager. Andy has an associate degree in general business from Cleveland State Community College in Cleveland, Tennessee. From the University of Tennessee at Chattanooga, he has a bachelor's degree in political science and a master's degree in public administration. Mr. Hyatt will perform general oversight of project implementation and completion.

Frank Kropacek: Mr. Kropacek has more than 30 years of experience in local, county, and state government administration ranging from contract negotiation, procurement, and project management to organizational administration. He attended the University of Wisconsin Whitewater studying geology and geophysics. Mr. Kropacek will be the Town's

primary day-to-day contact for all project activities and will directly oversee and coordinate project implementation.

Joe Onzick: Mr. Onzick served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and a Bachelor of Science in Mathematics from Wheaton College. As the Town's Financial Director, Mr. Onzick will oversee fund accounting and financial compliance for the project.

To supplement the Town staff's expertise and capacity, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed. Tidal Basin serves as the grant manager for Hendry County, FL, overseeing the County's three Hurricane Irma CDBG-DR funded grants totaling over \$5.5M. Tidal Basin also serves in the same capacity for the Orange County Drainage District in Orange County, TX and for various municipal subrecipients in Puerto Rico. The team will coordinate with Lee County and the Town of Fort Myers Beach to support HUD compliance efforts, proper reporting, and adherence to the proposed project schedule. Among other grant management functions, Tidal Basin will support procurement efforts in accordance with 2 CFR 200, Davis Bacon Labor Standards Compliance reporting and oversight, HUD Section 3 reporting and oversight, and confirmation that all costs can be tied to the project's eligible activity and national objective.

Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras & Associates collectively have more than 70 years of combined experience working in high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG-DR funding, with team members having performed compliance and oversight of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the Southeast with comprehensive project implementation and compliance services from project inception to grant closeout, including grant writing and submission, implementing policies and procedures, overseeing financial controls, preparing monthly, quarterly, semi-annual, and annual reporting, recordkeeping, monitoring, overseeing and supporting procurement compliance, preparing reimbursement requests, preparing amendments to grant agreements and budget modifications, and preparing project closeout documentation. Gouras & Associates also works to educate contractors and clients on compliance with the applicable state and federal regulations and laws, including the applicable procurement guidelines, DBE solicitation and outreach, labor standards compliance requirements, and HUD Section 3 compliance requirements.

Internal auditing capability

The Town of Fort Myers Beach will perform internal monitoring and financial compliance oversight in accordance with established financial management policies and procedures.

Internal monitoring will be overseen by the Town's Financial Director, Mr. Joe Onzick. Mr. Onzick previously served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and a Bachelor of Science in Mathematics from Wheaton College.

To supplement the Town's staff capacity related to internal monitoring and financial compliance, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed.

Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras & Associates collectively have more than 70 years of combined experience working in high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG-DR funding, with team members having performed compliance and oversight of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the Southeast with comprehensive project implementation and compliance services from project inception to grant closeout, including grant writing and submission, implementing policies and procedures, overseeing financial controls, preparing monthly, quarterly, semi-annual, and annual reporting, recordkeeping, monitoring, overseeing and supporting procurement compliance, preparing reimbursement requests, preparing amendments to grant agreements and budget modifications, and preparing project closeout documentation.

With Mr. Onzick's oversight and supervision of both Town staff and contractual support, the Town has demonstrated capacity to perform internal financial monitoring and experience for compliance with HUD and Lee County requirements.

Administrative staffing

The Town of Fort Myers Beach staff will be available to support the necessary day-to-day administrative functions required for successful project implementation. Administrative staff will be overseen by Mr. Andrew Hyatt and Mr. Frank Kropacek.

To supplement the Town staff's administrative capacity, Fort Myers Beach will utilize the services of Tidal Basin Group. Tidal Basin Group will be further supported by Gouras & Associates, LLC, for CDBG-DR specific administrative staffing needs.

Monitoring and control of timely expenditure of funds

The Town of Fort Myers Beach understands that monitoring and control of timely expenditures of funds is paramount to a successful project. These elements will be overseen by the Town's Financial Director, Mr. Joe Onzick, in accordance with established financial management policies and procedures. The Town of Fort Myers Beach staff, along with its partners in Tidal Basin Group and Gouras & Associates, LLC, have the capacity and experience to monitor the funding and expenditures of CDBG-DR funds from project award through closeout.

Prior to expenditure of funds, procurement efforts will be conducted in accordance with 2 CFR 200 procurement standards to ensure that project activities are allowable, reasonable, and cost-effective. Additionally, the Town will adhere to cost and/or price analysis requirements, as applicable, to support the proper usage of project funds.

Describe how the subrecipient will implement Construction, Davis Bacon, and Related Acts and understand project costs must be based on paying laborers and mechanics federal prevailing wages, as published by DOL. The then-current wage rates must be attached to the construction contract and accepted by the general contractor prior to contract execution

The Town will utilize the expertise of Tidal Basin Group and their partner, Gouras & Associates, LLC, (the Town's contractual support) to ensure the proper implementation of the construction related federal requirements of the Davis Bacon and its related acts. Construction solicitation documents and related contract documents will include Form HUD-4010, the appropriate Department of Labor Wage Decision(s), and the requirements of Executive Order 14026, which must be accepted by the contractor prior to contract execution to ensure that prevailing wage rates are met or exceeded. Labor standards requirements will be communicated at both pre-bid and pre-construction conferences, and Town staff and contractual support will be available to provide contractor assistance as needed. Required payroll reporting will be submitted by contractors on a weekly basis and reviewed by Town staff and contractual support to ensure compliance with prevailing wage requirements. Town staff and contractual support will be available to all construction contractors to resolve any issues that may arise throughout construction activities, such as payment and documentation of wage restitution, new job classification requests, and payment and documentation of liquidated damages. Throughout construction, on-site employee interviews will also be conducted and documented via HUD Form-11 to confirm that weekly payroll reports are accurate and consistent with the types of work performed by on-site laborers.

Confirm that the subrecipient will not take any choice limiting actions, including, but not limited to, physical work or activity, may start until environmental clearance is obtained. All prohibitions regarding 'choice limiting actions will apply, rendering the award void and applicant ineligible for award. Activities with multiple environmental issues which cannot be addressed timely and cost-effectively will cause the award of CDBG-DR Funds to be canceled

The Town confirms that it will not take any choice limiting actions, including, but not limited to, physical work or construction activities, until environmental clearance is issued and Authority to Use Grant Funds is obtained. The Town understands that the result of committing a choice limiting action could result in the termination of the award and that, in the event of excessive environmental issues, the award of CDBG-DR funds may be cancelled.

Explain the applicant/subrecipient's plan to provide OR ensure the subgrantee provides opportunities and training to low and very low-income persons to the greatest extent feasible. These efforts should be, especially focused on recipients of government assistance for housing and to businesses that provide economic opportunities to low and very low-income persons. The applicant/subrecipient should explain how they will comply with Section 3 requirements set forth in 24 CFR Part 75

The Town of Fort Myers Beach understands that the implementation of Section 3 requirements and striving to meet the quantitative and qualitative goals laid out by the regulations are of paramount importance to the effective recovery of the community. Solicitation documents and related contract documents for Section 3-covered contracts will include HUD-required Section 3 Contract Clauses and require contractors to submit Section 3 reporting throughout the life of the contract. Section 3 documentation, including a Section 3 plan and employee and business certifications, will be required for bid submission and Section 3 terms and conditions must be accepted by the contractor prior to contract execution. The construction contract will also require the prime contractor to incorporate Section 3 terms and conditions into all subcontracts. Section 3 requirements will be communicated at both pre-bid and pre-construction conferences, and Town staff and contractual support will be available to provide contractor assistance as needed. All contractor and subcontractor employees working on the covered contract (existing employees and new hires) will be required to submit an Employee Self-Certification for Section 3 Qualification form. Required Section 3 reporting will be submitted by covered contractors and subcontractors on a weekly, monthly, and quarterly basis and reviewed by Town staff and contractual support to ensure that quantitative and qualitative efforts are effectively implemented. Contractors will be required to complete qualitative efforts along with the Town by utilizing the list provided by HUD in 24 CFR part 75.

Describe how the subrecipient will take affirmative steps to ensure good faith effort outreach to small, minority, women and veteran-owned business to be included in all solicitation opportunities (procurement of services and goods) and documenting efforts and procurement opportunities

The Town of Fort Myers Beach will utilize the State of Florida's minority, women, and veteran owned business directory (<https://vendor.myfloridamarketplace.com/search/vendor>) to solicit minority, women, and veteran owned businesses for participation in each contract procured as a result of this project. All solicitation documents for services to be performed through this project will encourage participation of minority, women, and veteran owned businesses and all contracts and subcontracts issued will require compliance with 2 CFR 200.321, such that subcontracting opportunities must be made

available, as a priority, to minority, women, or veteran owned businesses when possible. The Town will document all outreach efforts to demonstrate that affirmative steps were taken to ensure good faith effort outreach to minority, women, and veteran-owned businesses.

Subrecipients must provide their procurement policy documents for analysis

The Town of Fort Myers Beach will provide all procurement policy documentation to Lee County for analysis.

Subrecipient's ability to Complete Subgrantee Capacity Assessment

N/A

Subrecipient's ability to Complete Subgrantee Risk Assessment

N/A

Subrecipient's Ability to Execute a Subgrantee Agreement

N/A

Please describe Subrecipient's Plans for Subgrantee Oversight and Monitoring

N/A

Subgrantee's Capacity to perform financial management and oversight

N/A

Subgrantee's Capacity to perform grant management functions as demonstrated through prior experience managing grants with in-house staff or with a grant management consultant

N/A

Subgrantee's Internal auditing capability

N/A

Subgrantee's Administrative staffing

N/A

Subgrantee's Monitoring and control of timely expenditure of funds

N/A

Describe how the subgrantee will implement Construction, Davis Bacon and Related Acts and understand project costs must be based on paying laborers and mechanics federal prevailing wages, as published by DOL. The then-current wage rates must be attached to the construction contract and accepted by the general contractor prior to contract execution

N/A

Confirm that the subgrantee will not take any choice limiting actions, including, but not limited to, physical work or activity, may start until environmental clearance is obtained. All prohibitions regarding 'choice limiting actions will apply, rendering the award void and applicant ineligible for award. Activities with multiple environmental issues which cannot be addressed timely and cost-effectively will cause the award of CDBG-DR Funds to be canceled

N/A

Explain the subgrantee's plan to provide opportunities and training to low and very low-income persons to the greatest extent feasible. These efforts should be , especially focused on recipients of government assistance for housing and to businesses that provide economic opportunities to low and very low-income persons. The applicant/subrecipient should explain how they will comply with Section 3 requirements set forth in 24 CFR Part 75

N/A

Describe how the subgrantee will take affirmative steps to ensure good faith effort outreach to small, minority, women and veteran-owned business to be included in all solicitation opportunities (procurement of services and goods) and documenting efforts and procurement opportunities

N/A

Subgrantee's must comply with 2 CFR Part 200 requirements for procurement

N/A

Application Certification

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and that the application and all support documentation has been duly authorized by the governing body of the applicant. I further certify that I am authorized to submit this application and have followed all policies and procedures of my agency regarding grant application submissions.

- ▶ Authorized Organization Representative Name: Andrew Hyatt
- ▶ Authorized Submitter Representative Name: Andrew Hyatt
- ▶ Authorized Submitter Representative Title: Town Manager
- ▶ Certification Date: 05/24/2024
- ▶ Authorized Submitter Representative Signature: Andrew Hyatt
- ▶ Authorized Submitter Representative IP Address: 173.165.214.193

EXHIBIT G

CERTIFICATE(S) OF INSURANCE

The information provided under this Exhibit is retrieved from the Subrecipient Agreement or the Subrecipient's approved application in response to the *Critical Infrastructure Program* NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to confirm that the Subrecipient has sufficient coverage against personal, commercial, or any other liability regarding the spending of CDBG-DR dollars. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently updated, reviewed, and/or approved within the System of Record when necessary.

Certificate(s) of Insurance

The Subrecipient has provided the following documentation below in an effort to confirm sufficient coverage is in place:

(1) Workers' Compensation Coverage

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

(2) Commercial General Liability

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

(3) Business Auto Liability

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

(4) Directors & Officers Liability

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

(5) Fidelity Bonding

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

EXHIBIT H (SIGNATURE REQUIRED)

CERTIFICATIONS
CDBG-DR COMPLIANCE PROVISIONS
Housing and Infrastructure

This Exhibit to the Community Development Block Grant Disaster Recovery (“CDBG-DR”) Program Subrecipient Agreement contains supplementary compliance conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development (“HUD”) under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the Agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

By signing this Exhibit, the Subrecipient certifies they understand that all the below compliance provisions will apply to all projects that are awarded CDBG-DR funds.

1. NATIONAL OBJECTIVES

In accordance with [24 CFR 570.208](#), Section 104(b)(3) of the Housing and Community Development Act of 1974, all CDBG-DR funded activities must meet a National Objective. Under Section 101(c) of the authorizing Act (42 U.S.C. 5301), all CDBG-DR Activities must satisfy one of the named National Objectives.

1. Benefit to Low-to-Moderate Income Persons (LMI)
2. Urgent Need (UN)
3. Elimination of Slum and Blight (SB)

Upon completion of approved activity(ies) funded under this Agreement and prior to the funding expiration date of this Agreement, whichever comes first, the Subrecipient must document that the approved activity(ies) met the approved National Objective, as necessary.

For Subrecipients with a National Objective requirement, the County shall review the actual National Objective achievements of the activity. If the Subrecipient does not or cannot satisfactorily document the National Objective achievement of an approved activity(ies), the activity(ies) may be deemed ineligible, and repayment of funds may be required of the Subrecipient.

2. DUPLICATION OF BENEFITS

A Duplication of Benefits (DOB) occurs when a person, household, business, or other entity receives disaster assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of the total need for the same purpose. It is the County's responsibility to ensure that CDBG-DR programs provide assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

The Subrecipient or Contractor must report all funds obtained for the same activity from any source from the date of the disaster until the activity is completed.

The Subrecipient or Contractor agrees to repay to the County, immediately upon demand, any assistance later received for the same purpose as the CDBG-DR funds and that exceeds the total need for the particular recovery purpose.

- a. **CDBG-DR Funds as Match (Infrastructure)**: When applicable and approved by the County, Subrecipients may use grant funds to satisfy a match requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG-DR activity. This includes programs or activities administered by the Federal Emergency Management Agency (FEMA) or U.S. Army Corps of Engineers (USACE). By law, only \$250,000 or less of CDBG-DR funds may be used for the non-Federal cost-share of any project funded by USACE. Furthermore, Appropriations acts prohibit the use of CDBG-DR funds for any activity reimbursable by, or which funds are also made available by, FEMA or USACE.

For all match activities, Subrecipients must document that CDBG-DR funds have been used for the actual costs incurred for the assisted project and for costs that are eligible, meet a national objective, and meet other applicable CDBG requirements.

3. EQUAL EMPLOYMENT OPPORTUNITY

The obligations undertaken by the Subrecipient or Contractor include, but are not limited to, the obligation to comply with all Federal laws and regulations described in Subpart K of 24 CFR Part 570 and specifically with each of the following, among other things, as the same may be amended from time to time:

- a. **Title VI of the Civil Rights Act of 1964**: This act provides that no person shall

be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving Federal financial assistance.

- b. **Title VII of the Civil Rights Act of 1968 (The Fair Housing Act)**: This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.
- c. **Restoration Act of 1987**: This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives Federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.
- d. **Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]**: This Section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- e. **The Fair Housing Amendment Act of 1988**: This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.
- f. **The Age Discrimination Act of 1975**: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic.
- g. **Section 504 of the Rehabilitation Act of 1973**: It is unlawful to discriminate based on disability in Federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance.
- h. **The Americans with Disabilities Act of 1990 (ADA)**: This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a

qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

- i. **Executive Order 11063**: This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with Federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal government.
- j. **Executive Order 12259**: This executive order provides that the administration of all Federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.
- k. **The Equal Employment Opportunity Act**: This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, state, and local governments under the Civil Rights Act of 1964.
- l. **The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978**: This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal, and referral. It is designed to assist employers, labor organizations, employment agencies, licensing, and certification boards in complying with the requirements of Federal laws prohibiting discriminatory employment.
- m. **The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002)**: This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
- n. **Executive Order 11246**: This executive order applies to all Federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race

4. **CERTIFICATION OF NONSEGREGATED FACILITIES**

(applicable to contracts and subcontracts over \$10,000)

The Subrecipient or Contractor and its subcontractor(s) certifies that the entity does not maintain or permit employees to perform their services at any location where segregated facilities are maintained. The Subrecipient or Contractor certifies further that it shall not maintain or provide for employees any segregated facilities at any of its establishments and will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Subrecipient or Contractor and its subcontractor(s) agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Subrecipient or Contractor further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in project files; and will provide notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

5. ENVIRONMENTAL PROTECTION AND ACTS

- a. **National Environmental Protection Act (NEPA):** All Federally funded activities are subject to the National Environmental Policy Act of 1969 (NEPA) and its regulations under 40 CFR 1500 – 1508. Additionally, [24 CFR 58.22](#) prohibits committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review once a project has Federal funding, in full or in part. This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions, prior to completion of the environmental review. Awarded activities must have completed an environmental review to demonstrate compliance with NEPA, as well as 24 CFR 58.
- b. **Clean Air and Water Acts:** *(applicable to contracts and subcontracts exceeding \$100,000)* The Subrecipient or Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

- c. **Flood Disaster Protection:** The Subrecipient or Contractor shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, that flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).
- d. **Energy Efficiency:** The Subrecipient or Contractor shall comply with mandatory standards and policies relating to energy efficiency under the Energy Policy and Conservation Act (Public Law 94-163).
- e. **Procurement of Recovered Materials:** Per 2 CFR 200.323, if a subrecipient is a state agency or an agency of a political subdivision of a state, it and its contractors, must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

6. **CONSTRUCTION STANDARDS**

While the following Construction Standards requirements are called out below, the Subrecipient also certifies and acknowledges that it has read and complies with all requirements as noted within the *CDBG-DR Construction Standards Procedure* for Housing Programs and applicable program guidelines.

- a. **Green and Resilient Building Standards in Housing:** All new construction or rehabilitation of residential structures must meet an industry-recognized standard that has achieved certification under (i) Enterprise Green Communities; (ii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); (iii) ICC-700 National Green Building Standard Green+ Resilience; (iv) Living Building Challenge; or (v) any other equivalent comprehensive green building program acceptable to HUD. Additionally, all such covered construction must achieve a minimum energy efficiency standard, such as (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) DOE Zero Energy Ready Home; (iii) EarthCraft House, EarthCraft Multifamily; (iv) Passive House Institute Passive Building or EnerPHit certification

from the Passive House Institute US (PHIUS), International Passive House Association; (v) Greenpoint Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole Building label); (vi) Earth Advantage New Homes; or (vii) any other equivalent energy efficiency standard acceptable to HUD

- b. **Rehabilitation of Nonsubstantially Damaged Residential Buildings (Housing)**: Per Federal Register Notice 88 FR 32046, for rehabilitation other than the rehabilitation of substantially damaged residential buildings described in 6.a. above, the Subrecipient must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist.

Subrecipients must apply these guidelines to the extent applicable for the rehabilitation work undertaken, for example, the use of mold resistant products when replacing surfaces such as drywall. Products and appliances replaced as part of the rehabilitation work must be ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products or appliances.

- c. **Broadband Infrastructure in Housing**: Per Federal Register Notice 88 FR 32046, any substantial rehabilitation, as defined by 24 CFR 5.100, reconstruction, or new construction of a building with more than four units must include installation of broadband infrastructure.

- d. **Elevation Standards (Housing and Infrastructure)**:

- i. ***Housing***: All new construction or rehabilitation of residential structures and located in the one percent annual chance (or 100-year) floodplain must be elevated at least two feet above the base flood elevation.
 - ii. ***Mixed-use and Non Residential***: Non-residential structures and infrastructure must be elevated or floodproofed, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above base flood elevation.
 - iii. ***Critical Actions***: Structures and services defined at 24 CFR 55.2(b)(3) and within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(2-3) or successor standard) to the higher of the 500-year floodplain elevation or three feet above the 100-year floodplain elevation.
- e. **Planning and Design (Infrastructure)**: All newly constructed infrastructure that is assisted with CDBG-DR funds must be designed and constructed to withstand extreme weather events and the impacts of climate change. To satisfy this requirement, the Subrecipient is required to provide resilience performance metrics as identified by the County.

- f. **Flood Control Structures (Infrastructure and Non-Residential Structures)**:

Subrecipients that use CDBG-DR funds to assist flood control structures (i.e., dams and levees) are prohibited from using CDBG-DR funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event, without obtaining approval from the County, HUD, and any Federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam. Additional requirements and approval steps are outlined under Federal Register Notice guidance at 88 FR 32046.

7. AFFORDABILITY PERIOD REQUIREMENTS (HOUSING)

While the following minimum affordability period requirements are called out below, the Subrecipient also certifies and acknowledges that it has read and complies with all requirements as noted within the applicable program guidelines regarding affordability period requirements.

- a. **New Construction and Rehabilitation of Affordable Rental Housing:** To meet the LMI housing national objective, a Subrecipient who implements rental housing activities that will result in the new construction or rehabilitation of five or more units, assisted with CDBG-DR funds, must rent to LMI households at affordable rents as described within the *Lee County Action Plan for CDBG-DR Funds*. Furthermore, the minimum timeframes, enforceability, and other related requirements acceptable for compliance can be found under the HOME Investment Partnerships Program (HOME) requirements at 24 CFR 92.252(e), including the table listing the affordability periods at the of 24 CFR 92.252(e). The County has adopted these requirements and spells out affordability restriction enforcement and minimum affordability periods within the respective program guidelines, which Subrecipients are required to follow, where applicable.
- b. **New Construction of Homes Built for LMI Households:** For Subrecipients who implement activities where there is a construction of new single-family units (four units or less) for homeownership that will meet the LMI housing national objective criteria, the County has set affordability restrictions, which follow minimum affordability period and enforcements mechanisms of the HOME requirements set at 24 CFR 92.254(a)(4). Subrecipients whose activities are applicable to these requirements must follow the County's respective program guidelines regarding affordability restrictions, resale or recapture requirements, affordability period requirements, and all other requirements prescribed under the applicable guidelines regarding affordability.

8. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, VETERAN OWNED BUSINESSES, AND LABOR SURPLUS AREA FIRMS

The Subrecipient or Contractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, veteran owned businesses, and labor

surplus area firms are used in subcontracting when possible. Steps include:

- a. Placing qualified small and minority businesses, veteran owned businesses, and women's business enterprises on solicitation lists:
- b. Assuring that small and minority businesses, and women's and veteran's business enterprises are solicited whenever they are potential sources:
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, veteran owned, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, veteran owned businesses, and women's business enterprises; and
- e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

9. POLITICAL ACTIVITY

The Subrecipient or Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

10. LOBBYING PROHIBITION AND BYRD ANTI-LOBBYING AMENDMENT

The Subrecipient is prohibited from using contracted funds for the following purposes: (1) political activities; (2) lobbying; (3) political patronage; (4) nepotism activities; and (5) inherently religious activities such as worship, religious instruction, or proselytization. The Subrecipient will also comply with Chapter 216.347, Florida Statutes, which prohibits the expenditure of Agreement funds for the purpose of lobbying the legislature, state or county agencies.

Additionally and in accordance with 24 CFR 87, the Subrecipient certifies that it will not use CDBG-DR funds received from the County to directly or indirectly influence legislation or any other official action by the Florida legislature, any state agency, or other local government and county (BOCC) business, including through the use of Federal appropriated funds being paid to any person for influencing or attempting to influence an office or employee of any agency, a member of Congress, an office or employee of Congress or an employee of a member of Congress in connection with this Federal contract, grant, loan or cooperative agreement. If the County and/or the Subrecipient suspects such action of occurring, the County reserves the right to request that the Subrecipient disclose and certify such activities in accordance with reporting requirements noted within the Agreement.

The Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) requires that Contractors that apply or bid for an award exceeding \$100,000 must 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 must 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 non-Federal award.

The Contractor certifies, to the best of his or her knowledge and belief that:

- 1) No Federally appropriated funds have been paid or will be paid by, or on behalf of, the contractor, 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 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, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federally 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 contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

11. DEBARMENT AND SUSPENSION

A contract award ([2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235).

By executing this Agreement or contract, the Subrecipient or Contractor verifies and affirms that it has not been suspended or debarred from participating in or receiving federal government contracts, subcontracts, loans, grants or other assistance programs and will not enter into contracts with any entity that has been suspended or debarred from federal contract work.

12. CONFLICT OF INTEREST

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Subrecipient or Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

No member of, or delegate to, Congress, or any Resident Commissioner, shall be admitted to any share or part of any contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to any contract if made with a corporation for its general benefit.

13. DOMESTIC PREFERENCES FOR PROCUREMENTS

Per [2 CFR 200.322](#), as appropriate and to the extent consistent with law, the subrecipient 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: (1) "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. (2) "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; or aggregates such as concrete; glass, including optical fiber; and lumber.

14. DAVIS-BACON AND RELATED LABOR STANDARD ACTS

- a. **Davis Bacon Act:** Subrecipient or Contractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 31413148) and 29 CFR Subtitle A, Parts 1, 3 and 5, as applicable, to construction, alteration, and repair contracts over \$2,000.00.
- b. **AntiKickback Act of 1986:** Subrecipient or Contractor shall ensure that all contracts comply with the AntiKickback Act of 1986 (41 U.S.C. §§ 5158) that prohibits attempted as well as completed "kickbacks," which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind.
- c. **Contract Work Hours and Safety Standards Act of 1962:** Subrecipient or Contractor shall ensure all contracts comply with the Contract Work Hours and Safety Standards Act of 1962 (40 U.S.C. § 3702) which requires that workers

receive overtime compensation at a rate of one and one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.

- d. For the purposes of this requirement "construction work" includes, but is not limited to, rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this agreement or contract. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract").
- e. Subrecipient or Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the County for review upon request.

15. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

The work to be performed under this contract may be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3), and implementing regulation at [24 CFR, Part 75](#). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The responsibilities outlined in 24 CFR Part 75.19 include:

- a. Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
- b. Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts in excess of \$100,000 as required at 24 CFR 75.27.

Section 3 Clause

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR. Part 75, which implements Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

- The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.
- c. Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns by undertaking activities such as described in Section 75.25(b), as appropriate, to reach the goals set forth in Section 75.23 and in Federal Register Vol. 85, No. 189, page 60909, until superseded by HUD in a subsequent publication. As of September 29, 2020, the minimum Section 3 benchmark is twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.
 - d. Documenting actions taken to comply with the foregoing requirements, the results of those actions taken and impediments, if any.

16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED (42 U.S.C. 4601 et seq.) – “URA”

The Subrecipient understands that activities and projects it undertakes with CDBG–DR funds may be subject to the URA at 49 CFR Part 24, section 104(d) of the HCDA (42 U.S.C. 5304(d)), and CDBG program requirements related to displacement, relocation, acquisition, and replacement of housing, except as modified by waivers and alternative requirements provided in Federal Register Notices 88 FR 3198 and 88 FR 32046. In such Notices, HUD waived or provided alternative requirements for the purpose of promoting the availability of decent, safe, and sanitary housing with respect to the use of CDBG–DR funds allocated under the Consolidated Notice.

Subrecipients are required to adopt the County’s Residential Anti-Displacement and Relocation Assistance Plan or establish separate optional relocation policies prior to undertaking any activity assisted with CDBG-DR funding which involves relocation. The written policy must be available to the public, describe the relocation assistance that the Subrecipient has elected to provide, and provide for equal relocation assistance within each class of displaced persons according to 24 CFR 570.606(d).

In the event of displacement because of a federally funded award, Subrecipients must comply with the URA, for any household, regardless of income, which is involuntarily and permanently displaced, and to comply with Section 104(d). The County also provides notice to Subrecipients that any demolition or disposition of public housing is

subject to Section 18 of United States Housing Act of 1937, as amended, and 24 CFR Part 970.

17. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

Per [2 CFR 200.216](#), Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems 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.

As described in Public Law 117–328, section 208, subsection (a), covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country, is prohibited.

18. AGREEMENTS BETWEEN SUBRECIPIENTS AND CONTRACTORS

- a. The Subrecipient shall not enter into any agreement, written or oral, with any contractor or other party without the prior determination that the contractor or other party is eligible to receive federal funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible contractors.

The terms “other party” is defined as public or private nonprofit agencies or organizations and certain (limited) private for-profit entities who receive grant funds from a Subrecipient to undertake Approved Activities.

- b. An agreement between the Subrecipient and any contractor or other party shall require:
- 1) Compliance with all State and Federal requirements described in this Agreement including, without limitation, those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug Free Workplace, and prevailing wages.
 - 2) Maintenance of at least the minimum State required Workers' Compensation Insurance for those employees who will perform the Approved Activities.

- 3) Maintenance, as required by law, of unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor, in performing the Approved Activities.
- 4) Compliance with the applicable Equal Opportunity Requirements described in Section 3 of this Exhibit.

c. Contractors shall:

- 1) Perform Activities in accordance with Federal, state, and local regulations, as applicable.

19. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If a Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the Subrecipient or Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance, the Subrecipient or Contractor must comply with requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulation issued by the awarding agency.

20. PATENTS

- a. The Subrecipient or Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.
- b. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Subrecipient or Contractor.
- c. If the Subrecipient or Contractor uses any design device or materials covered by letters, patents or copyrights, he shall provide for such use by suitable agreement with the owner of such patented or copyrighted design device or material. It is mutually agreed and understood that without exception the contract prices shall include all royalties or costs arising from the use of such design, device, or materials, in any way involved in the work. The Subrecipient or Contractor and/or

his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device, materials, or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

21. COPYRIGHT

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Subrecipient or Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

22. DRUG-FREE WORKPLACE ACT OF 1988

- a. Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
- b. Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
- c. Notify employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within 5 calendar days, if he or she is convicted of a criminal drug violation in the workplace.
- d. Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
- e. Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.
- f. Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the act.

23. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY)

Subrecipients must certify that they will verify employment eligibility of all new employees hired during the Agreement term through the U.S. Department of Homeland Security's E-Verify system.

Section 448.095, F.S., requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
 2. A private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract
- a. E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to the employer to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: <https://www.e-verify.gov/>.
 - b. If the subrecipient or its contractors, consultants, or subrecipients, does not use E-Verify, they shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the Effective Date of the Subrecipient Agreement.

24. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS, AND ACCIDENT PREVENTION

- a. Use of Explosives: When the use of explosives is necessary for the prosecution of the work, the contractor shall observe all local, state, and Federal laws in purchasing and handling explosives. The contractor shall take all necessary precautions to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced, and the material shall be covered with suitable timber, steel, or rope mats.
- b. The contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done close to such property. Any

supervision or direction of use of explosives by the engineer does not in any way reduce the responsibility of the contractor or his Surety for damages that may be caused by such use.

- c. Danger Signals and Safety Devices: The contractor shall make all necessary precautions to guard against damages to property and injury to persons. The contractor shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades, and other devices necessary to protect the public.
- d. Protection of Lives and Health: The contractor shall exercise proper precautions at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the contractor shall take, or cause to be taken,, such additional safety and health measures as the Developer may determine to be reasonably necessary.

25. PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of:

- a. Obtaining the County's approval of the Application for such assistance; or,
- b. Any other approval or concurrence of the County required under this Agreement, Title I of the Housing and Community Development Act of 1974, or State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

26. CONFIDENTIAL FINDINGS

All of the reports, information, data, etc., prepared or assembled by the Subrecipient or Contractor under any Agreement are confidential, and the Subrecipient or Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

27. ACCESS TO RECORDS – MAINTENANCE OF RECORDS

Lee County, the Department of Housing and Urban Development, the Comptroller

Version 2.0, 10/01/2024

General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Subrecipient or Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with any contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years from the official date of the County's final closeout of the grant.

28. INSPECTION

The authorized representative and agents of Lee County and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

29. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in any contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

BY:

Signature

Date

Name (print)

EXHIBIT I

CDBG-DR SPECIAL TERMS AND CONDITIONS

This Exhibit to the Community Development Block Grant Disaster Recovery ("CDBG-DR") Program Subrecipient Agreement contains special conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

1. INITIAL RISK ASSESSMENT

The Subrecipient has provided, or will provide, the County with information about the Subrecipient's experience, processes, policies, and procedures related to the management of Federal funding by the Subrecipient. These submissions, in addition to discussions with the Subrecipient, have been used by the county to assess the risk of noncompliance and capacity to compliantly execute the required activities for which the Agreement is made.

Should there be substantive changes to the organization, key personnel, methods, capacity, policies, or processes of the Subrecipient that impact the implementation of this Agreement, the Subrecipient shall notify the County of said changes within 30 days of those changes.

The Subrecipient agrees to provide documents and information to the County, within 30 days of such a request made by the County, to facilitate its due diligence review as required by Federal Register Notice 88 FR 32046. Subrecipient further agrees to comply with the requirements, requests, and results of the County's due diligence and maintain the capacity to carry out disaster recovery activities in a timely and compliant manner at all times during the term hereof.

2. RISK ASSESSMENT

During the term of this Agreement, the Subrecipient agrees to provide documents and information, within 30 days of such a request made by the County, to facilitate the County's Subrecipient risk assessment process. The Subrecipient further agrees to comply with the requirements, requests, and results of the County's risk assessment, including participation in Subrecipient monitoring events.

3. SPECIAL CONDITIONS

Pursuant to Exhibit A, Scope of Work, and the Risk Assessment Sections, as referenced above, Subrecipient agrees to adhere to the following Special Conditions:

A. ENVIRONMENTAL REVIEW SPECIAL CONDITION

The environmental review for this project is currently classified as “Exempt” under 24 CFR §58.34. However, upon the completion of 30% design, the Subrecipient must initiate the process for an Environmental Assessment (EA) pursuant to 24 CFR Part 58.

The Subrecipient shall adhere to the following requirements upon reaching 30% design completion:

1. **Notification to the County:** The Subrecipient must notify their Grant Manager and Lee County in writing via email or a VistaTRAK note that the project has reached 30% design completion.
2. **Submission of Designs:** The Subrecipient must upload the 30% design documents to VistaTRAK for County review.
3. **Restriction on Activities:** The Subrecipient must not execute any construction contracts, commit funds, or undertake any choice-limiting actions as defined in 24 CFR §58.22, until an Authority to Use Grant Funds (AUGF) has been issued by HUD.
4. **Coordination with Lee County:** The Subrecipient must coordinate closely with Lee County to ensure compliance with all applicable federal, state, and local environmental review requirements.

Failure to comply with these conditions may result in noncompliance findings and the withholding of reimbursement for project expenses until compliance is achieved and documented.

EXHIBIT J
SUBRECIPIENT STAFF ORGANIZATION
North Island Water Tower Complex Rehabilitation

The Subrecipient must complete the following information, as applicable, as an extension of the requirements outlined within SECTION XVIII. NOTICES of the Agreement. The Subrecipient is not required to hire or create the following positions or titles but should assign the following roles to staff members who will serve as a primary point of contact for relevant responsibilities associated with that role.

Some projects or activities will not require a contact for all roles identified below. In addition, individual staff members may perform multiple roles. The Subrecipient will complete the contact information for those roles which are applicable for successful completion of this project/activity and denote where a specific member is performing multiple roles. If certain roles are not applicable for implementation of this project/activity, please denote "Not Applicable" under the Contact Information for each role.

The Subrecipient is responsible for providing an updated version of this Exhibit as contact information changes or updates are made to personnel which impact the roles and responsibilities. Descriptions of each role are outlined below.

Section 1: Subrecipient Contract Administrator

1. Description

The Subrecipient Contract Administrator (must be a Subrecipient employee) is identified in SECTION XVIII. NOTICES of the Agreement. Unless otherwise directed by the County, any notice, report, or other communication required by the Agreement shall be directed via the County's approved system or written to the Subrecipient's Contract Administrator at the contact information identified in SECTION XVIII. NOTICES of the Agreement.

2. Contact Information

Name: Andrew Hyatt
Title: Town Manager
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: andyhyatt@fmbgov.com
Email: 239-765-0202

Section 2: Project Manager

1. Description

The Subrecipient staff member who will serve as the primary contact and decision-maker for the project's implementation. This staff member is responsible for ensuring the project reaches established milestones and deadlines for completion, oversees all elements of project completion (e.g., procurement actions, reconciliations, contract management, administration), and is considered the administrator to ensure general and overall compliance of the project/activity with the CDBG-DR grant.

2. Contact Information

Name: Frank Kropacek
Title: Operations and Compliance Director
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: fkropacek@fmbgov.com
Email: 239-765-0202

Section 3: Davis Bacon and Labor Standards Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 3 and Davis-Bacon and Related Acts (DBRA) labor standards. This staff member is responsible for actions such as providing guidance to (including conducting monitoring and oversight of) contractors and vendors on Section 3 and labor compliance requirements. This includes, but is not limited to, overseeing Section 3 goals reporting by contractors and vendors, conducting employee interviews, reviewing certified labor payrolls, and completing Section 3 and labor compliance reports for submission of performance data to the County. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Jason Freeman
Title: Legislative Liaison/Deputy Clerk
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: jasonf@fmbgov.com
Email: 239-765-0202

Section 4: Section 504 Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 504, the Americans with Disabilities Act of 1990 ("ADA") and ensuring meaningful access to persons who are Limited English Proficiency (LEP). This staff member is responsible for actions which include, but are not limited to, conducting a Section 504 evaluation or self-assessment of Subrecipient facilities, detailing and tracking complaints or grievances on potential Section 504 or Civil Rights violations, and developing and maintaining Language Access Plans (LAPs) for LEP individuals, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Amy Baker
Title: Town Clerk
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: amy@fmbgov.com
Email: 239-765-0202

Section 5: Fair Housing Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Fair Housing requirements as outlined within the Agreement and Exhibits. This staff member is responsible for actions which affirmatively promote fair housing, which may include, but are not limited to, conducting, overseeing, and documenting fair housing activities, conducting affordable housing reports, and detailing and tracking complaints or grievances on potential Fair Housing violations, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Jason Freeman
Title: Legislative Liaison/Deputy Clerk
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: jasonf@fmbgov.com
Email: 239-765-0202

Section 6: Financial Manager

1. Description

The Subrecipient staff member who will serve as the primary contact and subject matter expert for all financial management duties associated with the project. This staff member is most likely responsible for overseeing accounting actions such as accounts receivable, accounts payable, project budget setup, or encumbering the CDBG-DR dollars within the Subrecipient's financial management system and/or fiscal year (FY) obligations of CDBG-DR dollars to the project/activity governed by this Agreement. Tasks of the Financial Manager may include, but are not limited to, approving project invoices, overseeing monthly account reconciliations, creating or approving annual budgets for expending CDBG-DR dollars under this project/activity, and being responsible for walking through accounting procedures for County staff. The Financial Manager would likely be responsible for ensuring proper recordkeeping of such financial and accounting records for access by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. Given the segregation of duties for financial and accounting staff, the Financial Manager may also supervise or oversee multiple accounting clerks, financial analysts, or other financial staff who perform duties described above.

2. Contact Information

Name: Joe Onzick
Title: Finance Director
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: JOnzick@fmbgov.com
Email: 239-765-0202

Section 7: Certification of Time Allocation

Are there any staff who are working on both CDBG-DR and non CDBG-DR programs? If so how many, and list names.

No

EXHIBIT K

CDBG-DR PROGRAM SUBROGATION AGREEMENT

This Subrogation and Assignment Agreement ("Agreement") is made and entered into by and between Town of Fort Myers Beach (hereinafter referred to as "Subrecipient") and Lee County (hereinafter referred to as "County").

In consideration of the Subrecipient's receipt of funds or the commitment by the County to evaluate the Subrecipient's application for the receipt of funds (collectively, the "Subrecipient Award") under the Community Development Block Grant – Disaster Recovery Program (the "CDBG-DR Program") administered by the County, the Subrecipient hereby assigns to the County all of the Subrecipient's future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit, or insurance policies of any type or coverage, or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA") or the Small Business Administration ("SBA") (singularly, a "Disaster Program" and collectively, the "Disaster Programs"), that was the basis of the calculation of the Subrecipient Award paid or to be paid to the Subrecipient under the CDBG-DR Program and that are determined at the sole discretion of the County to be a duplication of benefit ("DOB"), as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA, or the SBA, or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds," and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds."

The Subrecipient agrees to notify the County within five (5) business days of any additional or new payments, loans, grants, or awards by HUD, FEMA, SBA, the State of Florida, or any other entity not specifically disclosed in this Agreement. Further, the Subrecipient understands and acknowledges the County's right and responsibility to enforce this requirement by recapturing all or a portion of the CDBG-DR Subrecipient Award if the Proceeds received are determined to be DOB Proceeds within this CDBG-DR Program activity. The Subrecipient will be required to pay back the received CDBG-DR Subrecipient Award, which was found to be DOB Proceeds, within 30 days of receipt of the identified duplicative payment. The amount of DOB determined to be paid to the County shall not exceed the Subrecipient Award amount received by the Subrecipient from the CDBG-DR Program.

The Subrecipient agrees to assist and cooperate with the County to pursue any of the claims the Subrecipient has against insurers for reimbursement of DOB Proceeds under any such policies. The Subrecipient's assistance and cooperation shall include, but not be limited to, allowing suit to be brought under the Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by the County. The Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Program.

If requested by the County, the Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to the County, to

the extent of the Subrecipient Award paid to the Subrecipient under the CDBG-DR Program, the policies, any amounts received under the CDBG-DR Program that are DOB Proceeds, and/or any right thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the County to consummate and make effective for the purposes of this Agreement.

The Subrecipient explicitly allows the County to request of any company with which the Subrecipient held insurance policies, FEMA, SBA, or any other entity from which the Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by the County to monitor and enforce its interest in the rights assigned to it under this Agreement and give the Subrecipient's consent to such company(ies) to release all information to the County.

If the Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, the Subrecipient agrees to promptly pay such amounts to the County, if Subrecipient received a Subrecipient Award under the CDBG-DR Program in an amount greater than the amount the Subrecipient would have received if such DOB Proceeds had been considered in the calculation of the Subrecipient's award.

In the event that the Subrecipient receives or is scheduled to receive any subsequent Proceeds, the Subrecipient shall notify the County in the manner above of such subsequent Proceeds. The County will determine the amount, if any, of the subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of the determined Subsequent DOB Proceeds shall not be requested from the Subrecipient to provide to the County. Subsequent DOB Proceeds shall be remitted to the County as follows:

1. If the Subrecipient has received full payment of the Subrecipient Award, any Subsequent DOB Proceeds shall be remitted to the County.
2. If the Subrecipient has received no payment of the Subrecipient Award, any determined Subsequent DOB Proceeds shall be used by the County to reduce payments and the agreed-upon amount of the Subrecipient Award to the Subrecipient, and all Subsequent DOB Proceeds shall be retained by the Subrecipient for use on the CDBG-DR Program activity.
3. If the Subrecipient has received a portion of the Subrecipient Award, any Subsequent DOB Proceeds shall be used, retained, and/or disbursed in the following order: **(A)** Subsequent DOB Proceeds shall first be used to reduce the remaining payments or agreed-upon amount of the Subrecipient Award, and Subsequent DOB Proceeds in such amount shall be retained by the Subrecipient for use on the CDBG-DR Program activity; and **(B)** any remaining Subsequent DOB Proceeds shall be remitted to the County.
4. If the County makes the determination that the Subrecipient does not qualify to participate in the CDBG-DR Program or the Subrecipient determines not to participate in the CDBG-DR Program, the Subsequent DOB Proceeds shall be returned to the Subrecipient, less any portion of the Subrecipient Award amount paid to the Subrecipient and which needs to be remitted to the County, and this Agreement shall terminate.

Once the County has recovered an amount equal to the Subrecipient Award paid to the Subrecipient, the County will reassign to the Subrecipient any right assigned to the County pursuant to this Agreement.

The Subrecipient represents that all statements and representations made by the Subrecipient regarding Proceeds received by the Subrecipient shall be true and correct as of the date of the signing of this Agreement.

Warning: Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 C.S.C. 3729.

The person executing this Agreement on behalf of the Subrecipient hereby represents that he/she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by the Subrecipient.

In any proceeding to enforce this Agreement, the County shall be entitled to recover all costs of enforcement, including actual attorney's fees.

TOWN OF FORT MYERS BEACH

LEE COUNTY

By: _____

By: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____

CDBG-DR SUBRECIPIENT AGREEMENT

The following information is provided pursuant to 2 CFR 200.332(a)(1)

Federal Award Identification Number (FAIN)/ HUD CDBG-DR Grant No.:	B-23-UN-12-0002
Assistance Listing Number (formerly CFDA #):	14.218 Community Development Block Grants/Entitlement Grants
Federal Register Notice & Public Law:	FR-6393-N-01: PL-117-328
Federal Award (HUD Grant Agreement) Date:	11/20/2023
Agreement No.:	DR10264
Responsible Entity (RE):	Lee County
Lead and Responsible Department:	Office of Strategic Resources and Government Affairs
CDBG-DR Funding Source/Program:	US Department of Housing and Urban Development
Subrecipient Name:	Town of Fort Myers Beach
Subrecipient ID (Unique Entity Identifier via SAM.gov):	J87EFSEEQ884
Subrecipient Period of Performance (Start Date):	1/1/2025
Subrecipient Period of Performance (End Date):	12/30/2028
Total Amount Obligated via Agreement:	\$8,336,753.00
Project/Activity ID(s):	DR10264
Federal Award Program/Project/Activity Description:	CDBG-DR/Public Facilities/Town of Fort Myers Beach/Parks and Recreation Revitalization
Does the Federal award include an Indirect Cost Rate for Subrecipient?	Yes ☐ No ☒
	☐ Federally Negotiated Rate %
If Yes, is the Indirect Cost Rate a:	☐ De Minimis Rate 15%

Official County Contact for Award: Jeannie Sutton, Director, Strategic Resources and Government Affairs;
2115 Second St., Fort Myers, FL 33901; Phone: (239) 822-8438; Email: JSutton@leegov.com

**SUBRECIPIENT AGREEMENT BETWEEN
THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AND**

This **AGREEMENT** between Lee County, a political subdivision and charter county of the State of Florida, hereinafter referred to as “**COUNTY**,” and Town of Fort Myers Beach, a local government/municipality registered under the laws of Florida Statute, Chapters 165 and 166, hereinafter referred to as “**SUBRECIPIENT**” will become effective upon the date (“Effective Date”) signed by the Board of County Commissioners (BOCC).

SECTION I: RECITALS

WHEREAS, pursuant to Public Law (P.L.) 117-328, the “Department of Housing and Urban Development Appropriations Act, 2023” (hereinafter referred to as the “Appropriation Act”), and the “Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG–DR Consolidated Waivers and Alternative Requirements Notice,” 88 Federal Register (FR) 32046 (May 18, 2023); (hereinafter referred to as the “Federal Register Guidance”), the U.S. Department of Housing and Urban Development (hereinafter referred to as “HUD”) has awarded \$1,107,881,000 (a \$963,375,000 allocation for unmet disaster recovery needs with an additional \$144,506,000 mitigation set aside) of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to the **COUNTY** for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C.) 5301 *et seq.*) and described in the *Lee County Action Plan for CDBG-DR Funds* (hereinafter referred to as the “Action Plan”) for the Consolidated Appropriation Act (P.L. 117-328). The **COUNTY** is also hereinafter referred to from time to time as “Grantee.”

WHEREAS, the **COUNTY** believes it is in the public interest to serve as a pass-through entity by awarding and/or providing CDBG-DR funding for certain activities to **SUBRECIPIENTS** for the benefit of Lee County residents. CDBG-DR funding made available for use by the **SUBRECIPIENT** under this Agreement constitutes a subaward of the Grantee’s Federal award, for which the use of the subaward funds must conform to the **COUNTY’S** intent as stated in the applicable Notice of Funding Availability (NOFA) Application, and attachments, and/or exhibits, and all other terms and conditions as specified.

WHEREAS, the **COUNTY** has legal authority to disburse funds as a subaward under the Federal award and to enter into this Agreement with the **SUBRECIPIENT**, who by signing this Agreement, represents and warrants to the **COUNTY** that it will comply with all the requirements of the subaward described herein.

WHEREAS, the Action Plan has been developed to give the maximum feasible priority to activities that will benefit low- and moderate-income families and the aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent (or another percentage permitted by HUD in a waiver) of the grant amount is expended for activities that benefit such persons.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, therefore the **COUNTY** and the **SUBRECIPIENT** agree as follows:

SECTION II: SCOPE OF WORK AND ACTIVITIES

The **COUNTY** provides the **SUBRECIPIENT** the award under this Agreement to perform project activities under the **COUNTY’S** CDBG-DR Public Facilities Infrastructure Program. Any proposal, application, or exhibit associated with this CDBG-DR funding award are binding and incorporated herein as a part of this **AGREEMENT**.

The **SUBRECIPIENT** shall submit to the **COUNTY** the required information and documentation to complete *Exhibits A (Scope of Work and Activities – Program/Project Activity Overview) & B (Scope of Work and Activities – Project Activity Scope of Work Description)*. If there is a disagreement between the **COUNTY** and **SUBRECIPIENT**, with respect to the formatting and content requirements of the Exhibit, the **COUNTY'S** has sole and absolute discretion; the **COUNTY'S** decisions shall prevail.

The **SUBRECIPIENT** must provide a statement of work, in accordance with 24 CFR 570.503 detailing the work to be performed, a schedule for completing the work, and a budget. The statement of work as prescribed by the **COUNTY** under *Exhibits A and B* must provide sufficient data and detail to provide a sound basis for the **COUNTY** to monitor performance.

The **SUBRECIPIENT** agrees to abide by all applicable state and Federal laws, rules and regulations, including but not necessarily limited to, the Federal laws and regulations set forth at 24 CFR 570, 2 CFR 200, the Federal Register Guidance, and the **COUNTY'S** Action Plan. This includes core CDBG-DR tenets and requirements as stated below:

SUBSECTION II.A. – MID REQUIREMENT: The **SUBRECIPIENT** must conduct all activities and expend all CDBG-DR award funds granted by the **COUNTY** in the “most impacted and distressed” (MID) areas resulting from the qualifying major disaster in 2022, which is in response to Hurricane Ian (Federal Emergency Management Agency (FEMA) Disaster No. 4673 – DR). As noted in the Federal Register Guidance (88 FR 32046), the HUD-identified MID area for this disaster allocation is all of Lee County.

SUBSECTION II.B. – ELIGIBLE ACTIVITIES: CDBG–DR funds are provided for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (HCDA), as amended (42 United States Code (U.S.C.) 5301 et seq.), related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation of related risk. The **SUBRECIPIENT** must utilize CDBG-DR funds, as prescribed under 24 CFR 570 Subpart C – Eligible Activities, and for alternative requirements and waivers as prescribed within the Federal Register Guidance. Furthermore, the **SUBRECIPIENT** shall conduct its project to align with the approved eligible activity(ies) found under the most-recent approved Action Plan for the **COUNTY'S** CDBG-DR Public Facilities Infrastructure Program.

SUBSECTION II.C. – NATIONAL OBJECTIVE: The **SUBRECIPIENT** must meet the criteria for one of the CDBG-DR program's national objectives. For this scope of work, the **SUBRECIPIENT** must adhere to the following national objective type, as defined at 24 CFR 570.208 and alternative requirements under the Federal Register Guidance, and as reflected as an approved national objective type for this CDBG-DR program within the Action Plan:

- ☒ Activities designed to meet community development needs having a particular urgency (“Urgent Needs”)

SUBSECTION II.D. – CDBG-DR MITIGATION SET-ASIDE AND STORM “TIE-BACK”: The **COUNTY** is responsible for informing the **SUBRECIPIENT** of whether CDBG-DR funding is awarded for an activity(ies) to address an unmet recovery need, a mitigation and resilience measure, or both. Depending on the recovery or mitigation designation by the **COUNTY**, the **SUBRECIPIENT** is responsible for documenting proof of the designation. For recovery activities, the **SUBRECIPIENT** must demonstrate that their activities “tie-back” to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated. For mitigation set-aside activities, the **SUBRECIPIENT** must document how its activity(ies) (1) meet the definition of mitigation activities; (2) address the current and future risks as identified in the **COUNTY'S** mitigation needs assessment in the MID areas under its Action Plan; (3) is a CDBG-DR eligible activity under title I of the HCDA (or otherwise eligible pursuant to a waiver or alternative requirement); and (4) still meets a national objective. In some cases, the

COUNTY may require the **SUBRECIPIENT** to provide evidence of the activity meeting both the CDBG-DR “tie-back” and mitigation measures justification. The **COUNTY** will spell out specific requirements for the **SUBRECIPIENT**, its project, and the project's eligible activity under Exhibit A – Scope of Work and Activities – Program/Project Activity Overview and Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description.

SECTION III: **TERM OF AGREEMENT**

This Agreement shall begin on 1/1/2025 (“*the Effective Date*”) and end on 12/30/2028, unless suspended or terminated as specified in SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION.

The **COUNTY** and the **SUBRECIPIENT** agree that this Agreement shall be electronically signed, and that any electronic signatures appearing on this Agreement shall have the same force and effect as a written signature for the purposes of validity, enforceability, and admissibility. The **COUNTY** and **SUBRECIPIENT** shall maintain this Agreement, including any amendments, in its files.

The **COUNTY** shall not grant any extension of the Agreement unless the **SUBRECIPIENT** provides written justification that is satisfactory to the **COUNTY**, in its sole discretion, and the **COUNTY’S** authorized organizational representative approves such extension in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS of this Agreement.

SECTION IV: **AGREEMENT MODIFICATIONS AND AMENDMENTS**

SUBRECIPIENT must submit a written request, via the County’s approved method for submitting such request, for an Agreement amendment which details the nature of and justification for the requested change and the desired effective date of the change(s). The **COUNTY** reserves the right to approve or deny all Agreement amendments on the basis that such approval or denial is in the **COUNTY’S** best interest. An approved amendment shall be documented on the Agreement amendment form and signed by both parties.

The Assistant County Manager over the **COUNTY’S** Office of Strategic Resources and Government Affairs (SRGA), the BoCC, or their designee may approve amendments to the Agreement, in accordance with the **COUNTY’S** *Hurricane Ian CDBG-DR Subrecipient Manual* and *Internal Grant Management Manual*. As noted within the Manual, the **COUNTY** reserves the right to review the request from the **SUBRECIPIENT** and determine whether an amendment is required or whether County Manager or BOCC approval is needed.

The **COUNTY** also affirms that it may unilaterally modify or amend any Manuals referenced throughout this Agreement without prior notification or agreement by the **SUBRECIPIENT**. Additionally, the **COUNTY** affirms that while it will seek agreement with the **SUBRECIPIENT** on proposed amendments to any Exhibits which are referenced throughout this Agreement, the **COUNTY** may unilaterally modify or amend any such Exhibits **COUNTY**, in its sole discretion, deems necessary to comply with federal policies or regulations.

As noted in the **COUNTY’S** Action Plan, substantial amendments to the Action Plan are defined as (1) a change in program benefit or eligibility criteria; (2) the addition or deletion of an activity(ies); (3) the allocation or reallocation of funds which exceeds or is expected to exceed 5 percent of the current total approved budget; (4) a material change occurs which impacts information and analysis on which the Action Plan was based on to fund certain priority activities (e.g., impact on anticipated beneficiaries, project or activity scope, significant demographic changes, or new significant contributing factors on unmet needs in the jurisdiction); and/or upon HUD’s written notification specifying a material change that requires the revision. The **SUBRECIPIENT** understands that requests for Agreement amendments of the nature described herein, and which involve new or alteration of existing activities that will significantly change the scope, location, or objectives of the approved

activity or beneficiaries must first receive HUD approval before consideration by the **COUNTY** to amend the Agreement.

SECTION V: **COMPENSATION AND ALLOWABLE PAYMENTS**

SUBSECTION V.A. – AGREEMENT PAYMENT: The **SUBRECIPIENT** agrees to accept as full compensation the total amount not to exceed \$8,336,753. The **COUNTY’S** standard method of payment to the **SUBRECIPIENT** is on a reimbursement basis. Payments under this method will be authorized only for work completed and/or services delivered during the term of the Agreement as stated in SECTION III: TERM OF AGREEMENT and prior to the payment request date. The **COUNTY** reserves the right to consider a written request from the **SUBRECIPIENT** for projects that require advanced payments in accordance with 2 CFR 200.305 and 24 CFR 570.502.

The **SUBRECIPIENT** will provide supporting documentation of eligible expenses as stated within this SUBSECTION and the applicable exhibits, forms, and attachments contained with this Agreement. Payment is subject to the provisions of SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION. Funding is contingent upon the availability of CDBG-DR funds and the obligation of said CDBG-DR funds through the **COUNTY’S** annual fiscal year (FY) budget appropriation process.

The **COUNTY** has agreed to reimburse the **SUBRECIPIENT** for approved budget line items listed for the project and its activities under the **COUNTY’S** CDBG-DR Public Facilities Infrastructure Program. The **SUBRECIPIENT** shall expend the allocation as follows:

	Most Impacted and Distressed (MID)
Activity Funds (Direct Project Costs)	\$7,919,916.00
Activity Delivery Funds	\$416,837.00
TOTAL	\$8,336,753.00

Furthermore, “not to exceed” line items and activity budgets under this Agreement shall be identified within the approved budget under the *Project Budget and Expense (Sources and Uses) Worksheet*.

After the **COUNTY** has approved funding and the Office of Strategic Resources and Government Affairs (SRGA) has issued an Agreement related to the funded project, the **SUBRECIPIENT** should sign and return the Agreement within 30 days for execution. In addition, the **SUBRECIPIENT** should begin to draw down funds as agreed upon within the project milestones set out under the *Project Schedule and Milestones* reporting deliverable unless additional time is authorized by the **COUNTY**. Failure to return the signed Agreement or begin spending funds within the agreed upon time frame may result in reduction or forfeiture of funds.

By execution of this Agreement, the **SUBRECIPIENT** attests that necessary written administrative procedures, processes, and fiscal controls are in place for the operation of its CDBG-DR program for which the **SUBRECIPIENT** received funds from the **COUNTY**. These written administrative procedures, processes, and fiscal controls must, at a minimum, comply with applicable state and Federal law, rules, and regulations, Federal Register Guidance, and the terms of this Agreement. The **SUBRECIPIENT** agrees to remedy any deficiencies in its written administrative procedures, processes, and fiscal controls identified by the **COUNTY** or duly authorized CDBG-DR authorities.

The **SUBRECIPIENT** shall request all funds in the manner prescribed by the **COUNTY**, utilizing the Payment Request Form(s) as outlined under SUBSECTION VI.A. REPORTING AND AGREEMENT

DELIVERABLES. Except as set forth herein, or unless otherwise authorized in writing by the **COUNTY**, costs incurred for eligible activities or allowable costs prior to the Effective Date of this Agreement are ineligible for funding with CDBG-DR funds.

If funds are not available to fully execute the project associated with this Agreement because of actions by the United States Congress, the Federal Office of Management and Budget, the **COUNTY** or the provision of SECTION XIII. ASSURANCE, CERTIFICATIONS, AND COMPLIANCE, all obligations on the part of the **COUNTY** to make any further payment of funds will terminate and the **SUBRECIPIENT** shall submit its administrative closeout report within thirty (30) calendar days from the receipt of notice from the **COUNTY**.

SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS): The **SUBRECIPIENT** shall expend CDBG-DR funds only for allowable costs and eligible activities which are incurred during the Agreement period, in accordance with federal cost principles at 2 CFR 200 Subpart E and 24 CFR 570 Subpart C, respectively. The **SUBRECIPIENT** shall ensure that its contractors, subcontractors, and consultants only expend funding under this Agreement for allowable costs resulting from the obligations incurred during the Agreement period as specified under SECTION III. TERM OF AGREEMENT.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds paid in excess of the amount to which the **SUBRECIPIENT** or its contractors, subcontractors, or consultants are entitled under the terms and conditions of this Agreement.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds received for an activity if the activity does not meet an approved National Objective in accordance with 24 CFR 570.208 and the terms of this Agreement.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds not spent in accordance with the conditions of this Agreement or applicable law. For the scenarios detailed above, such reimbursement shall be sent to the **COUNTY**, by the **SUBRECIPIENT**, within thirty (30) calendar days from the **SUBRECIPIENT'S** receipt of notification of such noncompliance.

The **COUNTY** may also defer payment to and/or require repayment from the **SUBRECIPIENT** for noncompliance with Agreement deliverables, program performance requirements, or sufficient documentation to meet regulatory and statutory requirements, including cross-cutting requirements. Funds expended for activities that do not meet a HUD national objective will be required to be repaid by the **SUBRECIPIENT** to the **COUNTY**. If, as a result of monitoring or audit, the **COUNTY** determines that submitted costs are not documented, a payment may be deferred. If costs are found to be unallowable and payment has been made, no future payments will be made until the full amount of overpayment is remitted to the **COUNTY** or a repayment agreement is established by the **COUNTY**. If the monitoring or audit occurs after the term of this Agreement, the **SUBRECIPIENT** will be required to remit funds to the **COUNTY** in accordance with the repayment conditions below.

The **SUBRECIPIENT** agrees to return to the **COUNTY** any overpayments due to disallowed cost, pursuant to the terms of this Agreement and/or Federal requirements. Such funds shall be considered **COUNTY** funds and must be refunded to the **COUNTY** within thirty (30) days of receiving notice from the **COUNTY** in writing regarding the overpayment. Should repayment not be made in a timely manner, the **COUNTY** will charge interest of one (1) percent per month compounded on the outstanding balance after forty (40) calendar days after the date of notification or discovery. The **SUBRECIPIENT** will be required to reimburse the **COUNTY** for disallowed costs or fines resulting from acts of noncompliance.

The **COUNTY'S** determination that an expenditure is eligible does not relieve the **SUBRECIPIENT** of its duty to repay the **COUNTY** in full for any expenditures that are later determined by the **COUNTY** or the

Federal Government, in each of its sole discretion, to be an ineligible expenditure or a Duplication of Benefits.

If requested by the **COUNTY**, all refunds, return of improper payments, or repayments due to the **COUNTY** under this Agreement are to be made payable to Lee County and mailed directly to the **COUNTY**, pursuant to SECTION XIX. NOTICES and this Agreement.

The **SUBRECIPIENT** has responsibility for identifying and recovering grant funds that were expended in error, disallowed, or unused. The **COUNTY'S** provision of training, technical assistance, quality assurance and quality control reviews are in no way intended to alleviate the **SUBRECIPIENT** of the responsibility to administer activities in accordance with all federal, state, and local requirements, including the requirements outlined within this Agreement. The **SUBRECIPIENT** acknowledges full responsibility to return funds to the **COUNTY** in the event that HUD or other auditing agency determines that activities or costs are disallowed.

The **SUBRECIPIENT** will report all suspected or verified fraud to the **COUNTY**, regardless of whether the suspected or verified fraud is associated with disallowed cost or other perceived harm to the **SUBRECIPIENT** or the **COUNTY**.

Mandatory Disclosure of Violations: In accordance with the revised 2 CFR 200.113 and the requirements set forth in FAR 73 FR 67064, the **SUBRECIPIENT** must promptly disclose, in writing, to the **COUNTY**, the federal awarding agency, and the Office of Inspector General, any credible evidence of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations, including violations under the False Claims Act. This obligation extends to the **SUBRECIPIENT** and any subgrantees or contractors associated with the federal award. Failure to disclose such violations may result in remedies for non-compliance, including suspension or termination of the award, as outlined in 2 CFR 200.338 and 2 CFR 200.339.

SECTION VI: **REPORTS AND EXHIBITS**

SUBSECTION VI.A – REPORTING AND AGREEMENT DELIVERABLES: The **SUBRECIPIENT** shall provide the **COUNTY** with all reports and information set forth in the **COUNTY'S** approved system, including monthly performance reports and documentation outlined in all applicable exhibits to enable the Grantee to submit the required reporting to HUD within the Disaster Recovery Grant Reporting (DRGR) system.

The **SUBRECIPIENT'S** monthly reports, include administrative activity, financial activity, and program activity, must include sufficiently detailed summaries of the current status, progress, and completed work. The **SUBRECIPIENT** is responsible for all reporting of work of all contractors, subcontractors, and other entities under contract or agreement related to this Agreement.

At a minimum the following information will be required to be submitted in the system of record by the **SUBRECIPIENT**. Upon request from the **COUNTY**, the **SUBRECIPIENT** shall provide additional program or activity updates and information. If all required reports and copies are not sent to the **COUNTY** within the agreed-upon submission schedule or are otherwise not completed in a manner acceptable to the **COUNTY**, payments may be withheld in accordance with SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) until the reports are completed. If the **COUNTY** withholds such payments, it shall notify the **SUBRECIPIENT** in writing of its decision, reasons for withholding payment, and the remedy for corrective action the **SUBRECIPIENT** must follow. The **COUNTY** may also take other action as stated within this Agreement or allowable by law.

The **SUBRECIPIENT'S** reporting deliverables include, but are not limited to, the following information:

1. **Project Schedule and Milestones:** A table or description of the work task, project start and end dates, other significant milestones (e.g., 50% complete), and timelines for the **SUBRECIPIENT** to submit outputs or deliverables to the **COUNTY**.
2. **Project Budget and Expense (Sources and Uses) Worksheet:** The **SUBRECIPIENT** must provide budget narratives and tables to describe all funding sources and the potential uses of those funding sources for the purposes of completing the project. This narrative will include, but may not be limited to, (a) a description and justification of the proposed costs, (b) a description of project implementation support with **SUBRECIPIENT** or vendor staff, (c) sources of leveraged funds committed by the **SUBRECIPIENT** to the project, and (d) timelines for the projected expenditure of CDBG-DR funds.
3. **Payment Request Form:** The means by which the **COUNTY** and the **SUBRECIPIENT** document project and activity expenses and requests for payment. The **SUBRECIPIENT** shall utilize this form when submitting or requesting any costs for payment and the form must be accompanied by legible supporting documentation to indicate the reasonableness, allowability, and appropriate procurement of the expense(s).

As noted under SECTION III. TERM OF AGREEMENT and SECTION V. COMPENSATION AND ALLOWABLE PAYMENTS, all payments are reimbursements for eligible expenses or services defined as uncompensated expenses rendered during the Agreement term and paid prior to the final payment request due date. Copies of supporting documentation are required as part of the Payment Request for review of grant compliance and before payment will be authorized by the **COUNTY** to the **SUBRECIPIENT**. Reimbursement for eligible expenses will be made after review and authorization of a correct and complete Payment Request Form and required back up documentation. In accordance with the Federal Register Guidance, the **COUNTY** must be payor of last resort, meaning that if services are eligible to be billed to any other entity or funding source, including but not limited to, Medicaid, third party insurance or any other entity or funding source, the **COUNTY** will not pay for that service.

Appropriate back-up/supporting documentation may include cancelled checks, vendor invoices, authorized purchase orders, attendance/service logs, other funder invoices, expenditure spreadsheets or other original documentation, as well as a copy of the **SUBRECIPIENT'S** check issued with authorized signature. For construction contracts, inspection reports from qualified officials should be submitted with the appropriate monthly payment request.

The **SUBRECIPIENT** must submit the *Payment Request Form* with an authorized signature. Cancelled checks, paystubs, payroll reports, bank statements, and/or other documentation from vendors that expenses have been paid or services provided may be verified.

As applicable, processing of payment requests is also subject to the requirements and conditions as set forth within the **COUNTY'S Hurricane Ian CDBG-DR Subrecipient Manual**.

4. **Monthly Activity Report:** The **SUBRECIPIENT** must identify information for this report that ties actual, real-time project and expenditure status to the approved activity budget, scope of work, and projected outcomes. Narratives on budget activity, project progress or delays, and performance measures are included within this report.
5. **Demographics and Beneficiary Report:** The **SUBRECIPIENT** must report on data and include documentation, such as maps detailing service areas, number of individual persons benefitting from the project, and other demographic information on households, where applicable, to indicate the public benefit of the project and activity.
6. **Project Amendment Request:** As referenced under SECTION IV. AGREEMENT MODIFICATIONS

AND AMENDMENTS, the **SUBRECIPIENT** must notify the County and provide information on any project or activity changes within a project amendment request for the **COUNTY** to determine whether the request rises to the level of an amendment to the Agreement.

7. **Single Audit Certification Form:** The **SUBRECIPIENT**, if a nonprofit or governmental organization, must complete a form to certify whether it has expended \$750,000 in federal and/or state funding within the **SUBRECIPIENT'S** given Fiscal Year.
8. **Davis-Bacon and Related Acts (DBRA) Labor Standards Reports (as applicable):** When an activity triggers DBRA requirements, the **SUBRECIPIENT** must report and submit information on assigned labor compliance staff, labor compliance review processes and outcomes, bid and contract requirements documentation, work classification and minimum prevailing wage rates, written clearance of labor compliance issue resolutions, file maintenance plans, and payroll review plans.
9. **Section 3 Reports (as applicable):** When an activity triggers Section 3 requirements, the **SUBRECIPIENT** is required to submit data and information on Targeted Section 3 worker labor hours, Section 3 worker labor hours, total worker labor hours, and other qualitative efforts which the **SUBRECIPIENT** and their vendors took in an attempt to reach or achieve Section 3 goals.
10. **Closeout Report:** The **SUBRECIPIENT** must report project completion data and provide documentation of closeout processes in relation to this project and activity(ies).

The **SUBRECIPIENT'S** Agreement deliverables (as identified within "Exhibits"), which the **SUBRECIPIENT** must follow, include, but are not limited to, the following information:

11. **Exhibit A: Scope of Work and Activities – Program/Project Activity Overview:** Brief description on the identified and agreed-upon CDBG-DR Program eligible activity, National Objective to be achieved for the activity and measures, as applicable, the number of individuals benefitting as a result of the project and its activities, and the appropriate CDBG-DR storm tie-back or resilience need being met, in accordance with SECTION II. SCOPE OF WORK AND ACTIVITIES.
12. **Exhibit B: Scope of Work and Activities – Project Activity Scope of Work Description:** Detailed scope of work defining the plan, design, and approach for the activity.
13. **Exhibit C: Financial/Grant Management System Budget Worksheet:** The high level, official budget for the project as approved under SECTION V.A. AGREEMENT PAYMENT. Any adjustments to this budget will require an amendment in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS.
14. **Exhibit D: Indirect Cost Rate Allocation Plan (as applicable):** Pursuant to 2 CFR 200.414, the **SUBRECIPIENT** is entitled to apply the 15% de minimis indirect cost rate without requiring further approval from the **COUNTY**. Alternatively, if the **SUBRECIPIENT** has a federally negotiated indirect cost rate, they may elect to use that rate, which shall be accepted by the **COUNTY** without additional negotiation or approval. The terms of this Agreement shall reflect the applicable indirect cost rate as established under this Exhibit.
15. **Exhibit E: Projected Performance Measures and Outcomes Form:** The **COUNTY** will utilize the **SUBRECIPIENT'S** detailed scope of work to establish and project out specific performance metrics which the **SUBRECIPIENT** is required to meet to as a condition of project completion and closeout. The **COUNTY** will select the performance measure based on the eligible activity and proposed scope of work approved within the Notice of Funding Availability (NOFA) Application for the **Public Facilities Infrastructure Program**.

16. **Exhibit F: Application:** The **SUBRECIPIENT'S** approved application is attached to this Agreement for identification and understanding of **SUBRECIPIENT'S** responses to critical project components.
17. **Exhibit G: Certificate(s) of Insurance:** In accordance with SECTION X.B. INSURANCE REQUIREMENTS, the **SUBRECIPIENT** must supply insurance coverage for the implementation of the project. This Exhibit will contain those required insurance coverages of the **SUBRECIPIENT**.
18. **Exhibit H: Certification of CDBG-DR Compliance Provisions:** This Exhibit outlines the compliance provisions which the **SUBRECIPIENT** must follow as a requirement of the federal CDBG-DR funding award. The **SUBRECIPIENT** must certify adherence with these conditions.
19. **Exhibit I: CDBG-DR Special Terms and Conditions:** The **COUNTY** may identify specific conditions, including but not limited to, training, technical assistance, capacity building, and policy development, which the **SUBRECIPIENT** must complete as a condition of receiving the CDBG-DR funding award.
20. **Exhibit J: Subrecipient Staff Organization:** In addition to annual certifications of continued operations, the **SUBRECIPIENT** is required to provide evidence of staff who will be responsible for conducting certain actions during project implementation. This Exhibit contains the contact information of those individual staff members.
21. **Exhibit K: CDBG-DR Program Subrogation Agreement:** As noted under SUBSECTION XIII.E. DUPLICATION OF BENEFITS and the Federal Register Guidance, the **SUBRECIPIENT**, as a recipient of federal assistance, must sign a Subrogation Agreement before the **COUNTY** can disburse CDBG-DR assistance to the **SUBRECIPIENT**.

An electronic signature or a scanned copy of the report with signature is acceptable for all reports or exhibits included above for which signatures are required. The **COUNTY** will instruct the **SUBRECIPIENT** on the approved System of Record under which the **SUBRECIPIENT** is expected to provide this data and information.

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

The **COUNTY** notates in the *Subrecipient Agreement Document Checklist*, the required forms and reports the **SUBRECIPIENT** must submit. These reports and forms include, but are not limited to, activity performance reports, payment request forms, program information forms, budget analysis reports, closeout reports, and periodic certifications as described above.

The **SUBRECIPIENT** should submit all reports and forms electronically in a computer-readable format using the approved System of Record submission method specified by the **COUNTY**. When required, reports or exhibits must be certified by signature. An electronic signature is acceptable for all reports, forms, and attachments within the *Subrecipient Agreement Checklist*.

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

SUBSECTION VI.B. – EXTERNAL REPORTING AND ORGANIZATIONAL DOCUMENT REQUIREMENTS: The **COUNTY** or its agents may also require the **SUBRECIPIENT** to submit additional non-project related reports, documentation, and information which are beneficial to determine the **SUBRECIPIENT'S** capacity, compliance, and performance related to this this Federal award compliance. The **COUNTY** may request external reports, including but not limited to, prior and current fiscal year audits, other agency monitoring reports or reviews under other funding sources, organizational

documents, and prior grant closeout reports. The **SUBRECIPIENT** agrees to provide such reports, documentation, and information requested by the County or its agents.

SECTION VII: AUDITS, MONITORING, AND RECORDS

SUBSECTION VII.A. – AUDITS AND INSPECTIONS: In accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508, the **SUBRECIPIENT** will allow the **COUNTY**, Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives right of access to any documents, papers, or other records which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the **SUBRECIPIENT'S** non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

The Clerk of Courts Internal Audit Division, Lee County employees, HUD, or any of their duly authorized representatives have the right of timely and reasonable access to any books, documents, papers, or other records, including electronic storage media, of the **SUBRECIPIENT** or Certified Public Accountant (CPA) that are pertinent to the Agreement, in order to make audits, examinations, excerpts, transcripts and copies of such documents in accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508.

If noncompliance with this Agreement or material weaknesses in the organization are noted, the **COUNTY** or other authorized representatives have the right to unlimited access to records during an audit or inspection. This includes timely and reasonable access to the **SUBRECIPIENT'S** personnel for the purpose of interview and discussion related to such documents.

SUBSECTION VII.B. – INDEPENDENT AUDIT REQUIREMENTS: Under the Single Audit Act and in accordance with the provisions of 2 CFR 200.501, the **SUBRECIPIENT** must conduct a single or program-specific audit if it expends \$1,000,000 or more in Federal awards from all sources during its fiscal year.

The **SUBRECIPIENT** shall also comply with the Federal Audit Clearinghouse (FAC) rules and directives, including but not limited to the pertinent report submission provisions of 2 CFR 200.512, when such provisions are applicable to this Agreement.

For **SUBRECIPIENTS** who are Nonprofit Corporations and do not trigger the Single Audit Act requirements or provisions under 2 CFR 200.501, the **SUBRECIPIENT** must submit an independent certified, audited financial statement of the most recent or immediate prior fiscal year, including the management letter and written response. The **COUNTY** may consider exceptions on an individual basis, to include other supporting audit documents, such as a current CPA's peer review letter or monthly financial statements within the last 60 days, to meet this requirement.

In accordance with 2 CFR 200.514, a complete, independent financial audit of the **SUBRECIPIENT'S** financial accounting statements, in accordance with Generally Accepted Accounting Principles (GAAP) and/or current Generally Accepted Government Auditing Standards (GAGAS), as applicable, is required and must include the following:

1. Auditor's opinion;
2. Requisite reports on internal control and compliance, if required;
3. Management letter addressing internal controls (Note: If there were no items to be addressed, the letter must still be completed and state that no comments were noted);
4. Management's response to such letter;
5. The programs that are funded by this Agreement either in the statement of functional expenses, revenues and expenditures, footnotes, schedule of Federal awards and state financial assistance or as supplemental data in the financial statements. The statement should be consistent with programs

detailed in the corresponding proposal(s), exhibit(s), and attachment(s).

The **SUBRECIPIENT** must submit the audit reports electronically to the **COUNTY** within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or within nine months after the end of the **SUBRECIPIENT'S** audit period. If applicable, any associated corrective action plan must be submitted. Failure to submit the report within the required time frame can result in the withholding of payment, or termination of the Agreement by the **COUNTY**.

The audit must be conducted by an independent, licensed certified public accountant expressing an unmodified opinion on their current peer review and must be in accordance with the General Accounting Office (GAO) Yellow Book, Generally Accepted Government Auditing Standards, 2 CFR 200 Subpart F – Audit Requirements, as applicable, the Florida Single Audit Act (F.S. 215.97) as applicable, and the Auditor General Rule 10.550 (Government) or 10.650 (Not For Profit) as applicable.

SUBSECTION VII.C. – SUBRECIPIENT RISK ASSESSMENTS AND MONITORING: In accordance with 2 CFR 200.332, the **COUNTY**, as HUD's Grantee and a pass-through entity, must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purposes of determining the appropriate subrecipient monitoring. To enable those periodic assessments, the **SUBRECIPIENT** must provide information and documentation as required to the **COUNTY**. The **COUNTY'S** risk assessments results will be used to support the **COUNTY'S** oversight strategies and the level and frequency of monitoring, technical assistance, training to the **SUBRECIPIENT**.

The **SUBRECIPIENT** agrees to permit the **COUNTY** and persons duly authorized by the **COUNTY**, HUD, and other Federal, state, or local agencies, as applicable, or any authorized representatives under these agencies, to have access to and inspect all records, papers, documents, facility's goods and services, and project activity sites of the **SUBRECIPIENT** including interviews of any clients and employees of the **SUBRECIPIENT** to assess satisfactory performance and compliance of the full terms and conditions of this Agreement, in accordance with 2 CFR 200 (specifically 200.332), 24 CFR 570, and the Federal Register Guidance and to the extent permitted by the law, after giving the **SUBRECIPIENT** reasonable notice of such inspection.

The **SUBRECIPIENT** must submit to monitoring of its project activity by the **COUNTY** and persons duly authorized, as necessary, to ensure the CDBG-DR subaward is used for authorized purposes in compliance with Federal statutes, regulations and the terms and conditions of this Agreement.

Monitoring will include: (1) reviewing financial and performance reports required by the Grantee; (2) following up and ensuring that the **SUBRECIPIENT** takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the **SUBRECIPIENT** from the Grantee detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the **SUBRECIPIENT** from the Grantee as required by 2 CFR 200.521. Any limited monitoring review scope of the terms and conditions within this Agreement does not relieve the **SUBRECIPIENT** of its obligation to manage the grant in accordance with all applicable rules and sound management practices.

Following such monitoring and in accordance with 2 CFR 200.521, the **COUNTY** will deliver to the **SUBRECIPIENT** a written report regarding management decisions which notate how activities are being conducted and whether corrective action(s) by the **SUBRECIPIENT** need to be taken to address deficiencies. The **SUBRECIPIENT** will rectify all noted deficiencies documented by the **COUNTY** within the specified period of time indicated in the monitoring report or provide the **COUNTY** with a reasonable and acceptable justification for not correcting the noted deficiencies as defined by the **COUNTY**. The **SUBRECIPIENT'S** failure to correct or provide the **COUNTY** with accepted justification for the deficiencies within the time specified by the **COUNTY** may result in withholding of payments or being

deemed in breach or default of this Agreement and may result in the termination of this Agreement.

In response to **SUBRECIPIENT** deficiencies or other instances of capacity concerns prior to this Agreement, the **COUNTY** may also impose additional conditions on the use of the CDBG-DR funds, as noted under Exhibit I – CDBG-DR Special Terms and Conditions. This Exhibit ensures future compliance through trainings, technical assistance, and capacity building in an effort to correct or avoid early noncompliance.

SUBSECTION VII.D. – RECORDKEEPING REQUIREMENTS: The **SUBRECIPIENT** must comply with the recordkeeping requirements of 24 CFR 570.506, as amended by the Federal Register Guidance's Consolidated Notice waivers and alternative requirements, which describes the types of records which must be kept by the **SUBRECIPIENT** and the **COUNTY** for the Federal CDBG-DR award.

The **SUBRECIPIENT** must comply with the longer of the records retention requirements contained within the Uniform Administrative Requirements (UAR) at 2 CFR 200.334 and State of Florida GS1-SL, except that the **SUBRECIPIENT** must:

1. Retain records for individual CDBG-DR activities for 5 years after the Agreement has ended, as prescribed in State of Florida GS1-SL.
2. Maintain records for individual activities subject to the reversion of assets provisions at 24 CFR 570.503 or change of use provisions at 24 CFR 570.505 for as long as those provisions continue to apply to the activity(ies).
3. Maintain records for individual activities in which there are outstanding loan balances, other receivables, or contingent liabilities until such receivables or liabilities have been satisfied and for 5 years following that satisfaction.

In accordance with 24 CFR 570.506, the **SUBRECIPIENT** shall also maintain books, records and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by the **COUNTY** under this Agreement. The **SUBRECIPIENT** must also retain all financial, client demographics, and programmatic records, supporting documentation, statistical records, and other records, which are necessary to document purchases, expenses, revenue, income, and assets of the **SUBRECIPIENT** by funding source, program, and functional expenses category during the term of this Agreement.

If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the retention period, the records shall be retained by the **SUBRECIPIENT** until all litigation, claims, or audit findings involving the records have been resolved and final action taken in accordance with 2 CFR 200.334. Additional types of records are further described under Exhibit H – Certification of CDBG-DR Compliance Provisions.

The records retention period, as described within this Subsection, may be longer depending on other funding sources for activities. It is the **SUBRECIPIENT'S** further obligation to comply with all Federal and State of Florida retention schedules if other schedules shall apply.

The **SUBRECIPIENT**, including all its employees or agents, contractors, subcontractors, and consultants to be paid from CDBG-DR funds provided under this Agreement, shall allow access to its records at reasonable times for audits, inspections and monitoring as described in this Section and Subsections.

The **SUBRECIPIENT** specifically acknowledges its obligations under 2 CFR 200.338 (further detailed within SUBSECTION XIII.K. PERSONALLY IDENTIFIABLE INFORMATION), and to comply with F.S., 119.0701, as amended from time to time, with regard to public records, and shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the **COUNTY**

- in order to perform the services required under this Agreement;
2. Upon request from the **COUNTY'S** custodian of public records, provide the **COUNTY** with a copy of the requested records or allow the 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;
 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
 4. Meet all requirements for retaining public records and transfer, at no cost to the **COUNTY**, all public records in possession of **SUBRECIPIENT** upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the **COUNTY** in a format that is compatible with the information technology system of the **COUNTY**.

IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, <http://www.leegov.com/publicrecords>.

SECTION VIII: CONTRACTOR STATUS

SUBSECTION VIII.A. – INDEPENDENT CONTRACTOR: It is the Parties' intention that the **SUBRECIPIENT** will be an independent contractor and not the **COUNTY'S** employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Florida revenue and taxation law, Florida Worker's Compensation law and Florida Unemployment Insurance Law. The **SUBRECIPIENT** will retain sole and absolute discretion in the judgment of the manner and means of carrying out the **SUBRECIPIENT'S** activities and responsibilities hereunder. The **SUBRECIPIENT** agrees that it is a separate and independent enterprise from the public employer, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the **SUBRECIPIENT** and the **COUNTY**, and the **COUNTY** will not be liable for any obligation incurred by the **SUBRECIPIENT**, including, but not limited to, unpaid minimum wages and/or overtime premiums.

SUBSECTION VIII.B. – SUBCONTRACTS: Primary roles and responsibilities of the **SUBRECIPIENT** cannot be subcontracted. It is mutually agreed that any program component that is subcontracted by the **SUBRECIPIENT** must have a written contract. The **SUBRECIPIENT** must provide written notice to the **COUNTY** of all subcontractors, as well as provide copies of all contracts entered into with subcontractors, upon the **COUNTY'S** request. Procurement and/or bidding of non-primary roles and responsibilities must be awarded on a fair and non-collusive basis and must be in compliance with all applicable Lee County, State of Florida, and Federal procurement standards at 2 CFR 200.318-327. The **SUBRECIPIENT** shall not enter into a transaction with a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. For projects and services receiving federal funds, the **SUBRECIPIENT** shall also not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List, in accordance with 2 CFR 200.214. The **SUBRECIPIENT** must ensure each subcontractor conforms to the terms and conditions of this Agreement, *Exhibit H – Certification of CDBG-DR Compliance Provisions*, and *Exhibit F – Application*, as applicable, and must

be subject to indemnification as stated in SUBSECTION X.A. INDEMNIFICATION AND LIABILITY below.

SUBSECTION VIII.C. – CONTRACTS AND FEDERAL PROCUREMENT STANDARDS: If the **SUBRECIPIENT** contracts any of the work required under this Agreement, a copy of the proposed contract template and any proposed amendments, extensions, revisions, or other changes thereto, must be forwarded to the **COUNTY** Program Manager for prior written approval. For each contract, the **SUBRECIPIENT** shall report to the **COUNTY** as to whether that contractor or any subcontractors hired by the contractor, is a minority business and women's business enterprise, as defined in section 288.703, F.S. and in accordance with 24 CR 570.506, 24 CFR 570.507, and 2 CFR 200.321. The **SUBRECIPIENT** shall comply with the procurement standards at 2 CFR 200.318 - 200.327 and 2 CFR 200.330 when procuring property and services under this Agreement. The **SUBRECIPIENT** shall include the following terms and conditions in any contract pertaining to the work required under this Agreement:

1. The period of performance or date of completion;
2. The performance requirements;
3. That the contractor is bound by the terms of this Agreement;
4. That the contractor is bound by all applicable state and Federal laws, rules, and regulations;
5. That the contractor shall hold the **COUNTY** and the **SUBRECIPIENT** harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
6. The obligation of the **SUBRECIPIENT** to document in the **SUBRECIPIENT'S** reports the contractor's progress in performing its work under this Agreement;
7. The requirements of Appendix II to 2 CFR 200 - Contract Provision for Non-Federal Entity Contract Under Federal Awards - (refer to Exhibit H – Certification of CDBG-DR Compliance Provisions)

The **SUBRECIPIENT** must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.609 and 2 CFR 200.214), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

The **SUBRECIPIENT** shall maintain oversight of all activities performed under this Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Agreement.

SECTION IX: CONFLICTS OF INTEREST

The **SUBRECIPIENT** agrees that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of activities required under this Agreement. The **SUBRECIPIENT** further agrees that no person having any such interest shall be employed or engaged for said performance. The **SUBRECIPIENT** agrees that no employee, officer, agent of the **SUBRECIPIENT** or its subrecipients shall participate in the selection, award, or administration of a contract or construction bid if a conflict-of-interest, either real or implied, would be involved. The **SUBRECIPIENT** or its subrecipient employees, officers and agents should refrain from accepting gratuities, favors or anything of monetary value from contractors or potential contractors based on the understanding that the receipt of such an item of value would influence any action or judgment of the **SUBRECIPIENT**.

The **SUBRECIPIENT** is subject to the requirements at 24 CFR 570.611 and 2 CFR 200.318, as applicable, which includes developing or maintaining written standards of conduct and a conflict-of-interest policy that complies with the process for promptly identifying and addressing such conflicts.

Any potential conflict of interest shall be reported using the **COUNTY'S** disclosure form.

SECTION X: **RISK MANAGEMENT**

SUBSECTION X.A. – INDEMNIFICATION AND LIABILITY: To the fullest extent permitted by applicable law, **SUBRECIPIENT** shall protect, defend, indemnify, save and hold the **COUNTY**, the Board of County Commissioners, its agents, officials, and employees harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, for claims based on the negligence, misconduct, or omissions of the **SUBRECIPIENT** resulting from the **SUBRECIPIENT'S** work as further described in this Agreement and its attachments, which may arise in favor of any person or persons resulting from the **SUBRECIPIENT'S** performance or nonperformance of its obligations under this Agreement except any damages arising out of personal injury or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the **COUNTY**, its officials, commissioners, employees or agents, subject to the limitations as set out in Florida general law, Section 768.28, Florida Statutes, as amended from time to time. Further, the **SUBRECIPIENT** hereby agrees to indemnify the **COUNTY** for all reasonable expenses and attorney's fees incurred by or imposed upon the **COUNTY** in connection therewith for any loss, damage, injury, liability, or other casualty. The **SUBRECIPIENT** additionally agrees that the **COUNTY** may employ an attorney of the **COUNTY'S** own selection to appear and defend any such action, on behalf of the **COUNTY**, at the expense of the **SUBRECIPIENT**. The **SUBRECIPIENT** further agrees to pay all reasonable expenses and attorney's fees incurred by the **COUNTY** in establishing the right to indemnity.

The **SUBRECIPIENT** further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the Agreement. All individuals hired are employees of the **SUBRECIPIENT** and not of the **COUNTY**.

The **SUBRECIPIENT** further agrees to assume sole responsibility, training and oversight of the parties it deals with or employs to carry out the terms of this Agreement to the extent set forth in Section 768.28, F.S. The **SUBRECIPIENT** shall hold the **COUNTY** harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. Nothing herein shall be construed as consent by the **SUBRECIPIENT** to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

If the **SUBRECIPIENT** is a state agency or subdivision, as defined in Section 768.28, F.S., then the **SUBRECIPIENT** agrees to be fully responsible for its negligent or tortious acts or omissions, which result in claims or suits against the **COUNTY**. The **SUBRECIPIENT** agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, F.S. Nothing herein shall be construed as consent by the state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

Nothing herein is intended to serve as a waiver of sovereign immunity by the **COUNTY** or the **SUBRECIPIENT**.

The provisions of this SUBSECTION X.A. INDEMNIFICATION AND LIABILITY shall survive the termination of this Agreement.

SUBSECTION X.B. – INSURANCE REQUIREMENTS

INSURANCE – NONPROFIT SUBRECIPIENTS

The **SUBRECIPIENT** agrees to secure and maintain the insurance coverage outlined below during the term of this Agreement. The **SUBRECIPIENT** agrees that this insurance requirement shall not relieve or limit **SUBRECIPIENT'S** liability and that the **COUNTY** does not in any way represent that the insurance required is sufficient or adequate to protect the **SUBRECIPIENT'S** interests or liabilities but are merely minimums. It is the responsibility of the **SUBRECIPIENT** to ensure that all subcontractors comply with the insurance requirements.

Certificate(s) of Insurance **naming Lee Board of County Commissioners as Certificate Holder and additional insured** will be attached to this Agreement as an Exhibit (**Exhibit G – Certificate(s) of Insurance**). Name and address for Certificate Holder should be: Lee Board of County Commissioners, P.O. Box 398, Fort Myers, FL 33902. Certificate(s) must be provided for the following coverages at the time of Agreement execution and upon policy renewal. Renewal certificates are due to the **COUNTY** on or before the expiration date.

1. **Workers' Compensation:** Statutory benefits as defined by Section 440, F.S., encompassing all operations contemplated by this Agreement to apply to all owners, officers, and employees. Employers' liability will have minimum limits of:
 - \$100,000 per accident
 - \$500,000 disease limit
 - \$100,000 disease limit per employee
2. **Commercial General Liability:** Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:
 - \$500,000 bodily injury per person (BI)
 - \$1,000,000 bodily injury per occurrence (BI)
 - \$500,000 property damage (PD) or
 - \$1,000,000 combined single limit (CSL) of BI and PD

The General Liability Policy Certificate shall name "**Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials**" as "**Additional Insured**". The **SUBRECIPIENT** agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess.
3. **Business Auto Liability:** The following Automobile Liability will be required and coverage shall apply to all owned, hired, and non-owned vehicles used with minimum limits of:
 - \$100,000 bodily injury per person (BI)
 - \$300,000 bodily injury per occurrence (BI)
 - \$100,000 property damage (PD) or
 - \$300,000 combined single limit (CSL) of BI and PD
4. **Directors & Officers Liability:** Entity coverage to cover claims against the organization directly for wrongful acts with limits not less than \$100,000.
5. **Fidelity Bonding:** Covering all employees who handle the agency's funds. The bond amount must be equivalent to the highest daily cash balance or a minimum amount of \$50,000.

INSURANCE – GOVERNMENT/MUNICIPALITY SUBRECIPIENTS

Documentation of the above coverage requirements are not applicable to local governments or municipalities that are self-insured.

SUBSECTION X.C. – NOTICE OF CANCELLATION OR MODIFICATION: The **COUNTY** will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Lee County Risk Manager, P. O. Box 398, Ft. Myers, FL 33902.

SECTION XI: SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION

In accordance with the Federal Register Guidance, 2 CFR 200.208, 2 CFR 200.339, Appendix II to 2

CFR 200, 24 CFR 570.503, and other rights which may be available under law, the following Subsections identify suspension and termination of the Agreement, with and without cause, the potential events of default by the **SUBRECIPIENT**, and potential remedies by the **COUNTY** for noncompliance by the **SUBRECIPIENT** of any and all requirements of this Agreement, including any exhibits, attachments, and terms and conditions herein:

SUBSECTION XI.A. – SUSPENSION: The **COUNTY** reserves the right to suspend, withhold, withdraw, or recapture funding for failure to comply with the requirements of this Agreement. If the **SUBRECIPIENT** fails to submit required documents by the due date, the **COUNTY** can suspend the Agreement and withhold payments until all requirements are satisfied.

In the event the **SUBRECIPIENT** ceases operation for any reason or files for protection from creditors under bankruptcy law, any remaining unpaid portion of this Agreement, less funds for expenditures already incurred, shall be retained by the **COUNTY** and the **COUNTY** shall have no further funding obligation to the **SUBRECIPIENT** with regard to those unpaid funds.

SUBSECTION XI.B. – EVENTS OF DEFAULT: If any of the following events occur (“Events of Default”), the **COUNTY** may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in SUBSECTION XI.C. REMEDIES or pursue any remedy at law or in equity, without limitation:

1. Any warranty or representation made by the **SUBRECIPIENT**, in this Agreement with the **COUNTY**, is or becomes false or misleading in any respect, or if the **SUBRECIPIENT** fails to keep or perform any of the obligations, terms, or covenants in this Agreement with the **COUNTY**, and/or has not cured them in a timely fashion and/or is unable or unwilling to meet its obligations under this Agreement and/or as required by statute, rule, or regulation;
2. Any material adverse change occurred in the financial condition of the **SUBRECIPIENT** at any time during the term of this Agreement and the **SUBRECIPIENT** fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by the **COUNTY**;
3. The **SUBRECIPIENT** fails to submit any required reports or submits any required report with incorrect, incomplete or insufficient information or fails to submit additional information as requested by the **COUNTY**;
4. The **SUBRECIPIENT** fails to perform or timely complete any of its obligations under this Agreement, including participation in the **COUNTY'S** measures for technical assistance and training;
5. Both the **SUBRECIPIENT** and the **COUNTY** agree that in the event the **COUNTY** elects to make payments or partial payments after any Events of Default, it does so without waving the right to exercise remedies allowable herein or at law and without becoming liable to make any further payment; or,
6. Neither the **SUBRECIPIENT** nor the **COUNTY** (Parties) shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the **SUBRECIPIENT**, the **COUNTY**, or either Parties' employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar causes wholly beyond both Parties' control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the **SUBRECIPIENT** shall take all reasonable measures to mitigate any and all resulting delays or disruptions in the **SUBRECIPIENT'S** performance obligation under this Agreement. If the delay is excusable under this Subsection, the delay will not result in any additional charges or cost under the Agreement to either Parties. In the case of any delay the **SUBRECIPIENT** believes is excusable under this Subsection, the **SUBRECIPIENT** shall notify the **COUNTY** in writing of the delay or potential delay and describe the cause of the delay either (1) with ten (10) calendar days after the cause that creates or will create the delay first arose, if the **SUBRECIPIENT** could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date the **SUBRECIPIENT** first had reason to believe that a delay could result, if the delay is not reasonably

foreseeable. The foregoing shall constitute the **SUBRECIPIENT'S** sole remedy or excuse with respect to delay. Providing notice in accordance with this Subsection is a condition precedent to such remedy. The **COUNTY**, at its sole discretion, will determine if the delay is excusable under this Subsection and will notify the **SUBRECIPIENT** of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against the **COUNTY**. The **SUBRECIPIENT** shall not be entitled to an increase in the Agreement price or payment of any kind from the **COUNTY** for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, the **SUBRECIPIENT** shall perform at no increased cost, unless the **COUNTY** determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to the **COUNTY**, in which case, the **COUNTY** may do any or all of the following: (1) accept allocated activity(ies) performance or deliveries from the **SUBRECIPIENT**, provided that the **SUBRECIPIENT** grants preferential treatment to the **COUNTY** with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by the **SUBRECIPIENT** for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity or (3) terminate the Agreement in whole or in part.

SUBSECTION XI.C. – REMEDIES: If an Event of Default occurs, the **COUNTY** may, in its sole discretion and without limiting any other right or remedy available, provide thirty (30) calendar days written notice to the **SUBRECIPIENT**, and if the **SUBRECIPIENT** fails to cure within those thirty (30) calendar days, the **COUNTY** may choose to exercise one or more of the following remedies, either concurrently or consecutively:

1. Terminate this Agreement upon written notice by the **COUNTY**, sent in conformity with SECTION XIX. NOTICES;
2. Begin any appropriate legal or equitable action to enforce performance of this Agreement;
3. Withhold or suspend payment of all or any part of a request for payment; Demand the **SUBRECIPIENT** return to the **COUNTY** any funds used for any failed/incomplete activities, ineligible activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and
4. Exercise any corrective or remedial actions, including but not limited to:
 - a. Request additional information from the **SUBRECIPIENT** to determine the reasons for or the extent of noncompliance or lack of performance;
 - b. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
 - c. Advise the **SUBRECIPIENT** to suspend, discontinue, or refrain from incurring costs for any activities in question.
5. Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude the **COUNTY** from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement or failure by the **COUNTY** to require strict performance does not affect, extend, or waive any other right or remedy available or affect the later exercise of the same right or remedy by the **COUNTY** for any other default by the **SUBRECIPIENT**.

SUBSECTION XI.D. – TERMINATION BY COUNTY: Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **COUNTY** may, at any time and for other reasons not mentioned above ("for convenience"), cancel this Agreement by giving twenty-four (24) hours written notice to the **SUBRECIPIENT** by Certified Mail, Process Server or Hand Delivery following a determination by the County Manager or designee, at its sole discretion, that such cancellation is in the best interest of the

people of the **COUNTY**. From the date of cancellation, neither party shall have any further obligation unless specified in the termination notice.

If the financing for this project is contingent upon funding sources other than Lee County as identified in the application for this Agreement, and such funds become unavailable, the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours written notice.

SUBSECTION XI.E. – TERMINATION BY SUBRECIPIENT: Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **SUBRECIPIENT** may, at any time and for other reasons not mentioned above (“for convenience”), cancel this Agreement by giving seventy-two (72) hours prior written notice to the **COUNTY** by Certified Mail or Process Server of such and specifying the effective date.

The **COUNTY'S** obligation to make any payments under any provision of this Agreement shall cease on the effective date of termination.

In the event that this Agreement is terminated, the **SUBRECIPIENT** shall not incur new obligations under the terminated portion of the Agreement after the date the **SUBRECIPIENT** has received the notification of termination. The **SUBRECIPIENT** shall cancel as many outstanding obligations as possible. The **COUNTY** shall disallow all costs incurred after the **SUBRECIPIENT'S** receipt of the termination notice. The **COUNTY** may, to the extent authorized by law, withhold payments to the **SUBRECIPIENT** for the purpose of set-off until the exact amount of damages due to the **COUNTY** from the **SUBRECIPIENT** is determined.

In accordance with 24 CFR 570.503, upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** any CDBG-DR funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-DR funds.

SECTION XII: **USE AND REVERSION OF ASSETS, REAL PROPERTY**

The **SUBRECIPIENT** must ensure that any equipment or fixed assets purchased in whole or in part with CDBG-DR funds be adequately safeguarded and assure such assets are used solely for authorized purposes. The purchase, use, management and disposition of equipment and other capital assets must comply with 2 CFR 200.313, 2 CFR 200.439, the applicable Federal Register Guidance, and 24 CFR 570. See SECTION XI: SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION regarding the revision of any CDBG-DR funds or assets upon termination or expiration of this agreement. Per 24 CFR 570.502(a)(8), in all cases when equipment purchased with CDBG funds is sold, the net proceeds are considered program income, and shall be returned to the **COUNTY** within 30 days of receipt of the proceeds.

Any real property under the **SUBRECIPIENT'S** control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to the **SUBRECIPIENT** in the form of a loan) in excess of \$25,000 must (1) be used to meet a national objective until five years after expiration or termination of this Agreement (24 CFR 570.505), unless otherwise agreed upon by the Parties, or except as otherwise set forth herein or (2) if not used to meet a national objective, the **SUBRECIPIENT** shall pay to the **COUNTY** an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for the acquisition or improvement of the property for five years after expiration or termination of this Agreement.

The rights and remedies under this Section are in addition to any other rights or remedies provided by law or under this Agreement.

SECTION XIII: ASSURANCE, CERTIFICATIONS, AND COMPLIANCE

The **SUBRECIPIENT** agrees that compliance with these assurances and certifications constitutes a condition of continued receipt of or benefit from CDBG-DR funds provided through this Agreement, and that it is binding upon the **SUBRECIPIENT**, its successors, transferees, and assignees for the period during which services are provided and activities are performed. Additional requirements of the assurances, certifications, and compliance measures below can be further detailed or outlined in the Agreement's exhibits, forms, and attachments.

SUBSECTION XIII.A. – IMMIGRATION LAWS AND CITIZENSHIP STATUS: The **COUNTY** will not intentionally award Agreements to any **SUBRECIPIENT** who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act (INA).

The **COUNTY** shall consider the employment by the **SUBRECIPIENT** of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the Agreement by the **COUNTY**.

Additionally, the **SUBRECIPIENT** must follow requirements to verify citizenship of CDBG-DR fund recipients in certain circumstances. In accordance with 49 CFR 24.408, the **SUBRECIPIENT** cannot provide relocation assistance to a person who has not provided certification of U.S. citizenship or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the **SUBRECIPIENT** that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States. The **COUNTY** may require the **SUBRECIPIENT** to follow other verification requirements as prescribed within the Federal Register Guidance, regulations, or within the Action Plan.

Furthermore, the **SUBRECIPIENT** shall ensure that CDBG-DR funds, which are passed through Lee County, are restricted to people legally able to reside in the United States.

SUBSECTION XIII.B. - E-VERIFY REQUIREMENTS: The **SUBRECIPIENT** must verify employment eligibility of all new employees hired during the Agreement term through the U.S. Department of Homeland Security's E-Verify system.

Section 448.095, F.S., requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
2. A private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract.

E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to the employer to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: <https://www.e-verify.gov/>.

If the **SUBRECIPIENT**, or its contractors, consultants, or subrecipients, does not use E-Verify, they shall

enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the Effective Date of this Agreement.

SUBSECTION XIII.C. – NATIONAL OBJECTIVE: All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives. The **SUBRECIPIENT** certifies that the activities carried out under this Agreement shall meet the stated national objective as outlined under SUBSECTION II.C. NATIONAL OBJECTIVE. Furthermore, the **SUBRECIPIENT** certifies and acknowledges that it understands documentation and records requirements for the stated national objective type(s), as defined at 24 CFR 570.208, 24 CFR 570.506, and any and all alternative requirements under the Federal Register Guidance in relation to relevant national objective type(s) as stated in the above Subsection.

SUBSECTION XIII.D. – USE OF FUNDS AND ORDER OF ASSISTANCE: CDBG–DR Appropriations Acts generally include a statutory order of assistance for Federal agencies which require Grantees to verify whether funds made available by FEMA or the U.S. Army Corps of Engineers (USACE) are available for an activity, or the costs are reimbursable by FEMA or the USACE, before awarding CDBG-DR assistance for the cost of carrying out the same activity.

The **SUBRECIPIENT** shall not use CDBG–DR funds for activities reimbursable by or for which funds are made available by FEMA or the U.S. Army Corps of Engineers (USACE). The **SUBRECIPIENT** must verify and inform the **COUNTY** if FEMA and USACE funds are available prior to award or expenditure of CDBG-DR funds to an eligible activity within the Scope of Work contained under *Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description*. *Exhibit H – Certification of CDBG-DR Compliance Provisions* further outlines Duplication of Benefits certifications which the **SUBRECIPIENT** must adhere to. Failure to do so can result in a return of funds as further outlined within this Agreement under SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SUBSECTION XIII.E. DUPLICATION OF BENEFITS.

SUBSECTION XIII.E. – DUPLICATION OF BENEFITS: The **SUBRECIPIENT** certifies that it shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 et seq.) and described within Appropriations Acts and Federal Register Guidance. The **SUBRECIPIENT** must comply with HUD's requirements for Duplication of Benefits (DOB), as described in the Federal Register Guidance (Section IV.A.1. – Grant Administration; Duplication of Benefits (DOB)) and HUD guidance (including HUD training materials), including specific Order of Assistance requirements as noted under SUBSECTION XIII.D. USE OF FUNDS AND ORDER OF ASSISTANCE. The **SUBRECIPIENT** shall carry out the activities under this Agreement in compliance with the **COUNTY's** procedures to prevent DOB. The **SUBRECIPIENT** shall also sign a Subrogation Agreement (see *Exhibit K – CDBG-DR Program Subrogation Agreement*).

In accordance with the Federal Register Guidance at 88 FR 32053 – Section IV.A.1.(d)(v) Applicable Rules, Statutes, Waivers, and Alternative Requirements: Reassess Unmet Need When Necessary, the **SUBRECIPIENT** certifies that they will notify the **COUNTY** immediately of any funding source changes and/or additions from other sources that are different from that shown in the **SUBRECIPIENT'S application**. This notification must include a statement explaining how this change in funding affects the provisions of the project and activity requirements as well as the use of and continued need for CDBG-DR funds through the **COUNTY**.

The **SUBRECIPIENT** shall either (1) maintain all funds provided under this Agreement in a separate bank account or (2) ensure that the **SUBRECIPIENT'S** accounting system shall have sufficient internal controls to separately track expenditure of all funds under this Agreement, in accordance with 2 CFR 200.302. In cases where the project and its activities are funded by more than one funding source (other funds besides CDBG-DR funds) where potential duplicative assistance could exist, the **SUBRECIPIENT** shall

not commingle CDBG-DR funds provided under this Agreement with any other funds, projects or programs, when those funds are determined to be for the same purpose and same use, in accordance with the Federal Register Guidance. 88 FR 32050, Section IV.A.1.(a) – Overview of Grant Process, The Stafford Act – and Section 312 of the Stafford Act makes recipients of Federal disaster assistance liable for repayment of the amount of Federal disaster assistance that duplicates benefits available for the same purpose from another source (42 U.S.C. 5155(c)). The **COUNTY** may, in its sole discretion, disallow costs made with commingled funds that were designated as being available for the same purpose and use as the CDBG-DR funds and require reimbursement for such costs as described herein (SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS)).

SUBSECTION XIII.F. – CIVIL RIGHTS REQUIREMENTS: The **SUBRECIPIENT** further assures that all contractors, subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs, projects, and activities are not discriminating against those participants or employees in violation of statutes, regulations, guidelines and standards. By acceptance of this CDBG-DR funding, the **SUBRECIPIENT** assures and certifies the following:

1. That they will comply with all applicable Federal, state and local anti-discrimination laws pertaining to nondiscrimination in programs receiving Federal financial assistance, including but not limited to:
 - a. Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations – including that recipients/grantees of Federal financial assistance are required to take reasonable steps to ensure meaningful access to persons who are Limited English Proficiency (LEP), as per Executive Order 13166 and the Federal Register Guidance, to items such as, but not limited to, project outreach, project, or activity materials including communique in the form of digital (website) media and paper materials.
 - b. Section 109 - Title I of the Housing & Community Development Act of 1974
 - c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
 - d. Age Discrimination Act of 1975 (42 U.S.C. 610 et. seq.)
 - e. Fair Housing Act
2. That they will comply with the Americans with Disabilities Act of 1990 (“ADA”) (P.L. 101-336, as codified at U.S.C. 42.126 (sections 12101-12213) and as amended, and 28 CFR 35); the Florida Civil Rights Act, as amended, Chapter 76, F.S.; Title VII of the Civil Rights Act of 1964, as amended; and laws which gives civil rights protections to individuals with disabilities, guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. A Single-Point-of-Contact shall be required if the agency employs 15 or more employees. The Single-Point-of-Contact will ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section 504 and the ADA and coordinate activities and reports with the **SUBRECIPIENT’S** Single-Point-of-Contact.
3. That if clients are to be transported under this Agreement, **SUBRECIPIENT** will comply with the provisions of Chapter 427, Florida Statutes, which requires the coordination of transportation for the disadvantaged.
4. That if personnel in programs under this Agreement work directly with children/youths and vulnerable or disabled adults, the **SUBRECIPIENT** will comply with applicable provisions under Florida Statutes 943.0542; 943.04351; 393.0655; 402, regarding employment screening.
5. That activities under this Agreement shall provide for access to equal participation of religious or faith-based organizations, where applicable, in accordance with 24 CFR 570.200 and Executive Order 13279.

Additional requirement information can be accessed at the following websites:

- [Office of Fair Housing and Equal Opportunity \(FHEO\) Fair Housing Rights and Obligations](#)
- [FHEO main website](#)

- Guidelines for promoting Fair Housing for individuals with Limited English Proficiency (LEP)

These requirements are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion (creed), sex, national origin, age, familial status or disability. Affirmative marketing plans and use of universal design features for construction and rehabilitative projects should be incorporated when possible.

All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement, or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Different styles/types/sizes of logos and information regarding brochures can be found on the Fair Housing and Equal Opportunities HUD website.

SUBSECTION XIII.G. – DETECTION AND PREVENTION OF FRAUD, WASTE, AND ABUSE: In accordance with the Federal Register Guidance, the **SUBRECIPIENT** certifies that they will administer their programs under procedures, supervision, safeguards, and such other methods as may be necessary to prevent fraud, waste, and abuse, and that it will target its services and activities to those who need them the most. Additionally, the **SUBRECIPIENT** certifies that their written standards of conduct and their conflict-of-interest policy will supplement their anti-fraud, waste, and abuse (AFWA) initiatives, and that the **SUBRECIPIENT** may be required to take part in fraud, waste, and abuse (FWA) training and will work with the **COUNTY** to develop a FWA complaint and reporting process, including reporting such complaints to the **COUNTY**.

SUBSECTION XIII.H. – INELIGIBLE ACTIVITIES: The **SUBRECIPIENT** assures that it will not conduct or expend CDBG-DR funds on any activities which are deemed ineligible by the Federal Register Guidance (88 FR 32077, Section III.G.), federal regulations (most notably at 24 CFR 570.207), the Action Plan, and all other applicable laws.

SUBSECTION XIII.I. – PROGRAM INCOME: The **SUBRECIPIENT** shall report to the **COUNTY** all program income (as defined at 24 CFR 570.500 or in the Federal Register Guidance governing the CDBG-DR funds) generated by activities carried out with CDBG-DR funds made available under this Agreement as part of the **SUBRECIPIENT'S** periodic reporting outlined under SECTION VI. REPORTS AND EXHIBITS and SECTION VII. AUDITS, MONITORING, AND RECORDS.

The **SUBRECIPIENT** must return to the **COUNTY**, prior to closeout, any program income generated by the project and its activities. The **COUNTY** certifies that it shall use program income in accordance with the applicable requirements of 2 CFR 200.307 and alternative requirements and waivers as prescribed under the Federal Register Guidance at 88 FR 32074, Appendix B: CDBG-DR Consolidated Notice - Section III.E. Program Income (in place of requirements at 24 CFR 570.500 and 24 CFR 570.504), and the terms of this Agreement. The **SUBRECIPIENT** shall return program income to the **COUNTY** if a program income balance exists, or program income is generated after closeout. In all cases, any program income received that is not used to continue the disaster recovery activity will not be subject to the waivers and alternative requirements of the Federal Register Guidance or the **COUNTY'S** CDBG Entitlement program, if program income is transferred to that program.

SUBSECTION XIII.J. – CITIZEN PARTICIPATION AND PUBLIC WEBSITE REQUIREMENTS: The **COUNTY**, as a Grantee, certified to HUD that it has a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in waivers and alternative requirements under the Federal Register Guidance). Additionally, the **COUNTY**, as a Grantee, certified to HUD that it will maintain a comprehensive CDBG-DR public website that permits individuals and entities awaiting assistance and the general public to see how all grant funds are used and administered. The Action Plan

also details how the **COUNTY** will adhere to both requirements.

The **SUBRECIPIENT** certifies that it will adhere to requirements by the **COUNTY** to provide documentation and information which informs both the citizen participation and public website requirements. Further details on information needed to meet these requirements are spelled out in the exhibits, attachments, and forms as part of this Agreement.

SUBSECTION XIII.K. – PERSONALLY IDENTIFIABLE INFORMATION (PII): As previously referenced under SUBSECTION VII.D. RECORDKEEPING REQUIREMENTS and in accordance with 2 CFR 200.1 and 2 CFR 200.338, Personally Identifiable Information (PII) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Protected PII means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, and educational transcripts. This does not include PII that is required by law to be disclosed.

PII must always be safeguarded, even in instances of public records requests. No Federal awarding agency may place restrictions on the non-Federal entity that limits public access to the records of the non-Federal entity pertinent to a Federal award, *except for protected PII or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency.*

The **SUBRECIPIENT** certifies that they understand the PII definitions as noted above, and in accordance with their internal controls under 2 CFR 200.303, the SUBRECIPIENT must implement reasonable measures to safeguard Personally Identifiable Information (PII) and other sensitive data. These measures should form part of the SUBRECIPIENT's internal control framework to ensure compliance with federal regulations. The SUBRECIPIENT is responsible for maintaining appropriate safeguards to prevent unauthorized access, use, or disclosure of such information, consistent with cybersecurity best practices and the applicable federal, state, and local laws governing data protection.

Additionally, the **COUNTY**, pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a "covered entity," as the law defines that term. Any "personal health information" (PHI) as defined by the law that the **COUNTY** receives pursuant to this Agreement in connection with this project and its activities, as applicable, is subject to the disclosure and security requirements of HIPAA. Transfer of information to the **COUNTY** sufficiently "de-identified" to no longer be considered PHI is encouraged as being in the best interest of client PHI confidentiality to the extent that public services are unaffected. Methods to accomplish the highest levels of public service coupled with PHI confidentiality will be an ongoing task of the affected staffs of the **COUNTY** and the **SUBRECIPIENT**.

SUBSECTION XIII.L. – NECESSARY AND REASONABLE REQUIREMENTS: The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for the Federal Awards in 2 CFR 200 Subpart E (Federal Cost Principles) apply to all CDBG-DR Grantees and their Subrecipients. The **SUBRECIPIENT** certifies that all costs incurred under this Agreement are necessary and reasonable for the performance of its project and/or activities. The Cost Principles are made applicable to local governments through 24 CFR 570.502. The **SUBRECIPIENT** must consider factors described at 2 CFR 200.404(a-e) when determining which types and amounts of cost items incurred under this Agreement are necessary and reasonable.

SUBSECTION XIII.M. – COPYRIGHT, PATENT AND TRADEMARK: In accordance with 2 CFR 200.1

and 2 CFR 200.135, trademarks, copyrights, patents and patent applications and property, are identified as intangible property, or property having no physical existence. The **SUBRECIPIENT** may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this CDBG-DR award. HUD, through the **COUNTY** as its pass-through entity, reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. The **SUBRECIPIENT** is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR 401 ("Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements").

Any and all patent rights accruing under, or in connection with, the performance of this Agreement are hereby reserved to the **COUNTY**. Any and all copyrights accruing under, or in connection with, the performance of this Agreement are hereby transferred by the **SUBRECIPIENT** to the **COUNTY**.

1. If the **SUBRECIPIENT** has a pre-existing patent or copyright, the **SUBRECIPIENT** shall retain all rights and entitlement to that pre-existing patent or copyright unless this Agreement expressly provides otherwise.
2. If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement or in any way connected with it, the **SUBRECIPIENT** shall refer the discovery or invention to the **COUNTY** for a determination whether the **COUNTY** will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the **COUNTY**. If any books, manuals, films, or other copyrightable material are produced, the **SUBRECIPIENT** shall notify the **COUNTY**. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the **SUBRECIPIENT** to **COUNTY**. Within thirty (30) calendar days of execution of this Agreement, the **SUBRECIPIENT** shall disclose all intellectual properties relating to the performance of this Agreement which give rise to a patent or copyright. The **SUBRECIPIENT** shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and the **COUNTY** shall have the right to all patents and copyrights which accrue during performance of this Agreement.

SUBSECTION XIII.N. – FEDERAL TERMS AND CONDITIONS: For Federal CDBG-DR funded programs, the **SUBRECIPIENT** has or will develop and maintain the capacity to carry out disaster recovery activities in a timely manner and will ensure compliance with applicable Uniform Administrative Requirements as described in 2 CFR 200, Community Development Block Grants (CDBG) regulations at 24 CFR 570, the Federal Register Guidance, the Action Plan, and all other established, applicable HUD regulations, acts, and statutes, as now in effect and as may be amended from time to time. The **COUNTY** outlines full CDBG-DR Compliance Provisions for the **SUBRECIPIENT** under Exhibit H – Certification of CDBG-DR Compliance Provisions and details program management standards within the respective program's manual.

SUBSECTION XIII.O. – STATE AND LOCAL GOVERNMENT REQUIREMENTS: The **SUBRECIPIENT** agrees to the following statements as it relates to state and/or local government requirements:

1. The **SUBRECIPIENT** will comply with all applicable laws, ordinances, and regulations of the United States, the State of Florida, the **COUNTY**, and the municipalities as said laws, ordinances, and regulations exist and are amended from time to time. In entering into this Agreement, the **COUNTY** does not waive the requirements of any **COUNTY** or local ordinance or the requirements of obtaining any permits or licenses that are normally required to conduct business or activity contemplated by the **SUBRECIPIENT**.
2. The **SUBRECIPIENT** will comply with Chapter 39.201, Florida Statutes, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent,

legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

3. The **SUBRECIPIENT** will comply with Chapter 415.1034, Florida Statutes, that any person who knows or has reasonable cause to suspect that a vulnerable and or disabled adult has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).
4. The **SUBRECIPIENT** will comply with and implement this Agreement in a manner satisfactory to Lee County and HUD and consistent with all applicable laws, regulations, and policies and procedures that may be required as a condition of Lee County providing the grant funds, including but not limited to, all applicable program administration and compliance requirements set forth by this Agreement, and in accordance with the CDBG-DR NOFA Application, CDBG-DR Action Plan, and any other documentation previously provided by the **SUBRECIPIENT**, attached as Exhibit F – Application, and made a part hereof.
5. Lee County's provision of grant funds under this Agreement is specifically conditioned on the **SUBRECIPIENT's** compliance with this provision and all terms and conditions of this Agreement, the most recently published version of Lee County's *Hurricane Ian CDBG-DR Subrecipient Manual and Internal Grant Management Manual*, and the CDBG-DR *Public Facilities Infrastructure Program Policies and Procedures Manual*, which can be accessed on <https://cdbgdrr.leegov.com>, and any amendments thereto, related Federal Register Guidance (including Guidance, which is provided under future Federal Register Notices), and the requirements of the authorities cited above, as the same may be amended from time to time.
6. The **SUBRECIPIENT** will acknowledge support for activities funded wholly or in part by CDBG-DR funds provided by HUD and the **COUNTY**. In publicizing, advertising, or describing the program, state "Funding provided by Lee Board of County Commissioners and HUD."
7. The **SUBRECIPIENT** will notify the **COUNTY** of any changes to the **SUBRECIPIENT** organization to include Board Membership (roster), Articles of Incorporation and Bylaws within ten (10) working days of the effective date.
8. If needed, **SUBRECIPIENT** may be called upon to assist the **COUNTY** during a natural disaster or emergency. This may include, but is not limited to, the use of the **SUBRECIPIENT'S** facility to assist with Emergency Food Stamp preregistration if the facility is operations and use of staff to assist with case management and post-disaster shelter assessments. **SUBRECIPIENT** will be responsible to notify United Way 211 via phone, email, or through submission of online survey form, immediately after a disaster declaration if the location is accessible and operational and of any **SUBRECIPIENT** staff who are available to assist with recovery efforts.

SECTION XIV: OTHER PROVISIONS AND CONDITIONS

If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Agreement.

Any power of approval or disapproval granted to the **COUNTY** under the terms of this Agreement shall survive the term of this Agreement.

All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

In the event travel is pre-approved by the **COUNTY**, any bills for travel expenses shall be submitted and reimbursed in accordance with section 112.061, F.S., the rules promulgated thereunder and 2 CFR 200.474.

If the **SUBRECIPIENT** is allowed to temporarily invest any advances of CDBG-DR funds under this Agreement, any interest income shall either be returned to the **COUNTY**.

The **SUBRECIPIENT** acknowledges being subject to Florida's Government in the Sunshine Law (section 286.011, F.S.) with respect to the meetings of the **SUBRECIPIENT'S** governing board or the meetings of any subcommittee making recommendations to the governing board. The **SUBRECIPIENT** agrees that all such aforementioned meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, F.S.

The **SUBRECIPIENT** shall comply with section 519 of P.L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

Upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** any CDBG-DR funds remaining at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG-DR funds.

SECTION XV: **CITIZEN COMPLAINTS**

The **SUBRECIPIENT** is responsible for tracking and reporting citizen complaints to the **COUNTY** under the following types of complaints and/or inquiries: (1) Program or Project Appeals, where applicable; (2) HUD complaints; (3) Fair Housing complaints; and (4) Fraud, Waste, and Abuse (FWA) complaints. The **SUBRECIPIENT** must adopt the **COUNTY's** written citizen complaint policy or provide their own policy that provides citizens with the address, phone number, and times for submitting complaints and grievances. The policy must also provide that timely written answers to written complaints and grievances will be provided within 15 working days, where practicable, or the **SUBRECIPIENT** must document why additional time for the response is required.

SECTION XVI: **LEGAL AUTHORIZATION**

The **SUBRECIPIENT** certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The **SUBRECIPIENT** certifies that the undersigned person has the authority to legally execute and bind the **SUBRECIPIENT** to the terms of this Agreement. The **COUNTY** may, at its discretion, request documentation evidencing the undersigned has authority to bind the **SUBRECIPIENT** to this Agreement as of the Effective Date; any such documentation is incorporated herein by reference.

Prior to the execution of this Agreement, the **SUBRECIPIENT** warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation, or any other legal or financial condition that would in any way prohibit, restrain, or diminish the **SUBRECIPIENT'S** ability to satisfy its obligations. The **SUBRECIPIENT** shall immediately notify the **COUNTY** in writing if its ability to perform is compromised in any manner during the term of this Agreement.

SECTION XVII: AGREEMENT DISPUTE RESOLUTION PROCEDURE

Any dispute between the Parties with respect to provisions contained in a Lee County Office of Strategic Resources and Government Affairs Agreement or issues that arise pertinent to an Agreement shall be resolved as follows:

The Parties may, by mutual agreement, attempt to resolve their dispute in the following manner within a thirty (30) day period. If both parties are in agreement, the thirty (30) daytime period can be extended for an additional ten (10) days.

1. Duly authorized representatives shall meet as often as mutually agreeable to discuss in good faith the dispute and to negotiate a mutually agreeable resolution. Authorized representatives for SRGA include the Agreement Coordinator and Program Manager.
2. During the course of the dispute process, requests made by one Party to the other for non-privileged information, reasonably related to the dispute, shall be responded to in good faith.
3. If the dispute is unable to be resolved between the authorized representatives within the specified time period, it will be forwarded to the Department Director for resolution. A decision by the Director will be issued within ten (10) days.
4. If the dispute remains unresolved after the Department Director's decision, the parties may proceed to litigation. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens. This Agreement and the rights and obligations of the Parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles. Unless otherwise agreed in writing, the **SUBRECIPIENT** will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.
5. Either Party may at any time commence formal court proceedings, which shall be immediately communicated, and will end the informal Dispute Resolution process as described in Paragraph 1-3 above.

SECTION XVIII: AGREEMENT CLOSEOUT

The **SUBRECIPIENT** must complete a closeout checklist and final closeout reports to ensure complete and final documentation of all finance and program activities. The closeout checklist and reports must be submitted to the **COUNTY** within 90 days after the end date of this agreement.

The closeout checklist must include documentation and certification that:

1. All CDBG-DR funds have been expended within the exception of any closeout liabilities or contingent liabilities (24 CFR 570.509(a)(1));
2. All work financed with CDBG-DR funds has been completed, is eligible, and meets a national objective, including activities financed through escrow accounts, loan guarantees, or similar mechanisms; performance and expenditure reports have been submitted and account for program income and administrative expenditures (24 CFR 570.509(a)(2-5)); and
3. All other responsibilities under this Agreement have been met or the **COUNTY** has determined that there is no further benefit in keeping the Agreement open to secure performance (24 CFR 570.509(a)(6)).

The final closeout reports must include the following:

1. Final Project Performance Measures and Outcomes Form (*Exhibit E*);

2. Final *Monthly Activity Report* (with final progress narrative);
3. Updated *Project Budget and Expense (Sources and Uses) Worksheet* (including program income);
4. Final *Payment Request Form*; and
5. Inventory of property acquired or improved with CDBG funds. The inventory should identify real property acquired with over \$25,000 of CDBG funds including its current use, to facilitate compliance with requirements for the continuing eligible use of property at 24 CFR 570.505.

Based on the **SUBRECIPIENT'S** final reports and other relevant information, the **COUNTY** may execute a closeout agreement that specifies closeout costs or contingent liabilities that are subject to payment with CDBG-DR funds after the closeout agreement is signed; continuing responsibilities after closeout; or other provisions appropriate to special circumstances.

As specified in 2 CFR 200.345, the closeout of a CDBG-DR award to a **SUBRECIPIENT** does not affect:

1. The **COUNTY's** right to disallow costs and/or recover funds on the basis of a later audit or other review.
2. The **SUBRECIPIENT's** obligation to return funds due to the **COUNTY** from subsequent refunds, corrections, or other transactions.
3. The **COUNTY** and **SUBRECIPIENT'S** obligation to comply with records retention as specified in 2 CFR 200, Subpart D—Post Federal Award Requirements, Records Retention and Access, including 2 CFR 200.334-338, as modified by 24 CFR 570.502(a)(7)(ii).
4. The **SUBRECIPIENT's** responsibilities for property management and disposition:
 - o For real property in 24 CFR 570.503(b)(7).
 - o For other property, as applicable in 2 CFR 200, Subpart D, Post Federal Award Requirements, Property Standards, including:
 - 2 CFR 200.310 (Insurance coverage).
 - 2 CFR 200.312 (Federally owned and exempt property).
 - 2 CFR 200.313 and 24 CFR 570.502(a)(6) (Equipment).
 - 2 CFR 200.314 (Supplies).
 - 2 CFR 200.315 (Intangible property).
 - 2 CFR 200.316 (Property trust relationship).
 - Audit requirements in 2 CFR 200, Subpart F.

SECTION XIX: NOTICES

Official notices concerning this Agreement will be directed to the following authorized representatives below, either in writing, by hand delivery, first class, or certified mail with return receipt requested at the addresses below, or in electronic format, by electronic mail:

SUBRECIPIENT

Name: Andy Hyatt
Title: Town Manager
Agency: Town of Fort Myers Beach
Address: 2525 Estero Boulevard, Fort Myers
Beach, FL 33931
Telephone: 239-313-0895
Email: AndyHyatt@fmbgov.com

COUNTY

Name: Jeannie Sutton
Title: Director
Agency: Office of Strategic Resources and
Government Affairs
Address: 1500 Monroe St., Fort Myers, FL 33901
Telephone: (239) 822-8438
Email: JSutton@leegov.com

The signatures of the two persons shown below are designated and authorized to sign all applicable reports:

Andy Hyatt
Name (printed/typed)

Glen V. Salyer
Name (printed/typed)

Signature

Town Manager

Title

Signature

Assistant County Manager

Title

In the event that the **SUBRECIPIENT** designates different representatives after execution of this Agreement, notice of the name and address of the new representative will be rendered in writing or electronically by authorized officer of the **SUBRECIPIENT** to the **COUNTY**.

SECTION XX: ALL TERMS AND CONDITIONS INCLUDED

This Agreement and its attachments, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of this Agreement is legally determined unlawful or unenforceable, the remainder of the Agreement shall remain in full force and effect and such terms or provisions shall be stricken.

IN WITNESS THEREOF, the **SUBRECIPIENT** and the **COUNTY** have caused this Agreement and all Agreement Exhibits, Attachments, Reports, and Forms as indicated on the *Subrecipient Agreement Document Checklist* to be executed by their undersigned officials as duly authorized.

SUBRECIPIENT: TOWN OF FORT MYERS BEACH

BY: _____
Signature Date

Name (print)

ATTEST:
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

County Attorney's Office

EXHIBIT A
SCOPE OF WORK AND ACTIVITIES
PROGRAM/PROJECT ACTIVITY OVERVIEW

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the Public Facilities Infrastructure Program NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to inform and update the County's approved System of Record for program and project eligibility with core HUD CDBG-DR requirements. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record.

Program/Project Activity Overview

Project Name: Parks & Recreation Revitalization

CDBG-DR Program eligible activity: Rehabilitation/reconstruction of public facilities

The National Objective to be achieved for each activity as a result of this Project: Activities designed to meet community development needs having a particular urgency ("Urgent Needs").

Per 24 CFR 570.208(c), to comply with the national objective of meeting community development needs having a particular urgency, and activity must be designed to alleviate existing conditions which the grantee certifies:

- 1. Pose a serious and immediate threat to the health or welfare of the community;*
- 2. Are of recent origin or recently became urgent;*
- 3. The grantee/subgrantee is unable to finance the activity on its own; and,*
- 4. Other resources of funding are not available to carry out the activity.*

In accordance with FR-6393-N-01, this activity is using the Urgent Need national objective which is allowed for a period of 36 months after the applicability date of the Lee County's Allocation Announcement Notice (May 28, 2023).

The method of measuring the National Objective, if LMI: Not Applicable – activity will not meet a LMI national objective

The number of individuals benefiting as a result of this Project:

- Total beneficiaries: 6,670
- Total low/mod beneficiaries: 2,055

CDBG-DR storm tie-back and/or Mitigation resilience measure: The Town of Fort Myers Beach was devastated by the unprecedented destruction of Hurricane Ian, which left many unmet needs and exposed areas of the community to future storms. The Parks & Recreation Revitalization Program aims to revitalize the community by replacing and updating multiple public facilities and community

parks that were severely damaged by the hurricane. These repair and enhancement efforts align with the broader community goals of sustainability, resilience, and community well-being. The first component is the Bay Oaks Community Pool Project, a critical community hub beloved by both residents and tourists. Hurricane Ian's surge and debris heavily damaged the entire facility, including the pool, hard deck, public restrooms, and staff offices. All mechanical systems were wiped out. This project proposes constructing a new facility to house public restrooms and staff offices, fully replacing the hard deck and slide structure, restoring the pool basins, and improving surrounding drainage, lighting, and landscaping. This comprehensive project will ensure an efficient, durable, and resilient community asset for many years to come. Efficient and timely completion of the pool project is essential not only for restoring services but also for demonstrating effective disaster recovery management, minimizing downtime, and allowing the community to benefit from the renewed resources as soon as possible. The disastrous impacts of Hurricane Ian, including a storm surge of over 15 feet, resulted in the complete loss of the previous community hub, creating an immediate need to restore this essential recreational facility. Restoring the Bay Oaks Community Pool aligns with community goals by providing a safe, inclusive, and engaging space that supports health, wellness, and social interaction. The second component, the Old San Carlos & Time Square Lighting Project, aims to revitalize the downtown core by replacing and updating the entire street lighting system, which was severely damaged by Hurricane Ian. This area, anchored by two vital community gathering spaces —Bayside on the north side and Time Square on the gulf side—is a critical business district and community hub. Hurricane Ian's surge and debris obliterated nearly all 46 streetlights and light poles, leaving the area dangerously dark. This project proposes installing two new panel/switch boxes, all new wiring and conduit, and poles with turtle-compliant lighting fixtures. This comprehensive upgrade will ensure efficient, durable, and safe lighting for the business district, addressing the immediate need for public safety and supporting the economic recovery of local businesses. The significance of this project is paramount to the town's prosperity in both the short and long term, transforming the area into a functional, energy-efficient, safe, and welcoming environment. Revitalizing the downtown lighting aligns with community goals by enhancing public safety, supporting local businesses, and creating a vibrant, attractive area for residents and visitors. Additionally, this lighting project will serve as the first step in the town's long-term plan to evolve Old San Carlos Boulevard into a "park corridor," connecting Bayside to the north and Time Square to the south, further enhancing connectivity and the overall aesthetic appeal of the downtown area. The final component, the Newton Park Beach Facility Project, aims to revitalize a historic landmark in Fort Myers Beach by replacing and updating the "Seven Seas" cottage, which was completely destroyed by Hurricane Ian. This cottage, with nearly 100 years of history, served as an education center for the community. The project proposes constructing a new elevated and resilient education-focused facility to replace the previous building, ensuring ADA compliance and public restrooms for the beachfront park, along with reconstructing the attached parking lot. Designed with future severe weather events in mind, the facility will feature a reinforced foundation and roof, high-impact glass, and sealants offering enhanced resistance to water and wind. Landscaping will include dune restoration with native grasses and shrubs to naturally mitigate erosion and flooding. These features ensure that the facility will endure as a safe, educational, and recreational resource through harsh conditions. The new Newton Park Beach Facility will align with community goals by preserving the town's history, promoting environmental education, and providing a resilient and accessible public space. The Parks & Recreation

Revitalization Program will utilize forward-looking strategies and proven best practices to mitigate future issues the completed projects may face. The town will use LED lighting to reduce energy consumption. Additionally, lighting near the beach will be turtle-compliant to ensure no disruption to natural habitats. These measures align with HUD's green building standards, offering direct economic benefits through reduced energy bills and contributing to the broader community goal of sustainable development. This program will provide a foundation for residential satisfaction, allowing the area to continue recovering from the catastrophic impacts of Hurricane Ian while applying environmentally friendly strategies and resilient building standards to reduce future storm impacts. The Parks & Recreation Revitalization Program is a transformative initiative that will significantly enhance the quality of life in Fort Myers Beach, aligning with community goals to create a safe, sustainable, and vibrant environment.

EXHIBIT B
SCOPE OF WORK AND ACTIVITIES
PROJECT ACTIVITY SCOPE OF WORK DESCRIPTION

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the Public Facilities Infrastructure Program NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to inform and update the County's approved System of Record for key performance measures and project budget cost eligibility. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record and/or under a formal amendment in accordance with the Agreement.

Project Activity Scope of Work Description ("Work")

The Town of Fort Myers Beach is applying for Community Development Block Grant Disaster Recovery (CDBG-DR) funding through the Lee County Public Facilities Program to support the restoration and enhancement of its parks and recreational facilities. The devastating impact of Hurricane Ian left the town not only physically damaged but also economically stifled. The Parks & Recreation Revitalization project is a vital initiative aimed at repairing and upgrading these essential public spaces. This project will address the damage caused by Hurricane Ian while also improving the resilience and sustainability of the Town's recreational facilities for future use. Before the storm, these facilities were central to the Town's community life, promoting health, wellness, and social connections. The program is divided into three key components, each crucial to the Town's long-term recovery and success:

1. Bay Oaks Community Pool Rehabilitation. This component of the project involves a comprehensive rebuild of the existing pool facilities, which suffered extensive damage during Hurricane Ian. The project's scope includes repairing the pool basins that withstood the storm and completely reconstructing the pool deck, water slide, mechanical systems, restrooms, offices, and other facilities that were devastated. The design strategy focuses on leveraging the intact parts of the pool infrastructure while updating and enhancing areas that require complete renovation.

The reconstruction will not only restore the pool to its former glory, but also introduce improvements in the design to enhance user experience and operational efficiency. This includes modernizing the pool deck layout to accommodate more visitors comfortably and safely, upgrading the water slide to meet the latest safety standards, and overhauling the mechanical systems to ensure more efficient and reliable operation.

The technical aspects of reconstruction will be carefully planned to ensure both

durability and functionality. The pool deck will be rebuilt using advanced, weather-resistant materials that offer both aesthetic appeal and long-lasting performance. The mechanical systems—including pumps, filters, and heating systems—will be state-of-the-art, optimized for energy efficiency and ease of maintenance.

This technical overhaul extends to the water management systems, with plans to implement cutting-edge solutions for water filtration and circulation, ensuring the pool water remains clean and safe for public use. Furthermore, the redesign includes enhanced accessibility features, making the pool complex fully compliant with ADA standards and more welcoming for all community members.

2. Old San Carlos & Time Square Lighting Restoration: This component of the project involves the complete replacement and modernization of the lighting system in the downtown area of the Town of Fort Myers Beach, which was severely damaged by Hurricane Ian. This project will install 46 new streetlights and light poles to replace those destroyed by the storm surge and debris, ensuring the new lights meet modern standards for energy efficiency and turtle compliance. Additionally, all damaged wiring and conduit throughout the area will be replaced to restore full functionality to the lighting grid. Two new panel/switch boxes will be installed to support the new lighting infrastructure and ensure reliable power distribution.

The business district has remained largely dark since Hurricane Ian, and this project focuses on improving public safety by providing adequate lighting, enhancing safety for both residents and visitors, supporting local businesses, and reducing the risk of accidents and crime. Aesthetic improvements will also be considered, with the new lighting fixtures designed to enhance the overall appearance of the downtown area, making it more inviting and attractive for tourists and locals alike.

The town is anchored by two community gathering spaces —Bayside to the north and Time Square to the south—connected by Old San Carlos Boulevard. The town's long-term plan is for Old San Carlos Boulevard to evolve into a "park corridor." This lighting project will be the first step toward realizing that vision.

Since Hurricane Ian, the Town has spent over \$200,000 on inadequate patchwork repairs, resulting in only three functioning streetlights out of the original 46. These temporary fixes have proven insufficient, highlighting the urgent need for a comprehensive overhaul. The new lighting system will prioritize sustainability and resiliency. Energy-efficient fixtures will reduce operational costs and environmental impact, while the infrastructure will be designed to withstand future storms and minimize damage.

The total cost for the Old San Carlos and Time Square Lighting Project represents a crucial investment in revitalizing the downtown area, ensuring public safety, supporting the economic recovery of local businesses, and enhancing the town's resilience and sustainability for the future.

3. Newton Park Beach Facility Project: This component of the project will rebuild and enhance park facilities, which were severely damaged by Hurricane Ian's 17-foot storm surge. This surge single-handedly erased a hundred years of history, including the historical 'Seven Seas' cottage. Given that the property was gifted to the town by the state to remain an educational center in perpetuity, the project focuses on constructing a new elevated educational and environmental center designed to meet current building codes and withstand future storm surges. Importantly, all new buildings will be constructed above base flood elevations to mitigate the risk of future flood losses. The center will serve as an educational hub, providing information on local history, environmental conservation, and marine life. The design will focus on modern architectural elements that are both functional and aesthetically pleasing, with an emphasis on sustainability. Additionally, all buildings, including restrooms, will be fully ADA-compliant, ensuring accessibility for all visitors.

Recognizing the ecological importance of native flora, the project will include extensive landscaping with indigenous plants to stabilize the beachfront and provide a habitat for local wildlife. Landscaping designs will promote ecological balance and resilience against future storms. A redesigned parking lot using eco-friendly materials will be installed to minimize environmental impact while accommodating visitors, including spaces for buses and bicycles to promote greener transportation options.

To honor the historical significance of the site, the project will incorporate elements that pay homage to the original 'Seven Seas' cottage. The new center will feature exhibits and displays educating visitors about the site's history and the impact of Hurricane Ian. Infrastructure and utility upgrades, including water, electricity, and sewage systems, will be implemented to support the new facilities and ensure reliability, with a focus on energy-efficient systems and sustainable technologies.

Investment in this project will restore a valuable community asset and enhance its resilience and sustainability, ensuring it remains a vital part of Fort Myers Beach for generations to come.

The comprehensive Parks and Recreation Revitalization Program, encompassing the Old San Carlos & Time Square Lighting Project, Newton Park Beach Facility

Project, and Bay Oaks Community Pool Project, is projected to yield significant positive outcomes for the Town of Fort Myers Beach. This program will restore and enhance critical public facilities that were severely damaged by Hurricane Ian, addressing immediate recovery needs and future resilience and addressing blighted properties contributing to economic decline and dangerous conditions. The upgraded lighting system in the downtown area will improve public safety and support local businesses, while the new educational and environmental center at Newton Park will preserve the site's historical significance and promote ecological awareness. The fully reconstructed Bay Oaks Community Pool will restore a key recreational facility, providing a central gathering place for community wellness and social bonding.

By integrating modern, energy-efficient technologies and ensuring all new structures are built above base flood elevations, the program will enhance the resilience and sustainability of these public facilities. ADA-compliant designs across all projects will ensure accessibility for all visitors, promoting inclusivity within the community. Extensive landscaping with native plants will stabilize the environment, prevent erosion, and support local wildlife, contributing to the ecological health of the area. The redesigned parking facilities will accommodate various transportation options, encouraging greener alternatives and reducing environmental impact.

The Town of Fort Myers Beach expects to create a new unity among residents, visitors, and businesses by investing in the community through the Parks & Recreation Revitalization Program. This set of projects will ensure a sustainable and effective recovery from the devastation of Hurricane Ian. With the support of CDBG-DR funding, the program will create a state-of-the-art community facility to replace the previous Bay Oaks community pool, revitalize three community parks by reintroducing the lighting grid to ensure public safety, and rebuild an improved facility with a focus on town history and education to replace the lost "Seven Seas" cottage, boosting tourism and resident satisfaction. Additionally, the town's long-term plan for Old San Carlos Boulevard to evolve into a "park corridor" will be initiated through the lighting project, enhancing connectivity between Bayside to the north and Time Square to the south and laying a foundation for a long-term vision that will significantly enhance the community.

The completed projects will bring back the cherished parks of Fort Myers Beach, accelerating the social and cultural recovery of the community through environmentally friendly construction practices. This program will serve the entire community, attracting visitors and catalyzing social and cultural revitalization. These places once served as vital recreational and social hubs for residents, and their restoration is essential to the community's physical and mental well-being. The urgency of this program is driven by the need to restore these essential services swiftly to avoid further disruption to community life.

The Parks & Recreation Revitalization Program is not just a reconstruction and

restoration effort; it is a transformative initiative that will significantly enhance the quality of life in Fort Myers Beach. By rebuilding these key community parks and facilities, the program addresses an urgent need for recreational and social infrastructure, providing safe, modern, and welcoming environments for residents and visitors of all ages. This investment will not only address the immediate damages caused by Hurricane Ian but also build a more resilient, sustainable, and inclusive future for the town, ensuring that these public facilities remain vital assets for generations to come.

Design and Approach: The Town of Fort Myers Beach employs staff with experience in completing projects of a similar size and scope, and has secured the services of Tidal Basin Group, which has extensive experience in implementation and oversight of projects utilizing federal, state, and/or local governmental grant funds. The combination of Town staff oversight and contractual support ensures adequate experience and capacity for effective administration and oversight of all compliance requirements. Additional information regarding Town staff and contractual support is provided below:

Andrew Hyatt: Mr. Hyatt has more than 26 years of management and leadership experience in both the private and public sectors, with 18 of those years in municipal government and 13 years as a Town or City manager. Andy has an Associate's degree in general business from Cleveland State Community College in Cleveland, Tenn. From the University of Tennessee at Chattanooga, he has a Bachelor's degree in political science and a Master's degree in public administration. Mr. Hyatt will perform general oversight of project implementation and completion.

Frank Kropacek: Mr. Kropacek has more than 30 years of experience in local, county and state government administration ranging from contracts, contract negotiation, procurement, and project management to organizational administration. He attended the University of Wisconsin Whitewater studying Geology and Geophysics. Mr. Kropacek will be the Town's primary day-to-day contact for all project activities and will directly oversee and coordinate planning implementation.

Joe Onzick: Mr. Onzick served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and Bachelor's of Science degree in mathematics from Wheaton College. As the Town's Financial Director, Mr. Onzick will oversee fund accounting and financial compliance for the planning project.

To supplement Town staff's expertise and capacity, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight

and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed. Tidal Basin serves as the grant manager for Hendry County, FL overseeing the County's three Hurricane Irma CDBG-DR funded grants totaling over \$5.5M. Tidal Basin also serves in the same capacity for the Orange County Drainage District in Orange County, TX and for various municipal subrecipients in Puerto Rico. The team will coordinate with Lee County and the Town of Fort Myers Beach to ensure HUD compliance, proper reporting, and the adherence to the proposed schedule to the project. Tidal Basin will ensure procurements adhere to 2 CFR 200, Davis Bacon Labor Compliance is adhered to, Section 3 reporting is completed, and all costs can be tied to the eligible activity and national objective tied to the project.

Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras and Associates collectively have more than 70 years of combined experience working in high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG-DR funding, with team members having performed compliance and oversight of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf Coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the southeast with comprehensive project implementation and compliance services from project inception to grant closeout, including grant writing and submission, implementing policies and procedures, overseeing financial controls, preparing monthly, quarterly, semi-annual, and annual reporting, recordkeeping, monitoring, overseeing and supporting procurement compliance, preparing reimbursement requests, preparing amendments to grant agreements and budget modifications, and preparing project closeout documentation. Gouras & Associates also works to educate contractors and clients on compliance with the applicable state and federal regulations and laws, including the applicable procurement guidelines, MBE/WBE solicitation and outreach, labor standards compliance requirements, and HUD Section 3 compliance requirements.

This project will be directly implemented by the Town of Fort Myers Beach and will not involve a subgrantee.

The project administration team will be led by Mr. Andrew Hyatt, with programmatic activities overseen by Mr. Frank Kropacek and financial activities overseen by Mr. Joe Onzick. Additional information regarding each team member is included below:

Andrew Hyatt: Mr. Hyatt has more than 26 years of management and leadership experience in both the private and public sectors, with 18 of those years in

municipal government and 13 years as a Town or City manager. Andy has an Associate's degree in general business from Cleveland State Community College in Cleveland, Tenn. From the University of Tennessee at Chattanooga, he has a Bachelor's degree in political science and a Master's degree in public administration. Mr. Hyatt will perform general oversight of project implementation and completion.

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Major Project Milestones

Milestone	Due Date
Design and Permitting Complete	12/31/2026
Construction Begins	04/30/2027
50% Construction	01/30/2028
Closeout and Final Reimbursement Request	12/30/2028

EXHIBIT C
FINANCIAL AND GRANT MANAGEMENT SYSTEM BUDGET WORKSHEET

The information provided under this Exhibit is retrieved from the Subrecipient Agreement. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations within the County's financial accounting system for the awarded CDBG-DR funds. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

Financial and Grant Management System Budget Worksheet

As noted within the Agreement, the Subrecipient's allocation of CDBG-DR funding for this project is broken down in the following manner:

	Most Impacted and Distressed (MID)
Activity Funds (Direct Project Costs)	\$7,919,916.00
Activity Delivery Funds	\$416,837.00
Total	\$8,336,753.00

EXHIBIT D
INDIRECT COST RATE ALLOCATION PLAN

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and the Subrecipient's approved application in response to the Public Facilities Infrastructure Program NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations for an indirect cost rate within the County's financial accounting system. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

Indirect Cost Rate Allocation Plan

When applicable, documentation that supports the indirect cost rate and Activity Delivery Cost must be included under this Exhibit. The County is responsible for reviewing and approving the Subrecipient's indirect cost allocation plan or proposal included below. Calculated Modified Total Direct Costs (MTDCs) subject to a: **Not applicable – an indirect cost rate will not be utilized or requested from the subrecipient under this Agreement.**

See the plan or proposal above for further details and requirements of when the Subrecipient is set to receive indirect costs. The County also identifies financial data and information in Exhibit C for the Subrecipient's use in the submission of Payment Request Forms, Single Audits, and other reports which require the County's accounting of CDBG-DR funding through its financial system.

EXHIBIT E

PROJECTED PERFORMANCE MEASURES AND OUTCOMES FORM

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and, if applicable, the Subrecipient's approved application in response to the _ NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up detailed performance management goals for the Subrecipient to meet through implementing and completing the project.

The Subrecipient will report via the monthly activity report on how the project has progressed on reaching the target numbers of the projected performance measure(s). Subrecipients will work with the County to ensure any updates to this Exhibit are subsequently reviewed and approved within the System of Record in accordance with the Agreement.

Projected Performance Measures and Outcomes

When applicable, documentation which supports the performance measure(s) is taken from the Subrecipient's stated project scope of work ("projected outcomes"). The following table provides those measures which the Subrecipient must report performance on related to meeting performance goals:

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
Rehabilitation/ reconstruction of public facilities	# of buildings (non-residential)	
	# of Linear feet of green public improvement	
	# of Non-business Organizations benefitting	
	# of public facilities	3
	# of Linear feet of Public Improvement	
	# of Acres wetlands	
	# of Linear miles of Public Improvement	
	# of cable feet of public utility	
	# of Properties	
	# of Elevated Structures	
	# of Businesses	
MIT - Public Facilities and Improvements-Non Covered Projects	# acres of newly added or improved green space	
	# acres of wetlands created	
	# cubic feet of stormwater storage added	
	% decrease in affluent discharged	
	% decrease in area inundated by flooding	
	% decrease in disruption hours to residents and businesses from impacts of storm events	
	% decrease in NFIP CRS score	

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
	% decrease in road closures in target area during a flood event	
MIT - Public Facilities and Improvements-Non Covered Projects (cont'd)	% decrease water surface elevation level during a flood with a qualifying event	
	\$ estimated flood loss avoidance	
	\$ Funds allocated for water management/flood mitigation improvements	
	\$ Funds allocated for water-quality improvements	
	% increase in acres of cropland protected from flooding	
	% increase in groundwater infiltration	
	% increase in number of acres converted to open space	
	% increase in pumping capacity	
	# linear feet of streams restored	
	# occupied structures in floodplain	
	# of acres green infrastructure created	
	# of acres green space created	
	# of acres green space preserved	
	# of acres no longer vulnerable to flood events	
	# of acres of native vegetation planted	
	# of acres with improved multiple hazard risk mapping	

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
	# of brownfield acres converted to wetland	
	# of buildings (non-residential)	
	# of containment systems constructed	
	# of Elevated Structures	
	# of fewer outages of critical facilities and utilities	
	# of green infrastructure projects constructed	
	# of greenspace users	
	# of Linear feet of Public Improvement	
	# of Linear Feet of Sewer Lines	
MIT - Public Facilities and Improvements-Non Covered Projects (cont'd)	# of linear feet of trails constructed	
	# of Linear Feet of Water Lines	
	# of Linear miles of Public Improvement	
	# of Non-business Organizations benefitting	
	# of non-invasive species trees planted on project sites	
	# of properties protected from future flooding	
	# of properties with access above 100-yr flood level	
	# of public facilities	
	# of pump stations repaired/replaced	

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
	# of reduced hours streets are flooded	
	# of residents protected from future flooding	
	# of Section 3 Labor Hours	7,600
	# of small water retention devices/systems installed	
	# of storm water projects implemented	
	# of Targeted Section 3 Labor Hours	380
	# of Total Labor Hours	30,400
	# of vacant lots repurposed	
	# of water control structures repaired/replaced	
	% reduction in emergency maintenance costs	
	% reduction in energy costs	
	% reduction in loss of service	
	% reduction of sanitary sewer overflows	
	% reduction of watershed nitrate loading	
	% reduction of water surface elevation level	
	# of structures harden against future flood events	
	# of Persons	

EXHIBIT F

APPLICATION

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the Public Facilities Infrastructure Program NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below as a reference point to establish the original, approved conditions under which the original project was considered. The County will review this Exhibit when considering changes to the Agreement or other project details as outlined within the System of Record. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record and/or under a formal amendment in accordance with the Agreement.

Application

Please see the following documentation below: The full, approved project application, submitted by the Subrecipient, for which this Agreement was completed. Supporting documentation submitted by the Subrecipient as part of the application process is incorporated by reference and is maintained within the System of Record. In the event of conflicts or inconsistencies, the documents shall be given precedence in the following order:

- 1. Subrecipient Agreement*
- 2. Public Facilities Infrastructure Program NOFA.*
- 3. Public Facilities Infrastructure Program Guidelines*
- 4. Notice to Proceed*
- 5. Subrecipient's application in response to the Notice of Funding Availability*



Public Facilities Infrastructure Program

Organization Information

- ▶ Organization Name: Town of Fort Myers Beach
- ▶ Address: 2731 Oak Street Fort Myers Beach, FL 33931
- ▶ Telephone: (239) 765-0202
- ▶ Federal Employer ID #: 65-0632342
- ▶ Organization Website: <https://fortmyersbeachfl.gov/>
- ▶ Unique Entity Identifier: J87EFSEEQ884

Authorized Organization Representative

- ▶ Name: Andrew Hyatt
- ▶ Title: Town Manager

Contact Person

- ▶ Name: Jason Freeman
- ▶ Title: Legislative Liaison / Deputy Clerk
- ▶ Email: jasonf@fmbgov.com
- ▶ Telephone: (239) 266-4673

Partner Organization

- ▶ Will your organization be partnering with any other organizations? No

Project Information

► Name: Parks & Recreation Revitalization

Public Facility Description

The Town of Fort Myers Beach seeks CDBG-DR funding to restore and enhance its parks and recreation facilities, all of which were severely impacted by Hurricane Ian. The three key components of this consolidated project are the Old San Carlos & Time Square Lighting Project, Newton Park Beach Facility, and the Bay Oaks Pool Complex. Together, these projects aim to address blighted conditions in the Town, revitalize the Town's public spaces, improve public safety, and enhance the quality of life for residents and visitors

Project Type

- | | |
|---|--|
| ☐ Aquisition | ☐ Safe Rooms |
| ☒ New Construction | ☒ Handicapped Accessibility Improvements |
| ☒ Building Hardening | ☒ Energy Efficiency Improvements |
| ☐ Backup Generator: Must be a permanent fix to the structure. No portable generators | |

► Other: Reconstruction and rehabilitation of parks and recreation public facilities

Target Service Location

- | | |
|--|--|
| ☐ City of Cape Coral | ☐ Town of Fort Myers Beach |
| ☒ City of Fort Myers | ☐ Village of Estero |
| ☐ City of Bonita Springs | ☐ Unincorporated Lee County |
| ☐ City of Sanibel | ☐ All of Lee County |

National Objective

► National Objective: Urgent Need

Provide a description how the proposed project will meet the selected National Objective

As a direct result of Hurricane Ian, the designated activity area meets the definition of a blighted area under 163.340, F.S. The project area includes a substantial number of deteriorated or deteriorating structures leading to economic distress, including both unsafe conditions and deterioration of the project site(s) and improvements.

Additionally, as a direct result of the impacts of Hurricane Ian, public improvements throughout the area are in a general state of deterioration and more than 25% of properties throughout the area exhibit physical deterioration of buildings/improvements due to damage from Hurricane Ian.

The attached Memorandum provides additional detail regarding these findings.

National Objective Descriptions

National Objective	Description
L/M Income Area Benefit	Census block groups that align with the service area maps
L/M Income Limited Clientele	The infrastructure improvements benefit a specific persons who are presumed by HUD to be principally LMI (abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS or migrant farm workers)
L/M Income Job Creation or Retention	The project proposes activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons. Must include income certifications or describe method on how LMI job creation will be documented
Urgent Need	Does the narrative description on the application under Urgent Need provide specific examples of needs that have urgency, including how the existing conditions pose a serious and immediate threat to the health and welfare of the community?

Slums and Blight	Does the designated activity area meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law? Additionally, the area must meet one of the two conditions: • Public improvements throughout the area are in a general state of deterioration; or • At least 25 percent of the properties throughout the area exhibit one or more of the following: • Physical deterioration of buildings/improvements; • Abandonment of properties; • Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings; • Significant declines in property values or abnormally low property values relative to other areas in the community; or • Known or suspected environmental contamination
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The scope of the project

The Town of Fort Myers Beach is applying for Community Development Block Grant Disaster Recovery (CDBG-DR) funding through the Lee County Public Facilities Program to support the restoration and enhancement of its parks and recreational facilities. The devastating impact of Hurricane Ian left the town not only physically damaged but also economically stifled. The Parks & Recreation Revitalization project is a vital initiative aimed at repairing and upgrading these essential public spaces. This project will address the damage caused by Hurricane Ian while also improving the resilience and sustainability of the Town's recreational facilities for future use. Before the storm, these facilities were central to the Town's community life, promoting health, wellness, and social connections. The program is divided into three key components, each crucial to the Town's long-term recovery and success:

1. Bay Oaks Community Pool Rehabilitation. This component of the project involves a comprehensive rebuild of the existing pool facilities, which suffered extensive damage during Hurricane Ian. The project's scope includes repairing the pool basins that withstood the storm and completely reconstructing the pool deck, water slide, mechanical systems, restrooms, offices, and other facilities that were devastated. The design strategy focuses on leveraging the intact parts of the pool infrastructure while updating and enhancing areas that require complete renovation.

The reconstruction will not only restore the pool to its former glory, but also introduce improvements in the design to enhance user experience and operational efficiency. This includes modernizing the pool deck layout to accommodate more visitors comfortably and safely, upgrading the water slide to meet the latest safety standards, and overhauling the mechanical systems to ensure more efficient and reliable operation.

The technical aspects of reconstruction will be carefully planned to ensure both durability and functionality. The pool deck will be rebuilt using advanced, weather-resistant materials that offer both aesthetic appeal and long-lasting performance. The mechanical systems—including pumps, filters, and heating systems—will be state-of-the-art, optimized for energy efficiency and ease of maintenance.

This technical overhaul extends to the water management systems, with plans to implement cutting-edge solutions for water filtration and circulation, ensuring the pool water remains clean and safe for public use. Furthermore, the redesign includes enhanced accessibility features, making the pool complex fully compliant with ADA standards and more welcoming for all community members.

2. Old San Carlos & Time Square Lighting Restoration: This component of the project involves the complete replacement and modernization of the lighting system in the downtown area of the Town of Fort Myers Beach, which was severely damaged by Hurricane Ian. This project will install 46 new streetlights and light poles to replace those destroyed by the storm surge and debris, ensuring the new lights meet modern standards for energy efficiency and turtle compliance. Additionally, all damaged wiring and conduit throughout the area will be replaced to restore full functionality to the lighting grid. Two new panel/switch boxes will be installed to support the new lighting infrastructure and ensure reliable power distribution.

The business district has remained largely dark since Hurricane Ian, and this project focuses on improving public safety by providing adequate lighting, enhancing safety for both residents and visitors, supporting local businesses, and reducing the risk of

accidents and crime. Aesthetic improvements will also be considered, with the new lighting fixtures designed to enhance the overall appearance of the downtown area, making it more inviting and attractive for tourists and locals alike.

The town is anchored by two community gathering spaces —Bayside to the north and Time Square to the south—connected by Old San Carlos Boulevard. The town's long-term plan is for Old San Carlos Boulevard to evolve into a "park corridor." This lighting project will be the first step toward realizing that vision.

Since Hurricane Ian, the Town has spent over \$200,000 on inadequate patchwork repairs, resulting in only three functioning streetlights out of the original 46. These temporary fixes have proven insufficient, highlighting the urgent need for a comprehensive overhaul. The new lighting system will prioritize sustainability and resiliency. Energy-efficient fixtures will reduce operational costs and environmental impact, while the infrastructure will be designed to withstand future storms and minimize damage.

The total cost for the Old San Carlos and Time Square Lighting Project represents a crucial investment in revitalizing the downtown area, ensuring public safety, supporting the economic recovery of local businesses, and enhancing the town's resilience and sustainability for the future.

3. Newton Park Beach Facility Project: This component of the project will rebuild and enhance park facilities, which were severely damaged by Hurricane Ian's 17-foot storm surge. This surge single-handedly erased a hundred years of history, including the historical 'Seven Seas' cottage. Given that the property was gifted to the town by the state to remain an educational center in perpetuity, the project focuses on constructing a new elevated educational and environmental center designed to meet current building codes and withstand future storm surges. Importantly, all new buildings will be constructed above base flood elevations to mitigate the risk of future flood losses. The center will serve as an educational hub, providing information on local history, environmental conservation, and marine life. The design will focus on modern architectural elements that are both functional and aesthetically pleasing, with an emphasis on sustainability. Additionally, all buildings, including restrooms, will be fully ADA-compliant, ensuring accessibility for all visitors.

Recognizing the ecological importance of native flora, the project will include extensive landscaping with indigenous plants to stabilize the beachfront and provide a habitat for local wildlife. Landscaping designs will promote ecological balance and resilience against future storms. A redesigned parking lot using eco-friendly materials will be installed to minimize environmental impact while accommodating visitors, including spaces for buses and bicycles to promote greener transportation options.

To honor the historical significance of the site, the project will incorporate elements that pay homage to the original 'Seven Seas' cottage. The new center will feature exhibits and displays educating visitors about the site's history and the impact of Hurricane Ian. Infrastructure and utility upgrades, including water, electricity, and sewage systems, will be implemented to support the new facilities and ensure reliability, with a focus on energy-efficient systems and sustainable technologies.

Investment in this project will restore a valuable community asset and enhance its resilience and sustainability, ensuring it remains a vital part of Fort Myers Beach for generations to come.

The projected outcome(s) of the project

The comprehensive Parks and Recreation Revitalization Program, encompassing the Old San Carlos & Time Square Lighting Project, Newton Park Beach Facility Project, and Bay Oaks Community Pool Project, is projected to yield significant positive outcomes for the Town of Fort Myers Beach. This program will restore and enhance critical public facilities that were severely damaged by Hurricane Ian, addressing immediate recovery needs and future resilience and addressing blighted properties contributing to economic decline and dangerous conditions. The upgraded lighting system in the downtown area will improve public safety and support local businesses, while the new educational and environmental center at Newton Park will preserve the site's historical significance and promote ecological awareness. The fully reconstructed Bay Oaks Community Pool will restore a key recreational facility, providing a central gathering place for community wellness and social bonding.

By integrating modern, energy-efficient technologies and ensuring all new structures are built above base flood elevations, the program will enhance the resilience and sustainability of these public facilities. ADA-compliant designs across all projects will ensure accessibility for all visitors, promoting inclusivity within the community. Extensive landscaping with native plants will stabilize the environment, prevent erosion, and support local wildlife, contributing to the ecological health of the area. The redesigned parking facilities will accommodate various transportation options, encouraging greener alternatives and reducing environmental impact.

The Town of Fort Myers Beach expects to create a new unity among residents, visitors, and businesses by investing in the community through the Parks & Recreation Revitalization Program. This set of projects will ensure a sustainable and effective recovery from the devastation of Hurricane Ian. With the support of CDBG-DR funding, the program will create a state-of-the-art community facility to replace the previous Bay Oaks community pool, revitalize three community parks by reintroducing the lighting grid to ensure public safety, and rebuild an improved facility with a focus on town history and education to replace the lost "Seven Seas" cottage, boosting tourism and resident satisfaction. Additionally, the town's long-term plan for Old San Carlos Boulevard to evolve into a "park corridor" will be initiated through the lighting project, enhancing connectivity between Bayside to the north and Time Square to the south and laying a foundation for a long-term vision that will significantly enhance the community.

The completed projects will bring back the cherished parks of Fort Myers Beach, accelerating the social and cultural recovery of the community through environmentally friendly construction practices. This program will serve the entire community, attracting visitors and catalyzing social and cultural revitalization. These places once served as vital recreational and social hubs for residents, and their restoration is essential to the community's physical and mental well-being. The urgency of this program is driven by the need to restore these essential services swiftly to avoid further disruption to community life.

The Parks & Recreation Revitalization Program is not just a reconstruction and restoration effort; it is a transformative initiative that will significantly enhance the quality of life in Fort Myers Beach. By rebuilding these key community parks and facilities, the program addresses an urgent need for recreational and social infrastructure, providing

safe, modern, and welcoming environments for residents and visitors of all ages. This investment will not only address the immediate damages caused by Hurricane Ian but also build a more resilient, sustainable, and inclusive future for the town, ensuring that these public facilities remain vital assets for generations to come.

The unmet or mitigation need that is being addressed by the project and how it aligns with community goals

The Town of Fort Myers Beach was devastated by the unprecedented destruction of Hurricane Ian, which left many unmet needs and exposed areas of the community to future storms. The Parks & Recreation Revitalization Program aims to revitalize the community by replacing and updating multiple public facilities and community parks that were severely damaged by the hurricane. These repair and enhancement efforts align with the broader community goals of sustainability, resilience, and community well-being.

The first component is the Bay Oaks Community Pool Project, a critical community hub beloved by both residents and tourists. Hurricane Ian's surge and debris heavily damaged the entire facility, including the pool, hard deck, public restrooms, and staff offices. All mechanical systems were wiped out. This project proposes constructing a new facility to house public restrooms and staff offices, fully replacing the hard deck and slide structure, restoring the pool basins, and improving surrounding drainage, lighting, and landscaping. This comprehensive project will ensure an efficient, durable, and resilient community asset for many years to come. Efficient and timely completion of the pool project is essential not only for restoring services but also for demonstrating effective disaster recovery management, minimizing downtime, and allowing the community to benefit from the renewed resources as soon as possible. The disastrous impacts of Hurricane Ian, including a storm surge of over 15 feet, resulted in the complete loss of the previous community hub, creating an immediate need to restore this essential recreational facility. Restoring the Bay Oaks Community Pool aligns with community goals by providing a safe, inclusive, and engaging space that supports health, wellness, and social interaction.

The second component, the Old San Carlos & Time Square Lighting Project, aims to revitalize the downtown core by replacing and updating the entire street lighting system, which was severely damaged by Hurricane Ian. This area, anchored by two vital community gathering spaces—Bayside on the north side and Time Square on the gulf side—is a critical business district and community hub. Hurricane Ian's surge and debris obliterated nearly all 46 streetlights and light poles, leaving the area dangerously dark. This project proposes installing two new panel/switch boxes, all new wiring and conduit, and poles with turtle-compliant lighting fixtures. This comprehensive upgrade will ensure efficient, durable, and safe lighting for the business district, addressing the immediate need for public safety and supporting the economic recovery of local businesses. The significance of this project is paramount to the town's prosperity in both the short and long term, transforming the area into a functional, energy-efficient, safe, and welcoming environment. Revitalizing the downtown lighting aligns with community goals by enhancing public safety, supporting local businesses, and creating a vibrant, attractive area for residents and visitors. Additionally, this lighting project will serve as the first step in the town's long-term plan to evolve Old San Carlos Boulevard into a "park corridor," connecting Bayside to the north and Time Square to the south, further enhancing connectivity and the overall aesthetic appeal of the downtown area.

The final component, the Newton Park Beach Facility Project, aims to revitalize a historic landmark in Fort Myers Beach by replacing and updating the "Seven Seas" cottage, which was completely destroyed by Hurricane Ian. This cottage, with nearly 100 years of history, served as an education center for the community. The project proposes constructing a new elevated and resilient education-focused facility to replace the previous building, ensuring ADA compliance and public restrooms for the beachfront park, along with reconstructing the attached parking lot. Designed with future severe weather events in mind, the facility will feature a reinforced foundation and roof, high-impact glass, and sealants offering enhanced resistance to water and wind. Landscaping will include dune restoration with native grasses and shrubs to naturally mitigate erosion and flooding. These features ensure that the facility will endure as a safe, educational, and recreational resource through harsh conditions. The new Newton Park Beach Facility will align with community goals by preserving the town's history, promoting environmental education, and providing a resilient and accessible public space.

The Parks & Recreation Revitalization Program will utilize forward-looking strategies and proven best practices to mitigate future issues the completed projects may face. The town will use LED lighting to reduce energy consumption. Additionally, lighting near the beach will be turtle-compliant to ensure no disruption to natural habitats. These measures align with HUD's green building standards, offering direct economic benefits through reduced energy bills and contributing to the broader community goal of sustainable development. This program will provide a foundation for residential satisfaction, allowing the area to continue recovering from the catastrophic impacts of Hurricane Ian while applying environmentally friendly strategies and resilient building standards to reduce future storm impacts. The Parks & Recreation Revitalization Program is a transformative initiative that will significantly enhance the quality of life in Fort Myers Beach, aligning with community goals to create a safe, sustainable, and vibrant environment.

Description of your agency's experience completing projects of a similar size and scope, including federal, state, and/or local government grant experience and capacity of the organization to administer the project and oversee all compliance requirements.

The Town of Fort Myers Beach employs staff with experience in completing projects of a similar size and scope, and has secured the services of Tidal Basin Group, which has extensive experience in implementation and oversight of projects utilizing federal, state, and/or local governmental grant funds. The combination of Town staff oversight and contractual support ensures adequate experience and capacity for effective administration and oversight of all compliance requirements. Additional information regarding Town staff and contractual support is provided below:

Andrew Hyatt: Mr. Hyatt has more than 26 years of management and leadership experience in both the private and public sectors, with 18 of those years in municipal government and 13 years as a Town or City manager. Andy has an Associate's degree in general business from Cleveland State Community College in Cleveland, Tenn. From the University of Tennessee at Chattanooga, he has a Bachelor's degree in political science and a Master's degree in public administration. Mr. Hyatt will perform general oversight of project implementation and completion.

Frank Kropacek: Mr. Kropacek has more than 30 years of experience in local, county and state government administration ranging from contracts, contract negotiation, procurement, and project management to organizational administration. He attended the University of Wisconsin Whitewater studying Geology and Geophysics. Mr. Kropacek will be the Town's primary day-to-day contact for all project activities and will directly oversee and coordinate planning implementation.

Joe Onzick: Mr. Onzick served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and Bachelor's of Science degree in mathematics from Wheaton College. As the Town's Financial Director, Mr. Onzick will oversee fund accounting and financial compliance for the planning project.

To supplement Town staff's expertise and capacity, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed. Tidal Basin serves as the grant manager for Hendry County, FL overseeing the County's three Hurricane Irma CDBG-DR funded grants totaling over \$5.5M. Tidal Basin also serves in the same capacity for the Orange County Drainage District in Orange County, TX and for various municipal subrecipients in Puerto Rico. The team will coordinate with Lee County and the Town of Fort Myers Beach to ensure HUD compliance, proper reporting, and the adherence to the proposed schedule to the project. Tidal Basin will ensure procurements adhere to 2 CFR 200, Davis Bacon Labor Compliance is adhered to, Section 3 reporting is completed, and all costs can be tied to the eligible activity and national objective tied to the project.

Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras and Associates collectively have more than 70 years of combined experience working in

high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG-DR funding, with team members having performed compliance and oversight of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf Coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the southeast with comprehensive project implementation and compliance services from project inception to grant closeout, including grant writing and submission, implementing policies and procedures, overseeing financial controls, preparing monthly, quarterly, semi-annual, and annual reporting, recordkeeping, monitoring, overseeing and supporting procurement compliance, preparing reimbursement requests, preparing amendments to grant agreements and budget modifications, and preparing project closeout documentation. Gouras & Associates also works to educate contractors and clients on compliance with the applicable state and federal regulations and laws, including the applicable procurement guidelines, MBE/WBE solicitation and outreach, labor standards compliance requirements, and HUD Section 3 compliance requirements.

The applicant's plan of executing the Subgrantee Agreement

Not Applicable. This project will be directly implemented by the Town of Fort Myers Beach and will not involve a subgrantee.

The applicant's plan for Oversight and Monitoring of Subgrantee

Not Applicable. This project will be directly implemented by the Town of Fort Myers Beach and will not involve a subgrantee.

Please provide a project administration team highlighting roles and responsibilities of each individual participating in program participation and management.

The project administration team will be led by Mr. Andrew Hyatt, with programmatic activities overseen by Mr. Frank Kropacek and financial activities overseen by Mr. Joe Onzick. Additional information regarding each team member is included below:

Andrew Hyatt: Mr. Hyatt has more than 26 years of management and leadership experience in both the private and public sectors, with 18 of those years in municipal government and 13 years as a Town or City manager. Andy has an Associate's degree in general business from Cleveland State Community College in Cleveland, Tenn. From the University of Tennessee at Chattanooga, he has a Bachelor's degree in political science and a Master's degree in public administration. Mr. Hyatt will perform general oversight of project implementation and completion.

Frank Kropacek: Mr. Kropacek has more than 30 years of experience in local, county and state government administration ranging from contracts, contract negotiation, procurement, and project management to organizational administration. He attended the University of Wisconsin Whitewater studying Geology and Geophysics. Mr. Kropacek will be the Town's primary day-to-day contact for all project activities and will directly oversee and coordinate planning implementation.

Joe Onzick: Mr. Onzick served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and Bachelor's of Science degree in mathematics from Wheaton College. As the Town's Financial Director, Mr. Onzick will oversee fund accounting and financial compliance for the planning project.

To supplement Town staff's expertise and capacity, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed. Tidal Basin serves as the grant manager for Hendry County, FL overseeing the County's three Hurricane Irma CDBG-DR funded grants totaling over \$5.5M. Tidal Basin also serves in the same capacity for the Orange County Drainage District in Orange County, TX and for various municipal subrecipients in Puerto Rico. The team will coordinate with the Lee County and the Town of Fort Myers Beach to ensure HUD compliance, proper reporting, and the adherence to the proposed schedule to the project. Tidal Basin will ensure procurements adhere to 2 CFR 200, Davis Bacon Labor Compliance is adhered to, Section 3 reporting is completed, and all costs can be tied to the eligible activity and national objective tied to the project.

Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras & Associates, LLC collectively have more than 70 years of combined experience working in high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates, LLC has unique expertise in CDBG-DR funding, with team members having performed compliance and oversight of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf Coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the southeast with comprehensive project implementation and compliance services from project inception to grant closeout, including grant writing and submission, implementing policies and procedures, overseeing financial controls, preparing monthly, quarterly, semi-annual, and annual reporting, recordkeeping, monitoring, overseeing and supporting procurement compliance, preparing reimbursement requests, preparing amendments to grant agreements and budget modifications, and preparing project closeout documentation. Gouras & Associates also works to educate contractors and clients on compliance with the applicable state and federal regulations and laws, including the applicable procurement guidelines, MBE/WBE solicitation and outreach, labor standards compliance requirements, and HUD Section 3 compliance requirements.

The partner's experience undertaking projects of similar complexity and providing public services

N/A

The partner's plan for Maintenance and Operations

N/A

Please provide a project administration team highlighting roles and responsibilities of each individual participating in program participation and management

N/A

Capacity to perform financial management and oversight

The Town of Fort Myers Beach will manage financial aspects of project implementation in accordance with established financial management policies and procedures. Financial management will be overseen by the Town's Financial Director, Mr. Joe Onzick. Mr. Onzick served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and a Bachelor of Science in Mathematics from Wheaton College. As the Town's Financial Director, Mr. Onzick oversees fund accounting and financial compliance for the project.

To supplement the Town staff's expertise and capacity for financial management and oversight, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed. Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras & Associates collectively have more than 70 years of combined experience working in high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG-DR funding, with team members having performed compliance and management of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the Southeast with comprehensive project implementation and compliance services from project inception to grant closeout.

Capacity to perform grant management functions as demonstrated through prior experience managing grants with in-house staff or with a grant management consultant

The Town of Fort Myers Beach staff members listed below will perform respective grant management functions for the project:

Andrew Hyatt: Mr. Hyatt has more than 26 years of management and leadership experience in both the private and public sectors, with 18 of those years in municipal government and 13 years as a town or city manager. Andy has an associate degree in general business from Cleveland State Community College in Cleveland, Tennessee. From the University of Tennessee at Chattanooga, he has a bachelor's degree in political science and a master's degree in public administration. Mr. Hyatt will perform general oversight of project implementation and completion.

Frank Kropacek: Mr. Kropacek has more than 30 years of experience in local, county, and state government administration ranging from contract negotiation, procurement, and project management to organizational administration. He attended the University of Wisconsin Whitewater studying geology and geophysics. Mr. Kropacek will be the Town's

primary day-to-day contact for all project activities and will directly oversee and coordinate project implementation.

Joe Onzick: Mr. Onzick served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and a Bachelor of Science in Mathematics from Wheaton College. As the Town's Financial Director, Mr. Onzick will oversee fund accounting and financial compliance for the project. To supplement the Town staff's expertise and capacity, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed. Tidal Basin serves as the grant manager for Hendry County, FL, overseeing the County's three Hurricane Irma CDBG-DR funded grants totaling over \$5.5M. Tidal Basin also serves in the same capacity for the Orange County Drainage District in Orange County, TX and for various municipal subrecipients in Puerto Rico. The team will coordinate with the Lee County and the Town of Fort Myers Beach to support HUD compliance efforts, proper reporting, and adherence to the proposed project schedule. Among other grant management functions, Tidal Basin will support procurement efforts in accordance with 2 CFR 200, Davis Bacon Labor Standards Compliance reporting and oversight, HUD Section 3 reporting and oversight, and confirmation that all costs can be tied to the project's eligible activity and national objective.

Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras & Associates collectively have more than 70 years of combined experience working in high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG-DR funding, with team members having performed compliance and oversight of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the Southeast with comprehensive project implementation and compliance services from project inception to grant closeout, including grant writing and submission, implementing policies and procedures, overseeing financial controls, preparing monthly, quarterly, semi-annual, and annual reporting, recordkeeping, monitoring, overseeing and supporting procurement compliance, preparing reimbursement requests, preparing amendments to grant agreements and budget modifications, and preparing project closeout documentation. Gouras & Associates also works to educate contractors and clients on compliance with the applicable state and federal regulations and laws, including the applicable procurement guidelines, DBE solicitation and outreach, labor standards compliance requirements, and HUD Section 3 compliance requirements.

Internal auditing capability

The Town of Fort Myers Beach will perform internal monitoring and financial compliance oversight in accordance with established financial management policies and procedures. Internal monitoring will be overseen by the Town's Financial Director, Mr. Joe Onzick.

Mr. Onzick previously served for 10 years as the Executive Director of Finance for Kane County, Illinois. In addition to that experience, he has a wealth of financial experience as a licensed CPA, controller, chief financial officer, software consultant, and analyst. Mr. Onzick has an MBA in Accounting from Aurora University and a Bachelor of Science in Mathematics from Wheaton College.

To supplement the Town's staff capacity related to internal monitoring and financial compliance, Fort Myers Beach has engaged the services of Tidal Basin Group, a nationally recognized firm with extensive experience in disaster management and recovery, including oversight and compliance activities for federal funding streams associated with recovery efforts. Tidal Basin has significant experience managing all aspects of CDBG-DR projects, including those of similar scope and size as the Fort Myers Beach project being proposed.

Specific to compliance oversight related to CDBG-DR funding, Tidal Basin Group is further supported by Gouras & Associates, LLC. Team members of Gouras & Associates collectively have more than 70 years of combined experience working in high-level state and federal grant management, disaster recovery management, and economic development consulting. Gouras & Associates has unique expertise in CDBG-DR funding, with team members having performed compliance and oversight of billions in CDBG-DR funding since 2005, when Hurricane Katrina devastated the Mississippi and Louisiana Gulf coasts. Since that time, Gouras & Associates has helped local and state governments and grant funding recipients throughout the Southeast with comprehensive project implementation and compliance services from project inception to grant closeout, including grant writing and submission, implementing policies and procedures, overseeing financial controls, preparing monthly, quarterly, semi-annual, and annual reporting, recordkeeping, monitoring, overseeing and supporting procurement compliance, preparing reimbursement requests, preparing amendments to grant agreements and budget modifications, and preparing project closeout documentation.

With Mr. Onzick's oversight and supervision of both Town staff and contractual support, the Town has demonstrated capacity to perform internal financial monitoring and experience for compliance with HUD and Lee County requirements.

Administrative staffing

The Town of Fort Myers Beach staff will be available to support the necessary day-to-day administrative functions required for successful project implementation. Administrative staff will be overseen by Mr. Andrew Hyatt and Mr. Frank Kropacek. To supplement the Town staff's administrative capacity, Fort Myers Beach will utilize the services of Tidal Basin Group. Tidal Basin Group will be further supported by Gouras & Associates, LLC, for CDBG-DR specific administrative staffing needs.

Monitoring and control of timely expenditure of funds

The Town of Fort Myers Beach understands that monitoring and control of timely expenditures of funds is paramount to a successful project. These elements will be

overseen by the Town's Financial Director, Mr. Joe Onzick, in accordance with established financial management policies and procedures. The Town of Fort Myers Beach staff, along with its partners in Tidal Basin Group and Gouras & Associates, LLC, have the capacity and experience to monitor the funding and expenditures of CDBG-DR funds from project award through closeout.

Prior to expenditure of funds, procurement efforts will be conducted in accordance with 2 CFR 200 procurement standards to ensure that project activities are allowable, reasonable, and cost-effective. Additionally, the Town will adhere to cost and/or price analysis requirements, as applicable, to support the proper usage of project funds.

Describe how the subrecipient will implement Construction, Davis Bacon, and Related Acts and understand project costs must be based on paying laborers and mechanics federal prevailing wages, as published by DOL. The then-current wage rates must be attached to the construction contract and accepted by the general contractor prior to contract execution

The Town will utilize the expertise of Tidal Basin Group and their partner, Gouras & Associates, LLC, (the Town's contractual support) to ensure the proper implementation of the construction related federal requirements of the Davis Bacon and its related acts. Construction solicitation documents and related contract documents will include Form HUD-4010, the appropriate Department of Labor Wage Decision(s), and the requirements of Executive Order 14026, which must be accepted by the contractor prior to contract execution to ensure that prevailing wage rates are met or exceeded. Labor standards requirements will be communicated at both pre-bid and pre-construction conferences, and Town staff and contractual support will be available to provide contractor assistance as needed. Required payroll reporting will be submitted by contractors on a weekly basis and reviewed by Town staff and contractual support to ensure compliance with prevailing wage requirements. Town staff and contractual support will be available to all construction contractors to resolve any issues that may arise throughout construction activities, such as payment and documentation of wage restitution, new job classification requests, and payment and documentation of liquidated damages. Throughout construction, on-site employee interviews will also be conducted and documented via HUD Form-11 to confirm that weekly payroll reports are accurate and consistent with the types of work performed by on-site laborers.

Confirm that the subrecipient will not take any choice limiting actions, including, but not limited to, physical work or activity, may start until environmental clearance is obtained. All prohibitions regarding 'choice limiting actions will apply, rendering the award void and applicant ineligible for award. Activities with multiple environmental issues which cannot be addressed timely and cost-effectively will cause the award of CDBG-DR Funds to be canceled

The Town confirms that it will not take any choice limiting actions, including, but not limited to, physical work or construction activities, until environmental clearance is issued and Authority to Use Grant Funds is obtained. The Town understands that the result of

committing a choice limiting action could result in the termination of the award and that, in the event of excessive environmental issues, the award of CDBG-DR funds may be cancelled.

Explain the applicant/subrecipient's plan to provide OR ensure the subgrantee provides opportunities and training to low and very low-income persons to the greatest extent feasible. These efforts should be, especially focused on recipients of government assistance for housing and to businesses that provide economic opportunities to low and very low-income persons. The applicant/subrecipient should explain how they will comply with Section 3 requirements set forth in 24 CFR Part 75

The Town of Fort Myers Beach understands that the implementation of Section 3 requirements and striving to meet the quantitative and qualitative goals laid out by the regulations are of paramount importance to the effective recovery of the community. Solicitation documents and related contract documents for Section 3-covered contracts will include HUD-required Section 3 Contract Clauses and require contractors to submit Section 3 reporting throughout the life of the contract. Section 3 documentation, including a Section 3 plan and employee and business certifications, will be required for bid submission and Section 3 terms and conditions must be accepted by the contractor prior to contract execution. The construction contract will also require the prime contractor to incorporate Section 3 terms and conditions into all subcontracts. Section 3 requirements will be communicated at both pre-bid and pre-construction conferences, and Town staff and contractual support will be available to provide contractor assistance as needed. All contractor and subcontractor employees working on the covered contract (existing employees and new hires) will be required to submit an Employee Self-Certification for Section 3 Qualification form. Required Section 3 reporting will be submitted by covered contractors and subcontractors on a weekly, monthly, and quarterly basis and reviewed by Town staff and contractual support to ensure that quantitative and qualitative efforts are effectively implemented. Contractors will be required to complete qualitative efforts along with the Town by utilizing the list provided by HUD in 24 CFR part 75.

Describe how the subrecipient will take affirmative steps to ensure good faith effort outreach to small, minority, women and veteran-owned business to be included in all solicitation opportunities (procurement of services and goods) and documenting efforts and procurement opportunities

The Town of Fort Myers Beach will utilize the State of Florida's minority, women, and veteran owned business directory (<https://vendor.myfloridamarketplace.com/search/vendor>) to solicit minority, women, and veteran owned businesses for participation in each contract procured as a result of this project. All solicitation documents for services to be performed through this project will encourage participation of minority, women, and veteran owned businesses and all contracts and subcontracts issued will require compliance with 2 CFR 200.321, such that subcontracting opportunities must be made available, as a priority, to minority, women, or veteran owned businesses when possible. The Town will document all outreach efforts to demonstrate that affirmative steps were taken to ensure good faith effort outreach to minority, women, and veteran-owned

businesses.

Subrecipients must provide their procurement policy documents for analysis

The Town of Fort Myers Beach will provide all procurement policy documentation to Lee County for analysis.

Subrecipient's ability to Complete Subgrantee Capacity Assessment

N/A

Subrecipient's ability to Complete Subgrantee Risk Assessment

N/A

Subrecipient's Ability to Execute a Subgrantee Agreement

N/A

Please describe Subrecipient's Plans for Subgrantee Oversight and Monitoring

N/A

Subgrantee's Capacity to perform financial management and oversight

N/A

Subgrantee's Capacity to perform grant management functions as demonstrated through prior experience managing grants with in-house staff or with a grant management consultant

N/A

Subgrantee's Internal auditing capability

N/A

Subgrantee's Administrative staffing

N/A

Subgrantee's Monitoring and control of timely expenditure of funds

N/A

Describe how the subgrantee will implement Construction, Davis Bacon and Related Acts and understand project costs must be based on paying laborers and mechanics federal prevailing wages, as published by DOL. The then-current wage rates must be attached to the construction contract and accepted by the general contractor prior to contract execution

N/A

Confirm that the subgrantee will not take any choice limiting actions, including, but not limited to, physical work or activity, may start until environmental clearance is obtained. All prohibitions regarding 'choice limiting actions will apply, rendering the award void and applicant ineligible for award. Activities with multiple environmental issues which cannot be addressed timely and cost-effectively will cause the award of CDBG-DR Funds to be canceled

N/A

Explain the subgrantee's plan to provide opportunities and training to low and very low-income persons to the greatest extent feasible. These efforts should be , especially focused on recipients of government assistance for housing and to businesses that provide economic opportunities to low and very low-income persons. The applicant/subrecipient should explain how they will comply with Section 3 requirements set forth in 24 CFR Part 75

N/A

Describe how the subgrantee will take affirmative steps to ensure good faith effort outreach to small, minority, women and veteran-owned business to be included in all solicitation opportunities (procurement of services and goods) and documenting efforts and procurement opportunities

N/A

Subgrantee's must comply with 2 CFR Part 200 requirements for procurement

N/A

Timelines of critical tasks to be accomplished for each proposed activity, including a description of the steps you will take to complete the funded activities and describe any dependencies or actions that need to happen before you can start on the activities

1. Execution of a Subrecipient Agreement: Award + 1 month.

The Town, upon receiving notification of award, will submit required policies and other documentation to Lee County for review and comment. After thorough review, the Subrecipient Agreement will be presented to the Town Council for approval. Once executed the Subrecipient Agreement will be submitted to Lee County for final execution.

Final Deliverable: An executed Subrecipient Agreement for the Parks and Recreation Revitalization project.

Prerequisite Dependencies or Actions: Receipt of a Subrecipient Agreement from Lee County.

2. Completion of Engineering Procurement: Award + 4 months.

The Town of Fort Myers Beach will solicit Statements of Qualifications from Florida Certified Engineering firms to complete the design and permitting activities necessary for project completion. Procurement activities will be conducted in accordance with 2 CFR 200 Procurement Standards (2 CFR 200.317-327) and Florida Statute 287.055. In compliance with these requirements, the Town will ensure that professional services are competitively solicited and a price for the contract is negotiated prior to contract execution. This process will be documented, along with the Town's determination for use of an RFQ, rather than Invitation to Bid (ITB) or a Request for Proposals (RFP).

Final Deliverable: An executed contract for professional engineering services.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement, Lee County review of procurement documentation, Lee County authorization to execute a contract for Engineering Services.

3. Completion of Project Design and Permitting: Award + 22 Months.

The Florida Certified Engineer selected for this project will complete all project design and permitting activities. Throughout project design, the project engineer will work closely with Town Staff responsible for project oversight. The project engineer will provide comprehensive services for the Parks and Recreation Revitalization project in Fort Myers Beach, while utilizing existing plans and project documentation to ensure efficient and cost-effective delivery of services. These services include conducting developing conceptual and detailed designs for the revitalization projects, with a particular focus on resiliency against natural disasters and climate-related hazards. For projects with existing plans, specifications, or contract documents, the project engineer will review those documents to ensure accuracy and completeness, while evaluating the requirements for resilient construction methods. The engineer will ensure regulatory compliance and assist with permitting, while managing the project from inception to completion, including construction supervision and coordination with contractors. The engineer will provide additional services, as needed, such as surveys, geotechnical assessments, wetlands delineations, etc. The engineer will also work closely with the Town and Tidal Basin to ensure that all final contract documents address the federal provisions required by

Appendix II to 2 CFR Part 200, mitigation activities required by the final ERR, and applicable terms and conditions of the CDBG-DR Subrecipient Agreement, such as Section 3, Davis-Bacon, utilization of MBE/WBE contractors and subcontractors, registration with SAM.gov, confirmation of debarment and suspension status for all contractors and subcontractors, etc.

Final Deliverable: Permit documents for project construction; plans, specifications, and contract documents for solicitation of construction bids.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; Execution of a contract for engineering services.

4. Completion of the Environmental Review Record (ERR): Award + 22 Months.

Concurrently with project design and permitting efforts, the Town will work with Tidal Basin and Gouras & Associates to compile the HUD-required environmental review record. Activities for compilation of the ERR may include, but are not limited to: compilation of project information for distribution to interested federal, state, local, and tribal stakeholders; coordination of stakeholder feedback related to project information; compilation of an 8-Step Process (if required); completion of HUD-issued environmental worksheets to assess possible areas of impact; analysis of publicly available environmental resources such as EPA's NEPAAssist Tool, USFWS's iPac Tool, the National Wetlands Inventory, and others, to assess potential environmental impacts; publication of required public notices for floodplain and/or wetlands impacts (when applicable), Findings of No Significant Impact (FONSIs), and Notices of Intent to Request Release of Funds (RROFs). Should interested stakeholders request or require additional studies or reports of a technical nature (e.g., wetlands delineations, ESA's, Cultural Resources Surveys, etc.), the Town will task the project engineer with completion of said studies or reports and will coordinate ensure that interested stakeholders are able to review requested documentation.

Upon certification of the ERR, the Town will publish required public notices, consider comments received, and submit the final ERR package, including HUD Form 7015.15, to Lee County for review and issuance of Authority to Use Grant Funds (AUGF). The Town will ensure that no choice-limiting actions are taken prior to issuance of AUGF.

Final Deliverable: A certified Environmental Review Record and receipt of AUGF from Lee County

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; execution of a project-specific Task Order with Tidal Basin, which will include compilation of the ERR.

5. Completion of Construction Procurement: Award + 26 Months.

The Town of Fort Myers Beach will competitively solicit bids for each component of the Parks and Recreation revitalization project in accordance with 2 CFR 200.320(b)(1) and applicable Florida Statutes. Based on guidance from the project engineer, the Town may choose to separately solicit bids for each component of the project or combine solicitation documents to capture economies of scale. The engineer will compile Opinions of Probable Construction Costs for each bid package prior to acceptance of bids. After bids are accepted, the engineer will review all bids received to ensure that bid prices are reasonable and that the low bidder is qualified to complete the scope of work. The Town will take the affirmative steps listed at 2 CFR 200.321(b) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when

possible. The project engineer will coordinate all pre-bid and pre-construction conferences, in conjunction with the Town and Tidal Basin, during which critical federal compliance requirements will be reviewed in detail (e.g., Davis-Bacon Act Requirements, Section 3 Requirements, MBE/WBE outreach requirements, prohibition on participation of debarred or suspended entities, etc.).

Final Deliverable: One or more executed construction contract(s) for Parks and Recreation Revitalization projects.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; Execution of a contract for engineering services; Completion of plans, specifications, and contract documents necessary for solicitation of bids; Completion of the ERR and issuance of AUGF.

6. Completion of Construction Activities: Award + 45 months.

The construction contractor(s) procured by the Town of Fort Myers Beach will construct each component of the project in accordance with the plans, specifications, and contract documents issued by the project engineer and the Town of Fort Myers Beach. The project engineer will closely oversee construction activities to ensure quality of work, and the Town, with support from Tidal Basin, will oversee and document compliance with applicable labor standards and Section 3 requirements. Throughout this phase, the general contractor will submit weekly Certified Payroll Reports to ensure that workers are paid in accordance applicable wage rates. The general contractor will also submit documentation of Section 3 compliance on a weekly, monthly and quarterly basis to ensure adherence to quantitative benchmarks and qualitative efforts.

Final Deliverable: Completion of Parks and Recreation Revitalization project construction activities; Delivery of as-builts for each component of the project.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; Execution of a contract for engineering services; Completion of plans, specifications, and contract documents necessary for solicitation of bids; Completion of the ERR and issuance of AUGF; Execution of a contract for construction activities.

7. Project Closeout: Award + 48 Months.

Upon completion of construction activities, the Town and Tidal Basin will work with Lee County to submit all documentation required for closeout of the Subrecipient Agreement.

Final Deliverable: Lee County acceptance of final closeout documentation.

Prerequisite Dependencies or Actions: Execution of a Subrecipient Agreement for project funding; Execution of a contract for engineering services; Completion of plans, specifications, and contract documents necessary for solicitation of bids; Completion of the ERR and issuance of AUGF; Execution of a contract for construction activities; Completion of Construction Activities.

Monthly spending plans and proposed draw down schedules

The Town of Fort Myers Beach anticipates the following monthly spending plan and proposed draw down schedule for project activities throughout the 48-month period of performance for completion of the Parks and Recreation Revitalization project. Estimated project spending and drawdowns total \$9,961,000.00.

Month 1 – Month 4: \$10,375.00 per Month (Through completion of engineering procurement).

Month 5 – Month 22: \$38,784.72 per Month (Through completion of design, permitting, and completion of the environmental review record).

Month 23 – Month 26: \$18,231.25 per Month (Through construction procurement).

Month 27 – Month 45: \$479,859.21 per Month (Through construction completion).

Month 46 – Month 48: \$10,375.00 per Month (Through completion of project closeout).

Proposed reporting for outcomes achieved

The Town will hold regularly scheduled status meetings with the consultant team as well as the hired engineer and construction contractor(s) to monitor progress, address unforeseen circumstances and challenges, and develop strategies to mitigate timeline and budgetary risks related to such challenges.

The Town will submit all reports required by Section VI: Reports of any Subrecipient Agreement executed between the Lee County Board of County Commissioners and the Town of Fort Myers Beach, in the manner and frequency established therein. Required reporting may include, but is not limited to, activity performance reports, payment request forms, program information forms, budget analysis, closeout reports, and periodic certifications by the Town, to be specified in Section VI: Reports.

The Town of Fort Myers Beach's commitment to ensuring the success and accountability of the Parks and Recreation Revitalization project is demonstrated through its structured approach to project management and oversight. This approach is designed to keep the project timeline on track, adaptable, and transparent to all stakeholders involved. Regularly scheduled status meetings with the Town, the Town's consultant team, and the project engineer are a critical component of the Town's approach to project activities. These meetings serve multiple purposes, including providing a forum for continuous progress monitoring and enabling the Town and the teams to stay aligned on project goals, timelines, and deliverables. They also offer an opportunity to promptly identify and address any unforeseen challenges or obstacles that may arise, ensuring that such issues are managed proactively to mitigate potential impacts on the project's timeline and budget. This dynamic and responsive communication strategy is essential for maintaining momentum and ensuring that the project outcomes remain aligned with the community's needs and expectations.

Moreover, the Town's adherence to the reporting requirements outlined in Section VI: Reports of the Subrecipient Agreement with the Lee County Board of County Commissioners further underscores its dedication to transparency and accountability. These requirements ensure that all activities, from budget management to performance metrics, are documented and reported in a consistent and comprehensive manner. The

variety of reports required—including activity performance reports, payment request forms, and closeout reports—provides a structured framework for tracking the project's financial and operational progress. This not only facilitates effective project management, but also ensures compliance with the funding requirements, reinforcing the Town's commitment to stewardship of public funds.

Detailed reporting and regular consultations with the consultants and engineering teams are designed to preemptively identify risks to the project's timeline and budget, allowing for the development of strategic responses to such risks. This could include reallocating resources, adjusting timelines, or modifying project scopes to accommodate changing circumstances, ensuring that the project continues to move forward efficiently.

In summary, the Town's approach to monitoring progress, coupled with its rigorous reporting protocol, is a testament to its commitment to delivering a completed project on schedule that will benefit the Town for the future. By implementing these strategies, the Town of Fort Myers Beach not only safeguards the project against potential risks but also ensures that the project is conducted with the highest levels of efficiency, transparency, and accountability.

Subrecipients plan to ensure the project is timely, draws are completed on time, and reports are complete and accurate

The Town of Fort Myers Beach will ensure that the project is completed in a timely manner by establishing detailed project timelines, including milestones and deliverables for each phase of project activities. Regular update meetings will be held with project professionals and construction contractors to monitor progress in accomplishing milestones and deliverables, address unforeseen circumstances and challenges, and develop strategies to mitigate timeline and budgetary risks related to such challenges. Regular reporting will be compiled based on feedback from the project engineer and reviewed by Town staff to ensure accuracy and consistency with known project milestones and deliverables statuses. Actual drawdown of project funds will be based on contract amounts and the payment terms and conditions contained therein; as such, the drawdown schedule established in this project application may be modified once contractual obligations are known. Throughout the life of the project, Town staff will review invoices submitted by project professionals and construction contractors to ensure that the invoices are accurate based on both the payment provisions of contract documents and completed project milestones and deliverables, thereby ensuring that funding draws are consistent with work performed.

Describe the process carried out to determine cost estimations prior to applying

The process adopted by the Town of Fort Myers Beach to ascertain cost estimations for its Parks & Recreation Revitalization Program prior to applying for funding was both strategic and methodical, ensuring a realistic and informed budgetary foundation for the application. This proactive approach involved a series of steps aimed at accurately capturing the financial requirements of the proposed project activities, reflecting the Town's commitment to fiscal responsibility and project feasibility.

For the Newton Park Beach Facility, the Town utilized preliminary engineering estimates for construction of the Seven Seas Cottage. This estimate included engineering fees of approximately 9% of construction costs. For construction of ADA compliant restaurants, native plantings, and beach-friendly parking areas, the Town estimated construction costs based on experience with other revitalization projects of similar size and scope. A 9% fee for engineering services was budgeted, consistent with the engineering fees included in the preliminary engineering estimates for construction of the Seven Seas Cottage. The Town budgeted construction-phase engineering and inspection (CEI) costs at 3% of construction costs, consistent with FEMA's Cost Estimating Tool for Engineering and Design Services (https://www.fema.gov/sites/default/files/2020-03/public-assistance-cost-estimating-tool-for-engineering-and-design-services_12-21-2015.pdf). Funds have also been budgeted for permitting activities and other studies that may be required, but may not be identified until preliminary engineering and design due diligence begins.

For the Old San Carlos & Time Square Lighting Project construction activities, Town staff utilized estimates from local contractors as a basis for preliminary costs of replacement of all wiring, poles, and fixtures. Engineering fees were estimated at 9% consistent with the engineering fees included in preliminary engineering estimates for construction of the Seven Seas Cottage. The Town budgeted construction-phase engineering and inspection (CEI) costs at 3% of construction costs, consistent with FEMA's Cost Estimating Tool for Engineering and Design Services (https://www.fema.gov/sites/default/files/2020-03/public-assistance-cost-estimating-tool-for-engineering-and-design-services_12-21-2015.pdf).

For the Bay Oaks Community Pool Project, Town staff utilized estimates provided by a regional contractor that is qualified to implement a project of this size and scope as a basis for preliminary construction costs. The Town budgeted basic engineering and design services at approximately 11% of construction costs, consistent with FEMA Cost Curve A for a \$4.25 million construction budget (https://www.fema.gov/sites/default/files/2020-03/public-assistance-cost-estimating-tool-for-engineering-and-design-services_12-21-2015.pdf). The Town budgeted construction-phase engineering and inspection (CEI) costs at 3% of construction costs, consistent with FEMA's Cost Estimating Tool for Engineering and Design Services (https://www.fema.gov/sites/default/files/2020-03/public-assistance-cost-estimating-tool-for-engineering-and-design-services_12-21-2015.pdf). Funds have also been budgeted for permitting activities and other studies that may be required, but may not be identified until preliminary engineering and design due diligence begins.

The Town budgeted activity delivery costs at 5% of the total award request based on the Lee County NOFA for CDBG-DR Public Facilities Programs limitation of ADCs. This rate is consistent with industry standard budgeting for ADCs, providing a realistic estimate for the costs project specific ADCs. Activities may include project specific management and oversight services and project specific compliance with the terms and conditions of the related award. ADC's may also include activities such as participation in meetings,

strategy sessions, etc.; coordination with the selected project engineer to ensure compliance with the project-specific scope, schedule, and budget as approved in the grant agreement; compilation of required project-specific progress reporting; compilation of project-specific reimbursement requests and financial reporting; coordination and oversight support for procurement of engineering services and documentation of federal procurement compliance for same; coordination and oversight support for procurement of a construction contractor and documentation of federal procurement compliance for same; documentation of environmental compliance for project-specific activities; and documentation of project-specific labor standards compliance, including Davis Bacon and Section 3 Requirements; and other project-specific services as requested by the Town. ADC services will be provided by Tidal Basin and all ADC activities will pertain to implementation of the Parks and Recreation Revitalization project.

Describe additional steps you will take, if approved, to manage costs, change orders, and ensure the project is completed on time and within budget

To manage costs associated with contractual services, the Town of Fort Myers Beach plans to enter into firm fixed price, lump sum agreements for completion of construction activities, engineering design and permitting, and ADCs. Should the firm fixed price, lump sum method of contracting not be appropriate for any category of required services, the Town may use a time-and-materials type contract that includes a ceiling price; however this method of contracting will only be used after a determination that no other contract type is suitable, consistent with 2 CFR 200.318(j). Change orders will only be considered if the circumstances prompting a contractual change were reasonably unforeseeable or unknowable at the time of contract execution and additional services due to such conditions are necessary for successful completion of the contractual scope of work. Furthermore, change orders will only be considered if funding for such a change order is available and proposed change order costs are determined to be reasonable and necessary. The Town will hold regularly scheduled status meetings with the consultant teams, the project engineer, and the construction contractor to monitor progress, address unforeseen circumstances and challenges, and develop strategies to mitigate timeline and budgetary risks related to such challenges.

Describe the actions that will be taken to implement the project after construction completion. Describe how the finished project will be maintained and updated

Upon completion of each component of the Parks and Recreation Revitalization project, the Town of Fort Myers Beach will implement a detailed operations and maintenance (O&M;) plan to ensure the long-term functionality of that component. The estimated annual cost for O&M; includes routine inspections, preventive maintenance, repairs, and upgrades to address wear and tear. These tasks will be performed by trained Town staff, ensuring familiarity with the project improvements and prompt attention to any issues. The costs will be covered through a combination of municipal budget allocations and potential grants or subsidies (when available) aimed at supporting resilience of public facilities. This proactive approach to funding O&M; will help safeguard the investment in

the public facilities.

Describe how the project is innovative, based on national best practices, and designed in accordance with an existing evidence-based program

During proposal scoring, consideration will be given to the selection of an engineering firm with proven use of innovative concepts, national best practices, and existing evidence-based programs that may be applicable to projects in post-disaster coastal communities. Incorporation of this as a selection metric in the RFQ and ITB will ensure that the selected engineering firm and construction contractor is experienced, forward-thinking, and innovative as well as being capable of providing actionable designs that can be of function and utility in both short- and long-term Town development.

The commitment to innovation, eco-friendly design, and adherence to national best practices and evidence-based programs is a cornerstone of the Town of Fort Myers Beach's approach to the Parks & Recreation Revitalization Program, particularly in the context of post-disaster and coastal community resilience. This commitment is operationalized through the selection process for an engineering firm, ensuring that the chosen firm brings knowledge, experience, and creativity to the project.

Understanding the vulnerability of Fort Myers Beach to extreme weather events, the projects will be reconstructed to better withstand future storms and environmental stressors. This involves not only the selection of robust building materials, but also the integration of advanced drainage systems to manage stormwater effectively and prevent flooding—a critical improvement over the previous infrastructure.

Furthermore, each project designed and implemented through the Parks & Recreation Revitalization Program will prioritize sustainability as a core principle. The new facilities, parks, and lighting grids will use materials and technologies that minimize environmental impact while enhancing operational efficiency. Examples of these types of materials and technologies include LED lighting, low-impact construction practices and traffic management, water management, and well-trained staff to reduce maintenance costs and upkeep.

Subrecipients plan to oversee cost effectiveness and internal controls of the subgrantee

Not Applicable. This project will be directly implemented by the Town of Fort Myers Beach and will not involve a subgrantee.

A description of how the subgrantee will coordinate with other planning, community development, and/or recovery or resilience projects and initiatives that are underway

This project will be directly implemented by the Town of Fort Myers Beach and will not involve a subgrantee; however, the Town of Fort Myers Beach recognizes the importance of coordination with other planning, community development, and/or recovery or resilience projects and initiatives that are underway.

As such, The Town of Fort Myers Beach will coordinate Parks and Recreation Revitalization project activities with existing planning, community development, and resilience initiatives to maximize efficiency and ensure comprehensive community benefits. Collaboration with ongoing public facility and resilience projects will be a priority. By aligning components of the parks and recreation revitalization project with these initiatives, the Town can leverage shared resources and expertise.

The Town will engage with local planning and development departments to integrate the parks and recreation revitalization project into the broader community development strategy. This integration will ensure that the project supports and enhances other ongoing and planned improvements in the area, such as housing developments, transportation upgrades, and public space enhancements.

By coordinating with other projects and initiatives, the Town of Fort Myers Beach aims to create cohesive and resilient public facilities that not only meet immediate needs, but also prepare the Town's public facilities for future challenges. This collaborative approach will enhance the effectiveness and sustainability of parks and recreation improvements and contribute to the overall resilience and development of the town.

Furthermore, the Town of Fort Myers Beach was awarded for a Comprehensive and Long-Term Recovery Plan through the Lee County Recovery and Resiliency Planning Program. As the projects included in the Town's parks and recreation revitalization project are important to the elimination of blight and the recovery and future growth of the island, this project will be foundational to future parks and recreation planning recommendations identified in that plan.

Describe how the subgrantee will coordinate with other partners carrying out related activities and/or projects

This project will be directly implemented by the Town of Fort Myers Beach and will not involve a subgrantee; however, the Town of Fort Myers Beach recognizes the importance of coordination with other partners carrying out related activities and/or projects.

The Town of Fort Myers Beach will coordinate with various partners to enhance the impact of the Parks and Recreation Revitalization project to the Town of Fort Myers Beach. As needed, the Town may conduct meetings or workshops with neighboring municipalities and interested local stakeholder organizations to share information regarding this project and promote alignment with other parks and recreation initiatives. Interdepartmental coordination within the Town's government will ensure cohesive planning. Collaboration with utility providers and contractors will optimize service

integration and reduce construction conflicts. This collaborative approach will ensure the project's success and contribute to the community's long-term resilience and development.

A description of the area of the need that will be addressed

The Parks and Recreation Revitalization Project aims to address critical needs in Fort Myers Beach following the unprecedented destruction caused by Hurricane Ian. This project will address blight caused by the hurricane and significantly improve infrastructure and safety by replacing and updating the entire street lighting system in the downtown area, particularly Old San Carlos and Time Square, which were left dangerously dark after the hurricane. This enhancement will improve public safety, reduce crime, and create a more inviting environment for residents and visitors; this is also the first step toward the Town's long-term plan to evolve Old San Carlos Boulevard into a "park corridor," connecting Bayside to the north and Time Square to the south. The project will also reconstruct essential facilities such as the Bay Oaks Community Pool and Newton Park Beach Facility, restoring vital recreational and educational resources crucial for community wellness. These facilities will offer safe spaces for physical activity, social interaction, and educational programs.

Environmental resilience is another key focus. New structures will be built above base flood elevations with reinforced foundations, roofs, and high-impact glass to ensure they withstand future storms and environmental challenges. The project will incorporate sustainable practices, including energy-efficient systems like LED lighting and solar panels, and eco-friendly materials for construction and landscaping. Turtle-compliant lighting will be installed near the beach to protect local wildlife. The project also prioritizes historical and cultural preservation by rebuilding the historical "Seven Seas" cottage at Newton Park, transforming it into an elevated and resilient education center that honors the area's history and provides a space for learning about local heritage and environmental conservation.

The project will enhance community well-being by addressing blight caused by the hurricane, restoring the Bay Oaks Community Pool and other parks, providing essential recreational spaces that contribute to physical and mental health. These spaces will foster community bonding and offer places for residents and visitors to gather, play, and relax. Ensuring all new buildings and facilities are ADA-compliant will make the parks and recreational areas accessible to all community members, including those with disabilities.

Economic recovery is more likely when blighted areas are made safe, useful and accessible, and this recovery is a crucial aspect of the project. Revitalizing downtown lighting and improving public spaces will attract more visitors, supporting local businesses and contributing to the economic recovery of Fort Myers Beach. Enhancing the aesthetic appeal and safety of the area will help restore the town's vibrant tourism sector. The construction and ongoing maintenance of these facilities will create job opportunities, further aiding in the town's economic revitalization.

By addressing these critical needs, the Parks and Recreation Revitalization Project will play a pivotal role in the comprehensive recovery of Fort Myers Beach, ensuring it becomes a safer, more resilient, and vibrant community.

A description of the intended impact the plan will have on the community and area of high need

The Parks and Recreation Revitalization Project is expected to have a profound impact on the community of Fort Myers Beach, particularly in areas of high need. By addressing blight caused by Hurricane Ian through restoring and enhancing key public facilities and parks, the project will significantly improve the quality of life for residents and visitors. The reconstruction of the Bay Oaks Community Pool and the Newton Park Beach Facility will provide essential recreational and educational resources, promoting physical health, mental well-being, and community engagement. The updated and expanded facilities will also serve as safe, inclusive spaces for people of all ages and abilities, fostering a sense of unity and belonging. Additionally, the project will initiate the Town's long-term plan to evolve Old San Carlos Boulevard into a "park corridor," connecting Bayside to the north and Time Square to the south, enhancing connectivity and the overall aesthetic appeal of the downtown area.

Moreover, the installation of a modern, energy-efficient lighting system in the downtown area will enhance public safety, reduce crime, and support local businesses by making the area more attractive and accessible. This improvement will boost the local economy by drawing more visitors and encouraging tourism. The project's emphasis on sustainability and resilience, including the use of eco-friendly materials and construction practices, will not only protect the environment but also ensure that the community is better prepared for future storms and environmental challenges.

By addressing these high-need areas, the Parks and Recreation Revitalization Project will help Fort Myers Beach recover from the devastating impacts of Hurricane Ian, rebuild its infrastructure, and strengthen its social and economic fabric. The project aims to create a vibrant, resilient, and sustainable community where residents can thrive and visitors are welcomed, thereby restoring the town's charm and vitality.

A description of the intended beneficiaries of the project, including any HUD-defined vulnerable populations and communities who are the intended beneficiaries of the project

The intended beneficiaries of the Parks and Recreation Revitalization Project in Fort Myers Beach encompass a diverse cross-section of the community, including residents, visitors, and particularly vulnerable populations as defined by HUD. Geographically, this includes all of Census Tracts 601 and 602. All residents of those Tracts are considered intended beneficiaries, including HUD-defined vulnerable populations within those areas. According to 2020 U.S. Census records, 56.3% of the Town's population is considered elderly (65+); the national average is 17.3%. In addition, 11.1% of the Town's population under 65 is disabled; the national average is 8.9%.

While this project will benefit all residents of the island, this project will significantly benefit the elderly and disabled by ensuring that all new facilities, such as the Bay Oaks Community Pool and Newton Park Beach Facility, are fully ADA-compliant, providing accessible and safe spaces for recreation and social engagement. Additionally, the project will support the Town's long-term plan to evolve Old San Carlos Boulevard into a "park corridor," which will enhance connectivity between Bayside to the north and Time Square to the south, providing a continuous, accessible, and enjoyable environment for all community members.

Once this project is implemented, families with children will benefit from enhanced recreational opportunities and educational programs that promote physical activity and

learning. Local businesses will also see a positive impact as improved infrastructure and increased tourism will drive economic recovery and growth. The project is designed to foster inclusivity and support for all community members, including low- and moderate-income families, by creating public spaces that are welcoming and accessible to everyone.

By prioritizing the needs of vulnerable populations throughout the Town, the project aims to enhance the quality of life for all residents, ensuring a more resilient, vibrant, and inclusive community.

A project area map and corresponding beneficiary data from the HUD Low and Moderate Income Summary Data (LMISD) dataset and mapping tool is attached.

The applicable census tracts and block groups that are projected to benefit from the project. Census data can be found here: [Low- and Moderate-Income Area Data](#)

	Census Tract	Block Group
1	0601.02	1,2,3,4,5
2	0602.01	1,2,3
3	0602.02 / 0602.03	1,2 / 1,2

The types of entities benefitting from the plan

- ☒ Residents
 ☒ Businesses
- ☒ Local Government
 ☐ Other:

- If "Residents" is selected, list the projected number of beneficiaries and number of LMI beneficiaries who will benefit from the project

Total Number of Beneficiaries:	6670
Total LMI Beneficiaries:	2055

The target populations from the table below who will benefit from the project

- ☒ Populations presumed by HUD to be LMI persons:
 - Abused children
 - Elderly persons (62 and older)
 - Battered spouses
 - Homeless persons
 - Severely disabled adults (as defined by the Census)
 - Illiterate adults
 - Persons living with AIDS
 - Migrant farm workers
- ☒ Vulnerable populations, as defined by HUD in the Consolidated Notice:
 - Groups or communities whose circumstances present barriers to obtaining or understanding information or accessing resources, based on such factors as the following:
 - Geography
 - Markets
 - Prevalent housing stock and tenure
 - History
 - Prejudice
- ☒ Underserved communities, as defined by HUD in the Consolidated Notice:
 - Populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life

A description of the method used to identify the intended beneficiaries of the project if it were implemented

The Town's Parks & Recreation Revitalization Program will benefit all current and future residents and business owners (the intended beneficiaries) in the Town of Fort Myers Beach.

According to 2020 U.S. Census records, 56.3% of the Town's population is considered elderly (65+); the national average is 17.3%. In addition, 11.1% of the Town's population under 65 is disabled; the national average is 8.9%. As such, the Parks and Recreation Revitalization Project will thoughtfully consider the needs of the elderly and disabled populations in Fort Myers Beach through several key improvements designed to enhance accessibility, safety, and overall quality of life. All new facilities, including the Bay Oaks Community Pool and the Newton Park Beach Facility, will be fully ADA-compliant, ensuring that these spaces are accessible to individuals with mobility impairments. This includes the installation of ramps, wide pathways, and accessible restrooms to facilitate easy movement throughout the parks.

Additionally, the project will incorporate features that support needs of elderly residents, such as shaded seating areas and rest zones that provide comfortable spots to relax and socialize. Improved lighting systems in the downtown area and parks will enhance visibility and safety, reducing the risk of accidents for those with limited vision or mobility and enhancing connectivity between Bayside to the north and Time Square to the south, providing a continuous, accessible, and enjoyable environment for all community members.

By prioritizing the needs of the elderly and disabled, the Parks and Recreation Revitalization Project aims to create inclusive, welcoming environments that support the health, well-being, and active participation of all community members in Fort Myers Beach.

A description of the community outreach and engagement that has happened to date, including a description of the stakeholders and approaches to outreach and engagement

The Town of Fort Myers Beach notified the public of its intention to apply for infrastructure funds through the Lee County – CDBG Critical Infrastructure program. Notice was published in a newspaper of local circulation in block/display ad format on Friday, May 17, 2024, and included instructions for submitting written comments via email and instructions for submitting written comments in person. Interested parties were invited to make public comments at the Town Meeting held on Monday, May 20, 2024; written comments were accepted through Thursday, May 23, 2024.

No comments were received.

A description and justification of the proposed costs

The total project budget for rehabilitation of the North Island Water Tower Complex is estimated at \$10,673,000.00. Additional information regarding detailed budget line items is provided below:

Construction Activities: \$9,165,000 Total. The Parks and Recreation Revitalization Project in Fort Myers Beach will involve comprehensive construction activities aimed at restoring and enhancing key public facilities and parks. Additional detail regarding each project is provided below:

Bay Oaks Community Pool Project (\$4,675,000). Construction activities will include demolition of damaged structures, including the hard deck, slide, and mechanical systems, construction of a new facility to house public restrooms and staff offices, full replacement of the hard deck and slide structure, and restoration of the pool basins. Infrastructure upgrades will include new drainage systems, lighting, and landscaping to improve functionality and aesthetics. All new structures will be ADA-compliant, with ramps, accessible restrooms, and pathways to ensure inclusivity.

Old San Carlos & Time Square Lighting Project (\$495,000). Construction activities will include clearing of old, damaged streetlights and poles, installation of new panel/switch boxes, installation of new wiring and conduit, and installation of 46 new streetlights and poles with turtle-compliant lighting fixtures. These improvements will enhance public safety by ensuring the entire downtown area is well-lit and inviting for both residents and visitors, and will mark an important first step in the Town's plan to create a "park corridor" that connects Bayside and Time Square.

Newton Park Beach Facility (\$3,995,000). Construction activities will include removal of any remaining storm-damaged structures, construction of a new elevated, resilient educational and environmental center, and construction of ADA-compliant restroom facilities. Project designs will consider resiliency measures such as reinforced foundations, roofs, high-impact glass, and water-resistant sealants. Environmental restoration efforts will include planting of native grasses and shrubs to mitigate erosion and flooding. A beach-friendly parking lot will also be constructed using eco-friendly materials, with spaces for buses and bicycles to promote greener transportation options. The new facility and surrounding areas will be fully ADA-compliant, with ramps, accessible restrooms, and wide pathways.

Engineering Fees: \$668,500 Total. Engineering funds will be utilized for costs associated with basic engineering and design services normally performed by an engineering firm on construction projects. Such services include preliminary engineering analysis, preliminary design, final design, and construction-phase professional services.

Permitting / Studies: \$50,000.00 Total. Funds specific to permitting and studies will be utilized for costs related to permitting activities and other studies that may be necessary throughout the life of the project. Permitting includes all activities necessary for issuance of a required permit, such as initial assessment of permits required, development of permit applications, submission of permit applications, and coordination with permitting agencies from application submission to issuance of a permit. Other studies include any other studies that may be needed to secure permitting, complete the Environmental Review Record, or ensure that engineering and design of project components; this may include geotechnical reports, topographical surveys, wetlands delineations, environmental site assessments, cultural resource surveys, asbestos surveys, etc.

Construction-Phase Engineering & Inspection (CEI): \$256,500 Total. Funds for CEI services will be utilized for costs related to basic construction management activities. These may include activities such as daily or weekly site inspections and monitoring of construction methods to meet specified standards; site supervision to ensure safety and efficiency on the construction site, adhering to regulations and best practices; compliance monitoring to verify adherence to local, state, and federal regulations, ensuring all necessary permits are obtained and maintained; and compilation of detailed CEI Reports to track construction progress, including daily logs and inspection reports.

Activity Delivery Costs: \$533,000 Total. ADC funds will be utilized for project specific direct costs that are integral to the delivery of the project, including management and oversight services and project specific compliance with the terms and conditions of the related award. ADC's may also include activities such as participation in meetings, strategy sessions, etc.; coordination with the selected project engineer to ensure compliance with the project-specific scope, schedule, and budget as approved in the grant agreement; compilation of required project-specific progress reporting; compilation of project-specific reimbursement requests and financial reporting; coordination and oversight support for procurement of engineering services and documentation of federal procurement compliance for same; coordination and oversight support for procurement of one or more construction contractors and documentation of federal procurement compliance for same; documentation of environmental compliance for project-specific activities; and documentation of project-specific labor standards compliance, including Davis Bacon and Section 3 Requirements; and other project-specific services as requested by the Town. The Town has budgeted activity delivery costs at 5% of the total award request based on the Lee County NOFA for CDBG-DR Public Facilities Program limitation of ADCs. This rate is consistent with industry standard budgeting for ADCs, providing a realistic estimate for the costs project specific ADCs. ADC services will be provided by Tidal Basin and all ADC activities will pertain to implementation of the Parks and Recreation Revitalization Project and will be integral to the delivery of the final project.

A description of whether the project will be implemented with applicant staff, vendor support and/or other

The project will be implemented by a team comprised of Town staff and vendor support. Town of Fort Myers Beach employs staff with experience in completing projects of a similar size and scope, including Mr. Andrew Hyatt, Mr. Frank Kropacek, and Mr. Joe Onzick. To supplement staff expertise and capacity, the Town has secured the services of Tidal Basin Group, which has extensive experience in implementation and oversight of projects utilizing federal, state, and/or local governmental grant funds. Tidal Basin Group is further supported by Gouras & Associates, LLC, whose team members collectively have more than 70 years of combined experience working with state and federal funding, including CDBG-DR funding, and projects of all scopes and sizes.

The Town will competitively procure the services of an engineering firm licensed in the state of Florida to complete all design, permitting, other studies, and construction-phase engineering and inspection.

The Town will competitively procure one or more properly licensed construction contractors to implement all construction activities based upon the plans, specifications, and contract documents developed by the project engineer.

A description of the timeframe, dependencies, and methods for obligating grant funds, and how the applicant plans to ensure funds are spent timely. A description of how the applicant will address and control for dependencies, if applicable

The Town of Fort Myers Beach anticipates completion of project activities through two contractual agreements for professional services and one or more contractual agreements for construction services. The timeframe for execution of each, as well as dependencies that may affect execution of each contract is further described below:

Contract A - Contractual Activity Delivery Services:

The Town of Fort Myers Beach has competitively procured the services of Tidal Basin Group to supplement Town staff in project-specific activity delivery services. An existing contract is in place with Tidal Basin Group. Upon award of planning funds, a task order can be issued to obligate grant funds for project-specific activity delivery services. The Town anticipates that funding under this contract will be expended consistently throughout the project's period of performance. Timeframe associated with Contract A: Award + 1 month through project closeout.

Dependencies associated with Contract A: Issuance of an award for planning funds.

Contract B - Engineering, Permitting, and CEI Services (including other studies):

The Town of Fort Myers Beach will competitively procure a Florida-licensed professional engineering firm to complete all project engineering and design, secure all necessary permitting, perform all construction-phase oversight, and complete other studies that may be required throughout the life of the project. Upon project award, the Town will develop procurement documents and solicit Statements of Qualifications from firms qualified to perform these services. The Town anticipates that funding under this contract will be expended as follows:

- Engineering and Design Services: 75% of Basic Engineering Fee expended consistently throughout project design; 5% of Basic Engineering Fee expended throughout construction bidding; 20% of Basic Engineering Fee expended throughout construction phase activities.
- Permitting and Other Studies: 100% of Permitting/Other Study Fees expended during the project design phase.
- Construction-Phase Engineering and Inspection: 100% of CEI Fees expended consistently throughout the construction phase.

Timeframe associated with Contract B: Award + 4 months to Award + 45 months.

Dependencies associated with Contract B: Issuance of a grant award; Completion of Engineering Procurement; Execution of an Engineering Contract. To address and control for dependencies, the Town will ensure that an RFQ for solicitation of engineering services developed promptly upon award of project funding.

Contract C - Construction Activities:

The Town of Fort Myers Beach will competitively procure one or more qualified and licensed construction companies to construct the project based on the plans, specifications, and contract documents prepared by the project engineer. A determination of the number and nature of construction contracts will be made during preliminary engineering and due diligence. At this time, the Town has scheduled consistent expenditure of funding throughout the project's construction phase; however, this may require modification if engineering due diligence determines that multiple construction contracts should be procured for independent implementation of each component.

Timeframe associated with Contract C: Award + 27 months to Award + 45 months.

Dependencies associated with Contract C: Issuance of a grant award; Completion of Engineering Procurement; Execution of an Engineering Contract; Completion of project design and permitting; Completion of Construction Procurement(s); Execution of one or more Construction Contract(s). To address and control for dependencies, the Town will regularly coordinate with the project engineer to ensure that pre-construction activities are progressing on-budget and on-schedule.

Budget Form

Description	CDBG-DR Funds Requested	Leveraged Funds	Project Cost
Activity Delivery Costs			
Environmental Review Costs	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
File Management	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Inspections	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Program Administration	\$533,000.00	\$0.00	\$533,000.00
Source of External Funds	N/A		
Construction			
Bonding/Insurance	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Construction Management	\$256,500.00	\$0.00	\$256,500.00
Source of External Funds	N/A		
Debris Removal	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Demolition	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Fixtures/Equipment	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
General Contractor	\$9,165,000.00	\$0.00	\$9,165,000.00
Source of External Funds	N/A		
Landscaping	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Maintenance of Traffic	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Mobilization	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Site Preparation	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Planning/Design			
Development of Bidding Document	\$68,500.00	\$0.00	\$68,500.00
Source of External Funds	N/A		

Drawings/Blueprints	\$600,000.00	\$0.00	\$600,000.00
Source of External Funds	N/A		
Land Acquisition	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Permitting	\$50,000.00	\$0.00	\$50,000.00
Source of External Funds	N/A		
Site Plan	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Surveys	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		
Testing	\$0.00	\$0.00	\$0.00
Source of External Funds	N/A		

Funding Summary

CDBG-DR Funds Requested	Leveraged Funds	Project Cost
\$10,673,000.00	\$0	\$10,673,000.00

Duplication of Benefits

Source of Funds	Amount	Status of Funds
FEMA Building Resilient Infrastructure and Communities (BRIC)	\$0.00	N/A
Purpose of Funds:	N/A	
FEMA Hazard Mitigation Grant Program (HMGP)	\$0.00	N/A
Purpose of Funds:	N/A	
FEMA Public Assistance (PA)	\$0.00	Identified
Purpose of Funds:	The Town is currently working with FEMA to secure funding that would contribute to the implementation of this project; however, at this time, funding has not been committed. No other leveraged funding sources are currently committed to the organization for this project. Should leveraged funds be committed to this project, the Town of Fort Myers Beach will promptly notify Lee County and adjust CDBG-DR funding awarded to ensure that no Duplication of Benefits exists.	
Local (Municipal) Funds	\$0.00	N/A
Purpose of Funds:	N/A	
Other CDBG-DR Funds (from Florida COM)	\$0.00	N/A
Purpose of Funds:	N/A	
Other State Funds	\$0.00	N/A
Purpose of Funds:	N/A	
Resilient Florida	\$0.00	N/A
Purpose of Funds:	N/A	
US Army Corps of Engineers (USACE)	\$0.00	N/A
Purpose of Funds:	N/A	
US Department of Transportation	\$0.00	N/A
Purpose of Funds:	N/A	
Total	\$0.00	

Describe how the proposed project integrates mitigation measures and strategies to reduce natural hazard risks, including climate-related risks. Mitigation measures include but are not limited to, reducing risks to people and property; public service interruption for members who are most vulnerable to natural and climate-related risks; and/or community lifelines

The proposed Parks and Recreation Revitalization Project integrates several mitigation measures and strategies to reduce natural hazard risks, including climate-related risks, thereby enhancing the resilience and safety of the Town of Fort Myers Beach. Key measures include constructing all new buildings, such as the Bay Oaks Community Pool facility and the Newton Park Beach educational center, above base flood elevations with features such as reinforced foundations and roofs, high-impact glass, and water-resistant sealants. These features are designed to withstand future storms and flooding, significantly reducing risks to people and property. The installation of modern, energy-efficient lighting systems, including turtle-compliant fixtures, will ensure the downtown area remains well-lit and safe, even during adverse weather conditions, minimizing public service interruptions and enhancing safety for the most vulnerable community members.

The project also includes environmental restoration efforts, such as planting of native grasses and shrubs at Newton Park Beach, which will naturally mitigate erosion and flooding, thereby protecting the coastline and adjacent properties. The use of eco-friendly materials and sustainable construction practices will further reduce the environmental footprint and enhances the long-term resilience of the facilities. By incorporating these mitigation measures, the project aims to protect community lifelines, ensuring that essential public services and recreational spaces remain functional and accessible during and after natural disasters. These strategies collectively contribute to the town's ability to withstand and recover from climate-related risks, safeguarding the well-being of all residents, particularly those most vulnerable to such hazards.

Identify the risks or hazards being reduced and the impacts that those hazards have on people and property

The Parks and Recreation Revitalization Project addresses and mitigates several key risks and hazards that significantly impact the Town of Fort Myers Beach. Chief among these are flooding, storm surges, and extreme weather events, which have historically caused extensive damage to infrastructure, public facilities, and private properties. By constructing new buildings, such as the Bay Oaks Community Pool facility and the Newton Park Beach educational center, above base flood elevations and incorporating reinforced foundations, roofs, high-impact glass, and water-resistant sealants, the project reduces the risk of structural damage from future flooding and hurricanes. These measures protect people and property by ensuring that facilities can withstand severe weather conditions, thereby minimizing the likelihood of catastrophic loss and displacement.

Additionally, the project addresses the hazard of inadequate lighting in the downtown area, which can lead to increased crime and accidents, especially during severe weather when visibility is compromised. By installing modern, energy-efficient lighting systems, including turtle-compliant fixtures, the project enhances public safety and reduces the risk

of accidents and criminal activity, particularly benefiting vulnerable populations such as the elderly and disabled.

Environmental hazards such as erosion and flooding are also mitigated through the project's planting of native grasses and shrubs at Newton Park Beach. These natural barriers help protect the coastline and adjacent properties from erosion and flood damage. By addressing these risks, the project not only protects physical structures and property but also ensures the continuity of essential public services and recreational spaces, thereby safeguarding the overall well-being and resilience of the community.

Describe the value of the proposed project to the community. Describe the anticipated short-term impacts during normal circumstances, as well as how the project will enhance resilience in the long term and during extreme events. Description should include qualitative or quantitative data

The Parks and Recreation Revitalization Project offers immense value to the Fort Myers Beach community by restoring and enhancing critical public facilities and parks, thereby improving the overall quality of life for residents and visitors. In the short term, the project will provide immediate benefits by reviving key recreational spaces like the Bay Oaks Community Pool and Newton Park Beach Facility, offering safe and accessible venues for physical activity, social interaction, and educational programs. This revitalization will foster community cohesion and promote physical and mental well-being. For instance, the ADA-compliant features and modern amenities will ensure that all community members, including the elderly and disabled, can fully utilize these spaces, enhancing inclusivity and participation. Additionally, the project will initiate the Town's long-term plan to evolve Old San Carlos Boulevard into a "park corridor," which will enhance connectivity between Bayside to the north and Time Square to the south, creating a continuous, accessible, and enjoyable environment for all community members.

Quantitatively, the project is expected to increase local tourism and support economic recovery by making Fort Myers Beach more attractive to visitors. The improved lighting in the downtown area will enhance safety, potentially reducing crime rates and accidents, which can be measured through local law enforcement and public health data.

In the long term, the project will significantly enhance community resilience by incorporating robust construction standards and sustainable practices that mitigate the risks of future natural disasters. Buildings constructed above base flood elevations with reinforced materials will withstand extreme weather events, reducing the likelihood of costly repairs and displacement. The environmental restoration efforts, including dune restoration and native plantings, will provide natural barriers against erosion and flooding, protecting both property and natural habitats.

During extreme events, these resilient infrastructure improvements will ensure resilient public facilities have minimized disruptions and facilitate quicker recovery. Qualitatively, this resilience can be seen in the community's ability to maintain normalcy and safety during adverse conditions, fostering a sense of security and stability among residents. Overall, the project's blend of immediate benefits and long-term resilience strategies will create a safer, more vibrant, and sustainable community in the Town of Fort Myers Beach.

Application Certification

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and that the application and all support documentation has been duly authorized by the governing body of the applicant. I further certify that I am authorized to submit this application and have followed all policies and procedures of my agency regarding grant application submissions.

- ▶ Authorized Organization Representative Name: Andrew Hyatt
- ▶ Authorized Submitter Representative Name: Andrew Hyatt
- ▶ Authorized Submitter Representative Title: Town Manager
- ▶ Certification Date: 05/24/2024
- ▶ Authorized Submitter Representative Signature: Andrew Hyatt
- ▶ Authorized Submitter Representative IP Address: 173.165.214.193

EXHIBIT G

CERTIFICATE(S) OF INSURANCE

The information provided under this Exhibit is retrieved from the Subrecipient Agreement or the Subrecipient's approved application in response to the *Public Facilities Infrastructure Program* NOFA. In coordination and agreement with the Subrecipient, the County will utilize the information below to confirm that the Subrecipient has sufficient coverage against personal, commercial, or any other liability regarding the spending of CDBG-DR dollars. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently updated, reviewed, and/or approved within the System of Record when necessary.

Certificate(s) of Insurance

The Subrecipient has provided the following documentation below in an effort to confirm sufficient coverage is in place:

(1) Workers' Compensation Coverage

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

(2) Commercial General Liability

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

(3) Business Auto Liability

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

(4) Directors & Officers Liability

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout

the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

(5) Fidelity Bonding

Certificate of Insurance for this insurance policy has been received and all annual renewals for this policy will be collected and maintained by Lee County throughout the duration of the Agreement. Certificates of Insurance are stored in VistaTRAK in the Town of Fort Myers Beach, Subrecipient Management, Certificates of Insurance line item.

EXHIBIT H (SIGNATURE REQUIRED)

CERTIFICATIONS
CDBG-DR COMPLIANCE PROVISIONS
Housing and Infrastructure

This Exhibit to the Community Development Block Grant Disaster Recovery (“CDBG-DR”) Program Subrecipient Agreement contains supplementary compliance conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development (“HUD”) under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the Agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

By signing this Exhibit, the Subrecipient certifies they understand that all the below compliance provisions will apply to all projects that are awarded CDBG-DR funds.

1. NATIONAL OBJECTIVES

In accordance with [24 CFR 570.208](#), Section 104(b)(3) of the Housing and Community Development Act of 1974, all CDBG-DR funded activities must meet a National Objective. Under Section 101(c) of the authorizing Act (42 U.S.C. 5301), all CDBG-DR Activities must satisfy one of the named National Objectives.

1. Benefit to Low-to-Moderate Income Persons (LMI)
2. Urgent Need (UN)
3. Elimination of Slum and Blight (SB)

Upon completion of approved activity(ies) funded under this Agreement and prior to the funding expiration date of this Agreement, whichever comes first, the Subrecipient must document that the approved activity(ies) met the approved National Objective, as necessary.

For Subrecipients with a National Objective requirement, the County shall review the actual National Objective achievements of the activity. If the Subrecipient does not or cannot satisfactorily document the National Objective achievement of an approved activity(ies), the activity(ies) may be deemed ineligible, and repayment of funds may be required of the Subrecipient.

2. DUPLICATION OF BENEFITS

A Duplication of Benefits (DOB) occurs when a person, household, business, or other entity receives disaster assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of the total need for the same purpose. It is the County's responsibility to ensure that CDBG-DR programs provide assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

The Subrecipient or Contractor must report all funds obtained for the same activity from any source from the date of the disaster until the activity is completed.

The Subrecipient or Contractor agrees to repay to the County, immediately upon demand, any assistance later received for the same purpose as the CDBG-DR funds and that exceeds the total need for the particular recovery purpose.

- a. CDBG-DR Funds as Match (Infrastructure):** When applicable and approved by the County, Subrecipients may use grant funds to satisfy a match requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG-DR activity. This includes programs or activities administered by the Federal Emergency Management Agency (FEMA) or U.S. Army Corps of Engineers (USACE). By law, only \$250,000 or less of CDBG-DR funds may be used for the non-Federal cost-share of any project funded by USACE. Furthermore, Appropriations acts prohibit the use of CDBG-DR funds for any activity reimbursable by, or which funds are also made available by, FEMA or USACE.

For all match activities, Subrecipients must document that CDBG-DR funds have been used for the actual costs incurred for the assisted project and for costs that are eligible, meet a national objective, and meet other applicable CDBG requirements.

3. EQUAL EMPLOYMENT OPPORTUNITY

The obligations undertaken by the Subrecipient or Contractor include, but are not limited to, the obligation to comply with all Federal laws and regulations described in Subpart K of 24 CFR Part 570 and specifically with each of the following, among other things, as the same may be amended from time to time:

- a. Title VI of the Civil Rights Act of 1964:** This act provides that no person shall

be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving Federal financial assistance.

- b. **Title VII of the Civil Rights Act of 1968 (The Fair Housing Act)**: This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.
- c. **Restoration Act of 1987**: This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives Federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.
- d. **Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]**: This Section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- e. **The Fair Housing Amendment Act of 1988**: This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.
- f. **The Age Discrimination Act of 1975**: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic.
- g. **Section 504 of the Rehabilitation Act of 1973**: It is unlawful to discriminate based on disability in Federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance.
- h. **The Americans with Disabilities Act of 1990 (ADA)**: This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a

qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

- i. **Executive Order 11063**: This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with Federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal government.
- j. **Executive Order 12259**: This executive order provides that the administration of all Federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.
- k. **The Equal Employment Opportunity Act**: This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, state, and local governments under the Civil Rights Act of 1964.
- l. **The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978**: This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal, and referral. It is designed to assist employers, labor organizations, employment agencies, licensing, and certification boards in complying with the requirements of Federal laws prohibiting discriminatory employment.
- m. **The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002)**: This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
- n. **Executive Order 11246**: This executive order applies to all Federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race

4. **CERTIFICATION OF NONSEGREGATED FACILITIES**

(applicable to contracts and subcontracts over \$10,000)

The Subrecipient or Contractor and its subcontractor(s) certifies that the entity does not maintain or permit employees to perform their services at any location where segregated facilities are maintained. The Subrecipient or Contractor certifies further that it shall not maintain or provide for employees any segregated facilities at any of its establishments and will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Subrecipient or Contractor and its subcontractor(s) agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Subrecipient or Contractor further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in project files; and will provide notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

5. ENVIRONMENTAL PROTECTION AND ACTS

- a. **National Environmental Protection Act (NEPA):** All Federally funded activities are subject to the National Environmental Policy Act of 1969 (NEPA) and its regulations under 40 CFR 1500 – 1508. Additionally, [24 CFR 58.22](#) prohibits committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review once a project has Federal funding, in full or in part. This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions, prior to completion of the environmental review. Awarded activities must have completed an environmental review to demonstrate compliance with NEPA, as well as 24 CFR 58.
- b. **Clean Air and Water Acts:** *(applicable to contracts and subcontracts exceeding \$100,000)* The Subrecipient or Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

- c. **Flood Disaster Protection:** The Subrecipient or Contractor shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, that flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).
- d. **Energy Efficiency:** The Subrecipient or Contractor shall comply with mandatory standards and policies relating to energy efficiency under the Energy Policy and Conservation Act (Public Law 94-163).
- e. **Procurement of Recovered Materials:** Per 2 CFR 200.323, if a subrecipient is a state agency or an agency of a political subdivision of a state, it and its contractors, must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

6. **CONSTRUCTION STANDARDS**

While the following Construction Standards requirements are called out below, the Subrecipient also certifies and acknowledges that it has read and complies with all requirements as noted within the *CDBG-DR Construction Standards Procedure* for Housing Programs and applicable program guidelines.

- a. **Green and Resilient Building Standards in Housing:** All new construction or rehabilitation of residential structures must meet an industry-recognized standard that has achieved certification under (i) Enterprise Green Communities; (ii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); (iii) ICC–700 National Green Building Standard Green+ Resilience; (iv) Living Building Challenge; or (v) any other equivalent comprehensive green building program acceptable to HUD. Additionally, all such covered construction must achieve a minimum energy efficiency standard, such as (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) DOE Zero Energy Ready Home; (iii) EarthCraft House, EarthCraft Multifamily; (iv) Passive House Institute Passive Building or EnerPHit certification

from the Passive House Institute US (PHIUS), International Passive House Association; (v) Greenpoint Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole Building label); (vi) Earth Advantage New Homes; or (vii) any other equivalent energy efficiency standard acceptable to HUD

- b. **Rehabilitation of Nonsubstantially Damaged Residential Buildings (Housing)**: Per Federal Register Notice 88 FR 32046, for rehabilitation other than the rehabilitation of substantially damaged residential buildings described in 6.a. above, the Subrecipient must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist.

Subrecipients must apply these guidelines to the extent applicable for the rehabilitation work undertaken, for example, the use of mold resistant products when replacing surfaces such as drywall. Products and appliances replaced as part of the rehabilitation work must be ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products or appliances.

- c. **Broadband Infrastructure in Housing**: Per Federal Register Notice 88 FR 32046, any substantial rehabilitation, as defined by 24 CFR 5.100, reconstruction, or new construction of a building with more than four units must include installation of broadband infrastructure.

- d. **Elevation Standards (Housing and Infrastructure)**:

- i. ***Housing***: All new construction or rehabilitation of residential structures and located in the one percent annual chance (or 100-year) floodplain must be elevated at least two feet above the base flood elevation.
 - ii. ***Mixed-use and Non Residential***: Non-residential structures and infrastructure must be elevated or floodproofed, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above base flood elevation.
 - iii. ***Critical Actions***: Structures and services defined at 24 CFR 55.2(b)(3) and within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(2-3) or successor standard) to the higher of the 500-year floodplain elevation or three feet above the 100-year floodplain elevation.
- e. **Planning and Design (Infrastructure)**: All newly constructed infrastructure that is assisted with CDBG-DR funds must be designed and constructed to withstand extreme weather events and the impacts of climate change. To satisfy this requirement, the Subrecipient is required to provide resilience performance metrics as identified by the County.

- f. **Flood Control Structures (Infrastructure and Non-Residential Structures)**:

Subrecipients that use CDBG-DR funds to assist flood control structures (i.e., dams and levees) are prohibited from using CDBG-DR funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event, without obtaining approval from the County, HUD, and any Federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam. Additional requirements and approval steps are outlined under Federal Register Notice guidance at 88 FR 32046.

7. AFFORDABILITY PERIOD REQUIREMENTS (HOUSING)

While the following minimum affordability period requirements are called out below, the Subrecipient also certifies and acknowledges that it has read and complies with all requirements as noted within the applicable program guidelines regarding affordability period requirements.

- a. **New Construction and Rehabilitation of Affordable Rental Housing:** To meet the LMI housing national objective, a Subrecipient who implements rental housing activities that will result in the new construction or rehabilitation of five or more units, assisted with CDBG-DR funds, must rent to LMI households at affordable rents as described within the *Lee County Action Plan for CDBG-DR Funds*. Furthermore, the minimum timeframes, enforceability, and other related requirements acceptable for compliance can be found under the HOME Investment Partnerships Program (HOME) requirements at 24 CFR 92.252(e), including the table listing the affordability periods at the of 24 CFR 92.252(e). The County has adopted these requirements and spells out affordability restriction enforcement and minimum affordability periods within the respective program guidelines, which Subrecipients are required to follow, where applicable.
- b. **New Construction of Homes Built for LMI Households:** For Subrecipients who implement activities where there is a construction of new single-family units (four units or less) for homeownership that will meet the LMI housing national objective criteria, the County has set affordability restrictions, which follow minimum affordability period and enforcements mechanisms of the HOME requirements set at 24 CFR 92.254(a)(4). Subrecipients whose activities are applicable to these requirements must follow the County's respective program guidelines regarding affordability restrictions, resale or recapture requirements, affordability period requirements, and all other requirements prescribed under the applicable guidelines regarding affordability.

8. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, VETERAN OWNED BUSINESSES, AND LABOR SURPLUS AREA FIRMS

The Subrecipient or Contractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, veteran owned businesses, and labor

surplus area firms are used in subcontracting when possible. Steps include:

- a. Placing qualified small and minority businesses, veteran owned businesses, and women's business enterprises on solicitation lists:
- b. Assuring that small and minority businesses, and women's and veteran's business enterprises are solicited whenever they are potential sources:
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, veteran owned, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, veteran owned businesses, and women's business enterprises; and
- e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

9. POLITICAL ACTIVITY

The Subrecipient or Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

10. LOBBYING PROHIBITION AND BYRD ANTI-LOBBYING AMENDMENT

The Subrecipient is prohibited from using contracted funds for the following purposes: (1) political activities; (2) lobbying; (3) political patronage; (4) nepotism activities; and (5) inherently religious activities such as worship, religious instruction, or proselytization. The Subrecipient will also comply with Chapter 216.347, Florida Statutes, which prohibits the expenditure of Agreement funds for the purpose of lobbying the legislature, state or county agencies.

Additionally and in accordance with 24 CFR 87, the Subrecipient certifies that it will not use CDBG-DR funds received from the County to directly or indirectly influence legislation or any other official action by the Florida legislature, any state agency, or other local government and county (BOCC) business, including through the use of Federal appropriated funds being paid to any person for influencing or attempting to influence an office or employee of any agency, a member of Congress, an office or employee of Congress or an employee of a member of Congress in connection with this Federal contract, grant, loan or cooperative agreement. If the County and/or the Subrecipient suspects such action of occurring, the County reserves the right to request that the Subrecipient disclose and certify such activities in accordance with reporting requirements noted within the Agreement.

The Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) requires that Contractors that apply or bid for an award exceeding \$100,000 must 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 must 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 non-Federal award.

The Contractor certifies, to the best of his or her knowledge and belief that:

- 1) No Federally appropriated funds have been paid or will be paid by, or on behalf of, the contractor, 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 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, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federally 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 contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

11. DEBARMENT AND SUSPENSION

A contract award ([2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235).

By executing this Agreement or contract, the Subrecipient or Contractor verifies and affirms that it has not been suspended or debarred from participating in or receiving federal government contracts, subcontracts, loans, grants or other assistance programs and will not enter into contracts with any entity that has been suspended or debarred from federal contract work.

12. CONFLICT OF INTEREST

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Subrecipient or Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

No member of, or delegate to, Congress, or any Resident Commissioner, shall be admitted to any share or part of any contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to any contract if made with a corporation for its general benefit.

13. DOMESTIC PREFERENCES FOR PROCUREMENTS

Per [2 CFR 200.322](#), as appropriate and to the extent consistent with law, the subrecipient 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: (1) "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. (2) "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; or aggregates such as concrete; glass, including optical fiber; and lumber.

14. DAVIS-BACON AND RELATED LABOR STANDARD ACTS

- a. **Davis Bacon Act:** Subrecipient or Contractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 3141-3148) and 29 CFR Subtitle A, Parts 1, 3 and 5, as applicable, to construction, alteration, and repair contracts over \$2,000.00.
- b. **AntiKickback Act of 1986:** Subrecipient or Contractor shall ensure that all contracts comply with the AntiKickback Act of 1986 (41 U.S.C. § 5158) that prohibits attempted as well as completed "kickbacks," which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind.
- c. **Contract Work Hours and Safety Standards Act of 1962:** Subrecipient or Contractor shall ensure all contracts comply with the Contract Work Hours and Safety Standards Act of 1962 (40 U.S.C. § 3702) which requires that workers

receive overtime compensation at a rate of one and one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.

- d. For the purposes of this requirement "construction work" includes, but is not limited to, rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this agreement or contract. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract").
- e. Subrecipient or Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the County for review upon request.

15. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

The work to be performed under this contract may be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3), and implementing regulation at [24 CFR, Part 75](#). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The responsibilities outlined in 24 CFR Part 75.19 include:

- a. Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
- b. Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts in excess of \$100,000 as required at 24 CFR 75.27.

Section 3 Clause

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR. Part 75, which implements Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

- The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.
- c. Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns by undertaking activities such as described in Section 75.25(b), as appropriate, to reach the goals set forth in Section 75.23 and in Federal Register Vol. 85, No. 189, page 60909, until superseded by HUD in a subsequent publication. As of September 29, 2020, the minimum Section 3 benchmark is twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.
 - d. Documenting actions taken to comply with the foregoing requirements, the results of those actions taken and impediments, if any.

16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED (42 U.S.C. 4601 et seq.) – “URA”

The Subrecipient understands that activities and projects it undertakes with CDBG–DR funds may be subject to the URA at 49 CFR Part 24, section 104(d) of the HCDA (42 U.S.C. 5304(d)), and CDBG program requirements related to displacement, relocation, acquisition, and replacement of housing, except as modified by waivers and alternative requirements provided in Federal Register Notices 88 FR 3198 and 88 FR 32046. In such Notices, HUD waived or provided alternative requirements for the purpose of promoting the availability of decent, safe, and sanitary housing with respect to the use of CDBG–DR funds allocated under the Consolidated Notice.

Subrecipients are required to adopt the County’s Residential Anti-Displacement and Relocation Assistance Plan or establish separate optional relocation policies prior to undertaking any activity assisted with CDBG-DR funding which involves relocation. The written policy must be available to the public, describe the relocation assistance that the Subrecipient has elected to provide, and provide for equal relocation assistance within each class of displaced persons according to 24 CFR 570.606(d).

In the event of displacement because of a federally funded award, Subrecipients must comply with the URA, for any household, regardless of income, which is involuntarily and permanently displaced, and to comply with Section 104(d). The County also provides notice to Subrecipients that any demolition or disposition of public housing is

subject to Section 18 of United States Housing Act of 1937, as amended, and 24 CFR Part 970.

17. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

Per [2 CFR 200.216](#), Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems 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.

As described in Public Law 117–328, section 208, subsection (a), covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country, is prohibited.

18. AGREEMENTS BETWEEN SUBRECIPIENTS AND CONTRACTORS

- a. The Subrecipient shall not enter into any agreement, written or oral, with any contractor or other party without the prior determination that the contractor or other party is eligible to receive federal funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible contractors.

The terms “other party” is defined as public or private nonprofit agencies or organizations and certain (limited) private for-profit entities who receive grant funds from a Subrecipient to undertake Approved Activities.

- b. An agreement between the Subrecipient and any contractor or other party shall require:
- 1) Compliance with all State and Federal requirements described in this Agreement including, without limitation, those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug Free Workplace, and prevailing wages.
 - 2) Maintenance of at least the minimum State required Workers' Compensation Insurance for those employees who will perform the Approved Activities.

- 3) Maintenance, as required by law, of unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor, in performing the Approved Activities.
- 4) Compliance with the applicable Equal Opportunity Requirements described in Section 3 of this Exhibit.

c. Contractors shall:

- 1) Perform Activities in accordance with Federal, state, and local regulations, as applicable.

19. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If a Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the Subrecipient or Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance, the Subrecipient or Contractor must comply with requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulation issued by the awarding agency.

20. PATENTS

- a. The Subrecipient or Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.
- b. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Subrecipient or Contractor.
- c. If the Subrecipient or Contractor uses any design device or materials covered by letters, patents or copyrights, he shall provide for such use by suitable agreement with the owner of such patented or copyrighted design device or material. It is mutually agreed and understood that without exception the contract prices shall include all royalties or costs arising from the use of such design, device, or materials, in any way involved in the work. The Subrecipient or Contractor and/or

his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device, materials, or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

21. COPYRIGHT

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Subrecipient or Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

22. DRUG-FREE WORKPLACE ACT OF 1988

- a. Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
- b. Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
- c. Notify employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within 5 calendar days, if he or she is convicted of a criminal drug violation in the workplace.
- d. Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
- e. Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.
- f. Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the act.

23. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY)

Subrecipients must certify that they will verify employment eligibility of all new employees hired during the Agreement term through the U.S. Department of Homeland Security's E-Verify system.

Section 448.095, F.S., requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
 2. A private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract
- a. E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to the employer to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: <https://www.e-verify.gov/>.
 - b. If the subrecipient or its contractors, consultants, or subrecipients, does not use E-Verify, they shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the Effective Date of the Subrecipient Agreement.

24. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS, AND ACCIDENT PREVENTION

- a. Use of Explosives: When the use of explosives is necessary for the prosecution of the work, the contractor shall observe all local, state, and Federal laws in purchasing and handling explosives. The contractor shall take all necessary precautions to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced, and the material shall be covered with suitable timber, steel, or rope mats.
- b. The contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done close to such property. Any

supervision or direction of use of explosives by the engineer does not in any way reduce the responsibility of the contractor or his Surety for damages that may be caused by such use.

- c. Danger Signals and Safety Devices: The contractor shall make all necessary precautions to guard against damages to property and injury to persons. The contractor shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades, and other devices necessary to protect the public.
- d. Protection of Lives and Health: The contractor shall exercise proper precautions at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the contractor shall take, or cause to be taken,, such additional safety and health measures as the Developer may determine to be reasonably necessary.

25. PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of:

- a. Obtaining the County's approval of the Application for such assistance; or,
- b. Any other approval or concurrence of the County required under this Agreement, Title I of the Housing and Community Development Act of 1974, or State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

26. CONFIDENTIAL FINDINGS

All of the reports, information, data, etc., prepared or assembled by the Subrecipient or Contractor under any Agreement are confidential, and the Subrecipient or Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

27. ACCESS TO RECORDS – MAINTENANCE OF RECORDS

Lee County, the Department of Housing and Urban Development, the Comptroller

Version 2.0, 10/01/2024

General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Subrecipient or Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with any contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years from the official date of the County's final closeout of the grant.

28. INSPECTION

The authorized representative and agents of Lee County and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

29. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in any contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

BY:

Signature

Date

Name (print)

EXHIBIT I

CDBG-DR SPECIAL TERMS AND CONDITIONS

This Exhibit to the Community Development Block Grant Disaster Recovery ("CDBG-DR") Program Subrecipient Agreement contains special conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

1. INITIAL RISK ASSESSMENT

The Subrecipient has provided, or will provide, the County with information about the Subrecipient's experience, processes, policies, and procedures related to the management of Federal funding by the Subrecipient. These submissions, in addition to discussions with the Subrecipient, have been used by the county to assess the risk of noncompliance and capacity to compliantly execute the required activities for which the Agreement is made.

Should there be substantive changes to the organization, key personnel, methods, capacity, policies, or processes of the Subrecipient that impact the implementation of this Agreement, the Subrecipient shall notify the County of said changes within 30 days of those changes.

The Subrecipient agrees to provide documents and information to the County, within 30 days of such a request made by the County, to facilitate its due diligence review as required by Federal Register Notice 88 FR 32046. Subrecipient further agrees to comply with the requirements, requests, and results of the County's due diligence and maintain the capacity to carry out disaster recovery activities in a timely and compliant manner at all times during the term hereof.

2. RISK ASSESSMENT

During the term of this Agreement, the Subrecipient agrees to provide documents and information, within 30 days of such a request made by the County, to facilitate the County's Subrecipient risk assessment process. The Subrecipient further agrees to comply with the requirements, requests, and results of the County's risk assessment, including participation in Subrecipient monitoring events.

3. SPECIAL CONDITIONS

Pursuant to Exhibit A, Scope of Work, and the Risk Assessment Sections, as referenced above, Subrecipient agrees to adhere to the following Special Conditions:

A. ENVIRONMENTAL REVIEW SPECIAL CONDITION

The environmental review for this project is currently classified as “Exempt” under 24 CFR §58.34. However, upon the completion of 30% design, the Subrecipient must initiate the process for an Environmental Assessment (EA) pursuant to 24 CFR Part 58.

The Subrecipient shall adhere to the following requirements upon reaching 30% design completion:

1. **Notification to the County:** The Subrecipient must notify their Grant Manager and Lee County in writing via email or a VistaTRAK note that the project has reached 30% design completion.
2. **Submission of Designs:** The Subrecipient must upload the 30% design documents to VistaTRAK for County review.
3. **Restriction on Activities:** The Subrecipient must not execute any construction contracts, commit funds, or undertake any choice-limiting actions as defined in 24 CFR §58.22, until an Authority to Use Grant Funds (AUGF) has been issued by HUD.
4. **Coordination with Lee County:** The Subrecipient must coordinate closely with Lee County to ensure compliance with all applicable federal, state, and local environmental review requirements.

Failure to comply with these conditions may result in noncompliance findings and the withholding of reimbursement for project expenses until compliance is achieved and documented.

EXHIBIT J
SUBRECIPIENT STAFF ORGANIZATION
Parks & Recreation Revitalization

The Subrecipient must complete the following information, as applicable, as an extension of the requirements outlined within SECTION XVIII. NOTICES of the Agreement. The Subrecipient is not required to hire or create the following positions or titles but should assign the following roles to staff members who will serve as a primary point of contact for relevant responsibilities associated with that role.

Some projects or activities will not require a contact for all roles identified below. In addition, individual staff members may perform multiple roles. The Subrecipient will complete the contact information for those roles which are applicable for successful completion of this project/activity and denote where a specific member is performing multiple roles. If certain roles are not applicable for implementation of this project/activity, please denote "Not Applicable" under the Contact Information for each role.

The Subrecipient is responsible for providing an updated version of this Exhibit as contact information changes or updates are made to personnel which impact the roles and responsibilities. Descriptions of each role are outlined below.

Section 1: Subrecipient Contract Administrator

1. Description

The Subrecipient Contract Administrator (must be a Subrecipient employee) is identified in SECTION XVIII. NOTICES of the Agreement. Unless otherwise directed by the County, any notice, report, or other communication required by the Agreement shall be directed via the County's approved system or written to the Subrecipient's Contract Administrator at the contact information identified in SECTION XVIII. NOTICES of the Agreement.

2. Contact Information

Name: Andrew Hyatt
Title: Town Manager
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: andyhyatt@fmbgov.com
Email: 239-765-0202

Section 2: Project Manager

1. Description

The Subrecipient staff member who will serve as the primary contact and decision-maker for the project's implementation. This staff member is responsible for ensuring the project reaches established milestones and deadlines for completion, oversees all elements of project completion (e.g., procurement actions, reconciliations, contract management, administration), and is considered the administrator to ensure general and overall compliance of the project/activity with the CDBG-DR grant.

2. Contact Information

Name: Frank Kropacek
Title: Operations and Compliance Director
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: fkropacek@fmbgov.com
Email: 239-765-0202

Section 3: Davis Bacon and Labor Standards Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 3 and Davis-Bacon and Related Acts (DBRA) labor standards. This staff member is responsible for actions such as providing guidance to (including conducting monitoring and oversight of) contractors and vendors on Section 3 and labor compliance requirements. This includes, but is not limited to, overseeing Section 3 goals reporting by contractors and vendors, conducting employee interviews, reviewing certified labor payrolls, and completing Section 3 and labor compliance reports for submission of performance data to the County. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Jason Freeman
Title: Legislative Liaison/Deputy Clerk
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: jasonf@fmbgov.com
Email: 239-765-0202

Section 4: Section 504 Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 504, the Americans with Disabilities Act of 1990 ("ADA") and ensuring meaningful access to persons who are Limited English Proficiency (LEP). This staff member is responsible for actions which include, but are not limited to, conducting a Section 504 evaluation or self-assessment of Subrecipient facilities, detailing and tracking complaints or grievances on potential Section 504 or Civil Rights violations, and developing and maintaining Language Access Plans (LAPs) for LEP individuals, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Amy Baker
Title: Town Clerk
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: amy@fmbgov.com
Email: 239-765-0202

Section 5: Fair Housing Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Fair Housing requirements as outlined within the Agreement and Exhibits. This staff member is responsible for actions which affirmatively promote fair housing, which may include, but are not limited to, conducting, overseeing, and documenting fair housing activities, conducting affordable housing reports, and detailing and tracking complaints or grievances on potential Fair Housing violations, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Jason Freeman
Title: Legislative Liaison/Deputy Clerk
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: jasonf@fmbgov.com
Email: 239-765-0202

Section 6: Financial Manager

1. Description

The Subrecipient staff member who will serve as the primary contact and subject matter expert for all financial management duties associated with the project. This staff member is most likely responsible for overseeing accounting actions such as accounts receivable, accounts payable, project budget setup, or encumbering the CDBG-DR dollars within the Subrecipient's financial management system and/or fiscal year (FY) obligations of CDBG-DR dollars to the project/activity governed by this Agreement. Tasks of the Financial Manager may include, but are not limited to, approving project invoices, overseeing monthly account reconciliations, creating or approving annual budgets for expending CDBG-DR dollars under this project/activity, and being responsible for walking through accounting procedures for County staff. The Financial Manager would likely be responsible for ensuring proper recordkeeping of such financial and accounting records for access by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. Given the segregation of duties for financial and accounting staff, the Financial Manager may also supervise or oversee multiple accounting clerks, financial analysts, or other financial staff who perform duties described above.

2. Contact Information

Name: Joe Onzick
Title: Finance Director
Agency: Town of Fort Myers Beach
Address: 2731 Oak Street, Fort Myers Beach, FL 33931
Telephone: JOnzick@fmbgov.com
Email: 239-765-0202

Section 7: Certification of Time Allocation

Are there any staff who are working on both CDBG-DR and non CDBG-DR programs? If so how many, and list names.

n/a

EXHIBIT K

CDBG-DR PROGRAM SUBROGATION AGREEMENT

This Subrogation and Assignment Agreement ("Agreement") is made and entered into by and between Town of Fort Myers Beach (hereinafter referred to as "Subrecipient") and Lee County (hereinafter referred to as "County").

In consideration of the Subrecipient's receipt of funds or the commitment by the County to evaluate the Subrecipient's application for the receipt of funds (collectively, the "Subrecipient Award") under the Community Development Block Grant – Disaster Recovery Program (the "CDBG-DR Program") administered by the County, the Subrecipient hereby assigns to the County all of the Subrecipient's future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit, or insurance policies of any type or coverage, or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA") or the Small Business Administration ("SBA") (singularly, a "Disaster Program" and collectively, the "Disaster Programs"), that was the basis of the calculation of the Subrecipient Award paid or to be paid to the Subrecipient under the CDBG-DR Program and that are determined at the sole discretion of the County to be a duplication of benefit ("DOB"), as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA, or the SBA, or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds," and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds."

The Subrecipient agrees to notify the County within five (5) business days of any additional or new payments, loans, grants, or awards by HUD, FEMA, SBA, the State of Florida, or any other entity not specifically disclosed in this Agreement. Further, the Subrecipient understands and acknowledges the County's right and responsibility to enforce this requirement by recapturing all or a portion of the CDBG-DR Subrecipient Award if the Proceeds received are determined to be DOB Proceeds within this CDBG-DR Program activity. The Subrecipient will be required to pay back the received CDBG-DR Subrecipient Award, which was found to be DOB Proceeds, within 30 days of receipt of the identified duplicative payment. The amount of DOB determined to be paid to the County shall not exceed the Subrecipient Award amount received by the Subrecipient from the CDBG-DR Program.

The Subrecipient agrees to assist and cooperate with the County to pursue any of the claims the Subrecipient has against insurers for reimbursement of DOB Proceeds under any such policies. The Subrecipient's assistance and cooperation shall include, but not be limited to, allowing suit to be brought under the Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by the County. The Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Program.

If requested by the County, the Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to the County, to

the extent of the Subrecipient Award paid to the Subrecipient under the CDBG-DR Program, the policies, any amounts received under the CDBG-DR Program that are DOB Proceeds, and/or any right thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the County to consummate and make effective for the purposes of this Agreement.

The Subrecipient explicitly allows the County to request of any company with which the Subrecipient held insurance policies, FEMA, SBA, or any other entity from which the Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by the County to monitor and enforce its interest in the rights assigned to it under this Agreement and give the Subrecipient's consent to such company(ies) to release all information to the County.

If the Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, the Subrecipient agrees to promptly pay such amounts to the County, if Subrecipient received a Subrecipient Award under the CDBG-DR Program in an amount greater than the amount the Subrecipient would have received if such DOB Proceeds had been considered in the calculation of the Subrecipient's award.

In the event that the Subrecipient receives or is scheduled to receive any subsequent Proceeds, the Subrecipient shall notify the County in the manner above of such subsequent Proceeds. The County will determine the amount, if any, of the subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of the determined Subsequent DOB Proceeds shall not be requested from the Subrecipient to provide to the County. Subsequent DOB Proceeds shall be remitted to the County as follows:

1. If the Subrecipient has received full payment of the Subrecipient Award, any Subsequent DOB Proceeds shall be remitted to the County.
2. If the Subrecipient has received no payment of the Subrecipient Award, any determined Subsequent DOB Proceeds shall be used by the County to reduce payments and the agreed-upon amount of the Subrecipient Award to the Subrecipient, and all Subsequent DOB Proceeds shall be retained by the Subrecipient for use on the CDBG-DR Program activity.
3. If the Subrecipient has received a portion of the Subrecipient Award, any Subsequent DOB Proceeds shall be used, retained, and/or disbursed in the following order: **(A)** Subsequent DOB Proceeds shall first be used to reduce the remaining payments or agreed-upon amount of the Subrecipient Award, and Subsequent DOB Proceeds in such amount shall be retained by the Subrecipient for use on the CDBG-DR Program activity; and **(B)** any remaining Subsequent DOB Proceeds shall be remitted to the County.
4. If the County makes the determination that the Subrecipient does not qualify to participate in the CDBG-DR Program or the Subrecipient determines not to participate in the CDBG-DR Program, the Subsequent DOB Proceeds shall be returned to the Subrecipient, less any portion of the Subrecipient Award amount paid to the Subrecipient and which needs to be remitted to the County, and this Agreement shall terminate.

Once the County has recovered an amount equal to the Subrecipient Award paid to the Subrecipient, the County will reassign to the Subrecipient any right assigned to the County pursuant to this Agreement.

The Subrecipient represents that all statements and representations made by the Subrecipient regarding Proceeds received by the Subrecipient shall be true and correct as of the date of the signing of this Agreement.

Warning: Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 C.S.C. 3729.

The person executing this Agreement on behalf of the Subrecipient hereby represents that he/she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by the Subrecipient.

In any proceeding to enforce this Agreement, the County shall be entitled to recover all costs of enforcement, including actual attorney's fees.

TOWN OF FORT MYERS BEACH

LEE COUNTY

By: _____

By: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____

1. **Request:**

Meeting Date: January 8, 2025

Discussion and approval of legislative appropriation requests for the 2025 Legislative Session

Why the action is necessary:

Ensures Town Council input

What the action accomplishes:

Provides direction on the next Legislative Session

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

Andy Hyatt, Town Manager,
Jason Freeman, Deputy Town
Clerk / Legislative Liaison

5. **Background:**

Town Council input and approval on the 2025 Legislative Session priorities

Attachments:

1. FL HOUSE Funding Request Form 2025 Session for FY 25 26
2. FL SENATE Funding Request Form 2025 Session for FY 25 26

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/27/2024
Approved - 12/28/2024
Approved - 12/31/2024
Final Approval - 12/31/2024

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

For projects meeting the definition of House Rule 5.14

Only Members of the Florida House of Representatives can officially submit an Appropriations Project Request

Your request will not be officially submitted unless all questions and applicable sub parts are answered. The information provided in the request will be posted on the House website and available for public review if an Appropriations Project Request is published by a Representative.

1. Title of Project:
2. Date of Submission:
3. House Member Sponsor:
4. Details of Amount Requested:
 - a. Has funding been provided in a previous State budget for this activity? ☐ Yes ☐ No
 - b. What is the most recent fiscal year the project was funded?
 - c. Were the funds provided in the most recent fiscal year subsequently vetoed? ☐ Yes ☐ No
 - d. Complete the following Project Request Worksheet to develop your request.

FY:	Input Prior Year Appropriation for this project for FY 2024-25 <i>(If appropriated in FY 2024-25 enter the appropriated amount, even if vetoed.)</i>			Nonrecurring Funds Request for FY 2025-26		
Column:	A	B	C	D	E	F
Funds Description	Prior Year Recurring Funds	Prior Year Nonrecurring Funds	Total Funds Appropriated	Operations	Fixed Capital Outlay (FCO)	TOTAL Operations + Fixed Capital Outlay (FCO)
Input Amounts			0			0

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

e. Provide the total cost of the project for FY 2025-26 from all sources of funding (Enter "0" if amount is zero):

Type of Funding	Amount	% of Total	Are the other sources of funds guaranteed in writing?	
1. Amount Requested from the State in this Appropriations Project Request	0	%		
2. Federal	0	%	☐ Yes	☐ No
3. State (Excluding the requested Total Amount in #4d, Col F)	0	%	☐ Yes	☐ No
4. Local	0	%	☐ Yes	☐ No
5. Other	0	%	☐ Yes	☐ No
TOTAL	0	%		

5. Is this a multi-year project requiring funding from the state for more than one year? ☐ Yes ☐ No

a. How much state funding would be requested after 2025-26 over the next 5 years? [<Click to Select>](#)

b. How many additional years of state support do you expect to need for this project? [<Click to Select>](#)

c. What is the total project cost for all years including all federal, local, state, and any other funds? Select the single answer which best describes the total project cost. If funds requested are for ongoing services or for recurring activities, select "ongoing activity". [<Click to Select>](#)

6. Is this project related to relief or recovery from a natural disaster? ☐ Yes ☐ No

a. If yes, provide the name or a description of the natural disaster and briefly describe how the funding will be used for relief or recovery.

Maximum of 500 characters allowed

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

7. Which is the most appropriate state agency to place an appropriation for the issue requested?

<Choose Agency>

- a. Has the appropriate state agency for administering the funding, if the request were appropriated, been contacted? ☐ Yes ☐ No
- b. Describe suggested penalties that the contracting agency may consider in addition to its standard penalties for failing to meet deliverables or performance measures.

Maximum of 500 characters allowed

8. Requester:

- a. First Name: Last Name:
- b. Organization:
- c. Email:
- d. Phone #:

9. Contact for questions about specific technical or financial details about the project.

- a. First Name: Last Name:
- b. Organization:
- c. Email:
- d. Phone #:

10. If there is a registered lobbyist working to secure funding for this project, fill out the information below. If not, click None ☐

- a. First Name: Last Name:
- b. Firm:
- c. Email:
- d. Phone #:

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

11. Organization or Name of entity receiving funds:

a. Name:

b. County (County where funds are to be expended) [<Select County Name>](#)

c. Service Area (Counties being served by the service(s) provided with funding)

12. What type of organization is the entity that will receive the funds?

[<Click to Select>](#)

If other, please describe:

13. What is the specific purpose or goal that will be achieved by the funds being requested?

[500 maximum characters allowed](#)

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

14. Provide specific details on how funds will be spent. (Select all that apply)

Spending Category	Description	Amount Requested (Total should equal 4d, Col. F) Enter '0' if request is zero for the category
Administrative Costs		
Executive Director/Project Head Salary and Benefits		
Other Salary and Benefits		
Expense/Equipment/ Travel/Supplies/Other		
Consultants/ Contracted Services/ Study		
Operational Costs		
Salaries and Benefits		
Expenses/Equipment/ Travel/Supplies/Other		
Consultants/ Contracted Services/ Study		
Fixed Capital Construction/Major Renovation		
Construction/Renovation/ Land/Planning Engineering		
Total Requested		0

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

15. For Fixed Capital Costs requested in Question 14, what type of ownership will the facility be under when complete?

[<Click to Select>](#)

If other, please describe:

[100 maximum characters allowed](#)

16. Is the project request an information technology project? ☐ Yes ☐ No **Water projects skip to #17**
- a. Will this information technology project be managed within a state agency to support state agency program goals? ☐ Yes ☐ No
- b. What is the total cost (all years) to design and build the project?
- c. What are the ongoing (annual recurring) maintenance and operation costs once the project is completed?
- d. Has the state agency indicated it has sufficient funds for the ongoing annual recurring costs within its current operating budget? ☐ Yes ☐ No
- e. What are the specific business objectives or needs the IT project is intended to address?

[400 maximum characters allowed](#)

- f. Based upon the identified business objectives or needs, what are the success factors that must be realized in order for the state agency to consider the proposed IT project a success?

[100 maximum characters allowed](#)

17. Is there any documented show of support for the requested project in the community including public hearings, letters of support, major organizational backing or other expressions of support? ☐ Yes ☐ No

Please describe:

[400 maximum characters allowed](#)

18. Has the need for the funds been documented by a study, completed by an independent 3rd party, for the area to be served? ☐ Yes ☐ No
- Please describe:

[400 maximum characters allowed](#)

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

19. Will the requested funds be used directly for services to citizens? ☐ Yes ☐ No

Water projects skip to #20

a. What are the activities and services that will be provided to meet the purpose of the funds?

400 maximum characters allowed

b. Describe the direct services to be provided to the citizens by the funding requested.

400 maximum characters allowed

c. Describe the target population to be served (i.e., “the majority of the funds requested will serve these target populations or groups”). Select all that apply to the target population:

- | | |
|---|---|
| ☐ Elderly persons | ☐ Drug users (in health services) |
| ☐ Persons with poor mental health | ☐ Preschool students |
| ☐ Persons with poor physical health | ☐ Grade school students |
| ☐ Jobless persons | ☐ High school students |
| ☐ Economically disadvantaged persons | ☐ University/College students |
| ☐ At-risk youth | ☐ Currently or formerly incarcerated persons |
| ☐ Homeless | ☐ Drug offenders (in criminal Justice) |
| ☐ Developmentally disabled | ☐ Victims of crime |
| ☐ Physically disabled | ☐ General (The majority of funds will benefit no specific group) |
| ☐ Other, please describe: | |

Required if 18c - Other is checked (100 maximum characters allowed)

d. How many in the target population are expected to be served?

<Click to Select>

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

20. What benefits or outcomes will be realized by the expenditure of funds requested? (Select each Benefit/Outcome that applies):

Benefit or Outcome	Provide a specific measure of the benefit or outcome	Describe the method for measuring level of benefit or outcome
Improve physical health		
Improve mental health		
Enrich cultural experience		
Improve agricultural production/ promotion/education		
Improve quality of education		
Enhance/preserve/improve environmental or fish and wildlife quality		
Protect the general public from harm (environmental, criminal, etc.)		

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

Benefit or Outcome	Provide a specific measure of the benefit or outcome	Describe the method for measuring level of benefit or outcome
Improve transportation conditions		
Increase or improve economic activity		
Increase tourism		
Create specific immediate job opportunities		
Enhance specific individual's economic self sufficiency		
Reduce recidivism		
Reduce substance abuse		

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

Benefit or Outcome	Provide a specific measure of the benefit or outcome	Describe the method for measuring level of benefit or outcome
Divert from Criminal/ Juvenile Justice System		
Improve wastewater management		
Improve stormwater management		
Improve groundwater quality		
Improve drinking water quality		
Improve surface water quality		
Other (Please describe)		

The Florida House of Representatives

Appropriations Project Request - Fiscal Year 2025-26

The questions below are additional questions for water projects only

21. Have you applied for alternative state funding? Select all that apply:

- a. ☐ Wastewater Revolving Loan
- b. ☐ Drinking Water Revolving Loan
- c. ☐ Small Community Wastewater Treatment Grant
- d. ☐ Resilient Florida Grant
- e. ☐ Water Quality Improvement Grant
- f. ☐ Other (Please describe)
- g. ☐ N/A

22. What is the population economic status?

- a. ☐ Financially Disadvantaged Municipality
- b. ☐ Rural Area of Critical Economic Concern
- c. ☐ Rural Community Experiencing Economic Distress
- d. ☐ N/A

23. What is the status of construction?

- a. ☐ Ready
- b. ☐ Not Ready

24. What percentage of construction has been completed?

 %

25. What is the estimated completion date of construction?



The Florida Senate

Local Funding Initiative Request

Fiscal Year 2025-2026

1. **Project Title**

2. **Senate Sponsor**

3. **Date of Request**

4. **Project/Program Description**

5. **State Agency to receive requested funds**

State Agency contacted? ☐ Yes ☐ No

6. **Amount of the Nonrecurring Request for Fiscal Year 2025-2026**

Type of Funding	Amount
Operating	
Fixed Capital Outlay	
Total State Funds Requested	0

7. **Total Project Cost for Fiscal Year 2025-2026 (including matching funds available for this project)**

Type of Funding	Amount	Percentage
Total State Funds Requested (from question #6)	0	%
Matching Funds		
Federal	0	%
State (excluding the amount of this request)	0	%
Local	0	%
Other	0	%
Total Project Costs for Fiscal Year 2025-2026	0	%



The Florida Senate

Local Funding Initiative Request

Fiscal Year 2025-2026

8. Has this project previously received state funding? ☐ Yes ☐ No

If yes, provide the most recent instance:

Fiscal Year (yyyy-yy)	Amount		Specific Appropriation #	Vetoed
	Recurring	Nonrecurring		

9. Is future-year funding likely to be requested? ☐ Yes ☐ No

a. If yes, indicate nonrecurring amount per year.

b. Describe the source of funding that can be used in lieu of state funding.

Complete questions 10 and 11 for Fixed Capital Outlay Projects

10. Status of Construction

a. What is the current phase of the project? ☐ Planning ☐ Design ☐ Construction ☐ N/A

b. Is the project "shovel-ready" (i.e. permitted)? ☐ Yes ☐ No

c. What is the estimated start date of construction?

d. What is the estimated completion date of construction?

e. What funding stream will be used for ongoing operations and maintenance of the project?

11. List the owners of the facility to receive, directly or indirectly, any fixed capital outlay funding. Include the relationship between the owners of the facility and the entity.



The Florida Senate

Local Funding Initiative Request

Fiscal Year 2025-2026

12. Details on how the requested state funds will be expended

Spending Category	Description	Amount
Administrative Costs:		
Executive Director/Project Head Salary and Benefits		
Other Salary and Benefits		
Expense/Equipment/Travel/Supplies/Other		
Consultants/Contracted Services/Study		
Operational Costs		
Salary and Benefits		
Expense/Equipment/Travel/Supplies/Other		
Consultants/Contracted Services/Study		
Fixed Capital Construction/Major Renovation:		
Construction/Renovation/Land/Planning Engineering		
Total State Funds Requested (must equal total from question #6)		0



The Florida Senate Local Funding Initiative Request Fiscal Year 2025-2026

13. Program Performance

a. What specific purpose or goal will be achieved by the funds requested?

N/A is not considered a valid response.

b. What activities and services will be provided to meet the intended purpose of these funds?

N/A is not considered a valid response.

c. What direct services will be provided to citizens by the appropriation project?

N/A is not considered a valid response.

d. Who is the target population served by this project? How many individuals are expected to be served?

N/A is not considered a valid response.

e. What is the expected benefit or outcome of this project? What is the methodology by which this outcome will be measured?

N/A is not considered a valid response.

f. What are the suggested penalties that the contracting agency may consider in addition to its standard penalties for failing to meet deliverables or performance measures provided for in the contract?

N/A is not considered a valid response.



The Florida Senate Local Funding Initiative Request Fiscal Year 2025-2026

14. Is this project related to mitigation, response, or recovery from a natural disaster?

- ☐ Yes ☐ No *(Skip Questions 15 and 16)*

a. If yes, what phase best describes the project?

- ☐ Mitigation (reducing or eliminating potential loss of life or property)
☐ Response (addressing the immediate and short-term effects of a natural disaster)
☐ Recovery (assisting communities return to normal operations, including rebuilding damaged infrastructure)

b. Name of the natural disaster (or Executive Order # for events not under a federal declaration):

15. Has the entity applied for or received federal assistance for this project?

- ☐ Yes, Applied
☐ Yes, Received
☐ No
☐ No, but intends to apply

a. If yes, provide the FEMA project worksheet ID#:

b. Provide the total project cost listed on the FEMA project worksheet:

16. Has the entity applied for or received state assistance for this project (other than this request)?

- ☐ Yes, Applied
☐ Yes, Received
☐ No
☐ No, but intends to apply

a. If yes, specify the program and state agency (ex. Local Government Emergency Bridge Loan, Department of Commerce):



The Florida Senate

Local Funding Initiative Request

Fiscal Year 2025-2026

Please complete questions 17 through 21 for Water Projects only.

17. Have you been awarded or applied for alternative state funding for this project?

☐

Water Quality Improvement Grant Program

☐

Resilient Florida Grant Program

☐

Wastewater Revolving Loan

☐

Drinking Water Revolving Loan

☐

Small Community Wastewater Treatment Grant

☐

Other (please specify, ex. Alternative Water Supply Grants)

☐

N/A

18. What is the population economic status?

☐

Financially Disadvantaged Community (ch. 62-552, F.A.C.)

☐

Financially Disadvantaged Municipality (ch. 62-552, F.A.C.)

☐

Rural Area of Economic Concern

☐

Rural Area of Opportunity (s. 288.0656, Florida Statutes)

☐

N/A

19. What is the status of construction?

20. What percentage of the construction has been completed?

21. What is the estimated completion date of construction?



The Florida Senate Local Funding Initiative Request Fiscal Year 2025-2026

22. Requester Contact Information

- a. First Name Last Name
- b. Organization
- c. E-mail Address
- d. Phone Number Ext.

23. Recipient Contact Information

- a. Organization
- b. Municipality and County
- c. Organization Type
- ☐ For-Profit Entity
- ☐ Non-Profit 501(c) (3)
- ☐ Non-Profit 501(c) (4)
- ☐ Local Entity
- ☐ University or College
- ☐ Other (please specify)
- d. First Name Last Name
- e. E-mail Address
- f. Phone Number

24. Lobbyist Contact Information

- a. Name
- b. Firm Name
- c. E-mail Address
- d. Phone Number Ext.

The information provided will be posted to the Florida Senate website for public viewing if sponsored by a Senator.

1. **Request:**

Meeting Date: January 8, 2025

Reject and cancel all ITB-25-01-PR proposals for the Bay Oaks Recreational Campus Redevelopment Project with cause, since all bids far exceed the estimated or budgeted amount as provided in the Invitation to Bid and Section 2-480(a)(11) of the Town Code, and provide direction to staff to re-bid the project.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

Jeff Hauge, Community
Services Director

5. **Background:**

Sec. 2-480(a)(11). - Purchasing procedures.

Cancellation of invitation to bid. An invitation to bid may be cancelled, or any or all bids or proposals may be rejected, in whole or in part, with or without cause. The following are considered good cause for rejection of all bids:

- a. All bids exceed the estimated or budgeted amount.
- b. The specifications contain an error which causes confusion and misunderstanding among bidders.
- c. The item(s) or services are no longer needed.
- d. Lack of adequate competition
- e. Notice of cancellation will be sent to all businesses solicited or submitting bids.

Attachments:

- 1. ITB-25-01-PR Bid Tabulation

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison
Jeff Hauge, Community Services Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 1/2/2025
Approved - 1/2/2025
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

Tabulation Sheet

Agency Name Town of Fort Myers Beach

Bid Number ITB-ITB-25-01-PR-0-2024/JF

Bid Name Bay Oaks Recreational Campus Redevelopment Project

Bid Due Date 12/17/2024 16:00:00 Eastern

Bid Opening **Closed**

3 responses found.

✓ online, offline, not submitting, not received

Company		Responded	Address	Bid Amount	Alt Bid Amount	Declared Attributes	Documents	Sent
Complete								
1 .	Manhattan Construction (Florida), Inc	12/17/2024 15:36:24 Eastern	3705-1 Westview Drive, Naples, FL, 34104	\$6805638.0000	0.0000		FMB:003 Official Bid Form	✓
							Signed Copy of Addendum(s)	✓
							FMB:001 Bid Bond/Cashier's Check	✓
							FMB:004 Contractor's Qualification Questionnaire	✓
							FMB:005 DBE Participation Form	✓
							FMB:019 Public Entities Crime Form	✓
							FMB:021 Non-Collusion Affidavit	✓
							FMB:022 Trench Safety Affidavit (If Required)	✓
							FMB:023 Material Manufacturers	✓
							FMB:024 List of Sub-Contractors	✓
							FMB:025 Plant and Equipment Schedule	✓
							FMB:100 Affidavit Certification Immigration Laws	✓
							FEMA 2CFR Language	✓
							Bidding document	✓
							2 .	Persons Services Corp
Signed Copy of Addendum(s)	✓							
FMB:001 Bid Bond/Cashier's Check	✓							
FMB:004 Contractor's Qualification Questionnaire	✓							
FMB:005 DBE Participation Form	✓							
FMB:019 Public Entities Crime Form	✓							
FMB:021 Non-Collusion Affidavit	✓							
FMB:022 Trench Safety Affidavit (If Required)	✓							
FMB:023 Material Manufacturers	✓							
FMB:024 List of Sub-Contractors	✓							
FMB:025 Plant and Equipment Schedule	✓							
FMB:100 Affidavit Certification Immigration Laws	✓							
FEMA 2CFR Language	⚠							
Bidding document	✓							
3 .	Seagate Development Group	12/17/2024 14:19:03 Eastern	9921 Interstate Commerce Drive, Fort Myers, FL, 33912	\$3984921.5900	0.0000			
							Signed Copy of Addendum(s)	✓
							FMB:001 Bid Bond/Cashier's Check	✓
							FMB:004 Contractor's Qualification Questionnaire	✓
							FMB:005 DBE Participation Form	✓
							FMB:019 Public Entities Crime Form	✓
							FMB:021 Non-Collusion Affidavit	✓
							FMB:022 Trench Safety Affidavit (If Required)	✓
							FMB:023 Material Manufacturers	✓
							FMB:024 List of Sub-Contractors	✓
							FMB:025 Plant and Equipment Schedule	✓
							FMB:100 Affidavit Certification Immigration Laws	✓

							FEMA 2CFR Language	✓
							Bidding document	✓

1. **Request:**

Meeting Date: January 8, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING AND AUTHORIZING THE ISSUANCE OF PERMITS (LICENSING AGREEMENTS) WITH PRIVATE PARTIES FOR USE OF THE TOWN RIGHTS-OF-WAY FOR PARKING OF VEHICLES, BICYCLES, MOTORCYCLES AND OTHER MODES OF TRANSPORTATION; REQUIRING PAYMENT OF ANNUAL PERMIT FEES AND COMPLIANCE WITH OTHER CONDITIONS AS NEEDED; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Why the action is necessary:

Town Council reviews and approves policy changes by resolution.

What the action accomplishes:

The resolution would allow for the continued licensing of rights-of-way within the Town.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Judith Frankel, Principal Planner

5. **Background:**

Prior to Hurricane Ian approximately 5 ROW locations were permitted for annual private parking for abutting properties. At the December 11th, 2024 Town Council meeting, staff was directed to bring forward a resolution guiding the return of this practice with the fee rate increased. Exhibit A shows a historical example of a ROW agreement between the Town and the commercial development at 1901 Estero Blvd. The ROW along Ohio Avenue had been used for vehicle and bicycle storage by the abutting property. The current property owner is seeking to redevelop the property, but their proposal is dependent on the use of the Ohio Ave ROW for parking. The prior rate was \$100 per parking space per year with a discount of \$50 per space offered for early payment of the fee. The Draft resolution presented here increases the rate to \$1,000 per space per year. Town Council should determine if that rate is appropriate.

Attachments:

1. Resolution 25-27, ROW parking licensing
2. Resolution 18-20, Properties Utilizing Town Rights of Way
3. Exhibit A: Example of prior ROW permit
4. ROW permits issued pre-Ian

Financial Impact:

Resolution 18-20 has established a Right of Way (ROW) fee for parking spaces of \$100/space for the first calendar year, and \$50/space for subsequent years if a complete application and payment is submitted to the Town no later than November 30th for each subsequent year. This fee was reaffirmed via Resolution 24-186 as part of the Fee Schedule that was approved on September 23, 2024 as part of the budget approval process. The fee may be amended at the will of the Town Council.

6. **Alternative Action**

7. **Management Recommendations:**

8. Recommended Approval:

Judith Frankel, Principal Planner
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 12/19/2024
Approved - 12/19/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

RESOLUTION NUMBER 25-xx

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING AND AUTHORIZING THE ISSUANCE OF PERMITS (LICENSING AGREEMENTS) WITH PRIVATE PARTIES FOR USE OF THE TOWN RIGHTS-OF-WAY FOR PARKING OF VEHICLES, BICYCLES, MOTORCYCLES AND OTHER MODES OF TRANSPORTATION; REQUIRING PAYMENT OF ANNUAL PERMIT FEES AND COMPLIANCE WITH OTHER CONDITIONS AS NEEDED; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

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

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

WHEREAS, the Town Council of the Town of Fort Myers Beach on June 14th, 2018 revised its procedures to comply with Florida and local laws regarding parking; and

WHEREAS, the Town Council thereafter adopted Resolution 18-20 on August 7th, 2018 establishing an initial annual fee of \$100 per parking spot and \$50 per parking space for subsequent years to be paid annually; and

WHEREAS, the Town Council authorizes Town staff to issue permits as provided herein provided sufficient right-of-way is present for travel lanes where applicable; and

WHEREAS, all permit holders must pay an annual registration fee (inclusive of any applicable taxes) as set by the Town Council and must agree to not sublet, rent, sell or use the parking spaces for any other purpose other than as stated in the permit; and

WHEREAS, the Town Council has determined it is in the best interest of the Town to adopt this Resolution.

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

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

Section 2. The Town Council directs the Town Manager or designee to update the FY 24-25 fee schedule to increase the fee per parking space to \$1,000 to be paid annually to the Town no later than November 30th for subsequent calendar year.

Section 3. The Town council directs the Town Manager or designee to update the ROW Permit application to reflect the fee adjustment and require:

1. Identification by street address and STRAP number of the private property associated with the permit application;
2. Complete contact information of the property owner and any management company responsible for the private property associated with the permit application;
3. A signed and sealed survey of the private property and the intended parking spaces that are requested in the permit application;
4. Execution of a Hold Harmless Agreement in favor of the Town and proof of insurance acceptable to the Town.

Section 4. This Resolution shall take effect 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 R. King, Council Member	_____
Karen Woodson, Council Member	_____
Scott Safford, Council Member	_____

ADOPTED this ____ day of _____, 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of January, 2025.

RESOLUTION 18-20

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING ITS REGULATIONS OF PRIVATE USE OF THE TOWN RIGHTS-OF-WAY FOR PARKING OF VEHICLES, BICYCLES, MOTORCYLES AND OTHER PASSENGER MODES OF TRANSPORTATION REQUIRING ANNUAL PERMITS, SETTING ANNUAL PERMIT FEES, AND OTHER CONDITIONS, PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

WHEREAS: The Town of Fort Myers Beach, Florida recognizes that, certain private property owners utilize the public right-of-way for parking prior to incorporation of the Town and,

WHEREAS: The Town of Fort Myers Beach recognizes that the unregulated use of right of way will adversely impact certain neighborhoods within the Town of Fort Myers Beach, Florida; and,

WHEREAS: The Town of Fort Myers Beach may allow by permit the continued limited use of parking within the Town's rights-of-way upon annual registration for a fee (said fee to include any applicable taxes or other conditions) as set by the Town Council in the fee schedule provided the Town does not require the right-of-way for other purposes; and,

WHEREAS: The Town of Fort Myers Beach may terminate the permit upon 30 calendar days written notice to the property owner in the event the Town determines the property is needed for a public purpose no longer allowing accommodation of the right-of-way use for private parking; and the Town may also terminate the permit without further obligation to the property owner, if the property owner fails to comply with any provisions of the permit after reasonable written notice is provided; and

WHEREAS: The Town of Fort Myers Beach will not allow the sub-letting, renting, sale or other use the area except for parking; and

WHEREAS: The Council of the Town of Fort Myers Beach on June 14, 2018 revised its procedures to assure compliance with all state and local laws regarding parking as same may be amended from time to time; and the permit will be controlled by the laws of the state of Florida and the Town of Fort Myers Beach; and the venue for any action to enforce the provisions of the license agreement will be in Lee County; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, Florida as follows:

Section I. The Town Council directs the Town Manager or Town Manager's designee to create a permit application containing but not limited to the following items:

- (1) STRAP Number of the subject property as listed on Lee County Property Appraiser with Street address;
- (2) Name, address, telephone number and any email address of the owner;
- (3) A real survey or a drawing or sketch of the property with dimensions
- (4) Executed Hold Harmless Agreement to the Town and proof of appropriate Liability Insurance acceptable to the Town.

Section II. Establish annually initial fee of \$100 per the calendar year per parking spot any portion thereof and \$50 for subsequent years if a complete application and payment is submitted to the Town no later than November 30 for each subsequent year. Fee(s) may be amended from time to time by Town Council in the Town's fee schedule.

Section III. This Resolution shall take effect immediately upon its adoption.

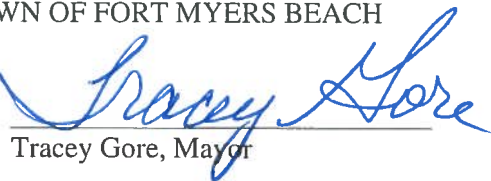
THE FOREGOING RESOLUTION was adopted by the Town Council upon a motion by Council Member Anita Cereceda and seconded by Council Member Bruce Butcher; and, upon being put to a vote, the result was as follows:

Tracey Gore, Mayor	excused
Joanne Shamp, Vice-Mayor	aye
Dennis Boback, Council Member	aye
Bruce Butcher, Council Member	aye
Anita Cereceda, Council Member	aye

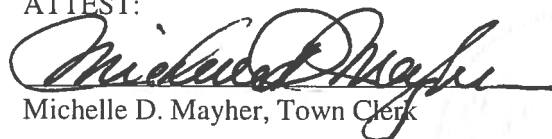
THE RESOLUTION WAS DULY PASSED AND ADOPTED this 7th day of August, 2018.

TOWN OF FORT MYERS BEACH

By:


Tracey Gore, Mayor

ATTEST:


Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM:


Peterson Law Group, Town Attorney

Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL 33931
(239) 765-0202
www.fmbgov.com



Invoice

DATE	INVOICE #
1/10/2022	1005

Billing Address
YEAA LLC
14511 Stirling Rd.
Southwest Ranches, FL: 33330

Service Address
Ohio
Fort Myers Beach, FL 33931

Charge Date	Charge Code	Description	Quantity	Unit Price	Amount	Sales Tax
1/10/2022	ROW-FY2022	4 ROW Parking Spaces FY2022 - Ohio	9.00	100.00 -	\$900.00	X

Town of Fort Myers Beach - Permits

#02-855 5/24/22, 10:44 AM
Sale Served by fmbfrontdesk
Transaction #1789550205242211861

1 x Town ROW Other 424.00

Subtotal 424.00

Total 424.00

VISA 4015 424.00

Name YAHAW/ODED

Approval Code 02683G

Amount 424.00

Total Charged 424.00

I agree to pay the above total amount
according to the card issuer agreement.

Signature _____

2525 Estero Blvd
Fort Myers Beach, FL 33931
United States
239-765-0202
fmbpermits@fmbgov.com

www.fmbgov.com

COPY

for permits

Sales Tax: \$54.00
Total: \$954.00



Private Use of Right-of-Way Permit Application (Private Use of Public Streets, Parking in Public Right-of-Way)

Must Be Existing Location As Of December 31, 1995 (Town Incorporation Date)

Upon approval, a separate Agreement may be required between the Applicant and the Town. All permits must conform to that as set forth in Resolution 18-20 (attached). It is the obligation of the permit holder to renew by November 30th for the next calendar year. Failure to do so will revert new payment back to \$100.00 per space.

Business Name: yeaa Contact Person: oded yahav
Business Address: 1901 estero Blvd Fort Myers Beach 33931
Mailing Address: 14511 Stirling Road Southwest Ranches 33330
Email Address: endocentbeachwear@gmail.com Telephone Number: 305-684 6845
Strap #: _____

SUBMITTAL REQUIREMENTS

Survey or Drawing of Property

Dimensions

Proof of Liability Insurance With Town as Additionally Insured

Hold Harmless Agreement

Proof of Same Business Prior to Town Incorporation

Applicant Signature (owner/authorized agent)

oded yahav
Typed or printed name

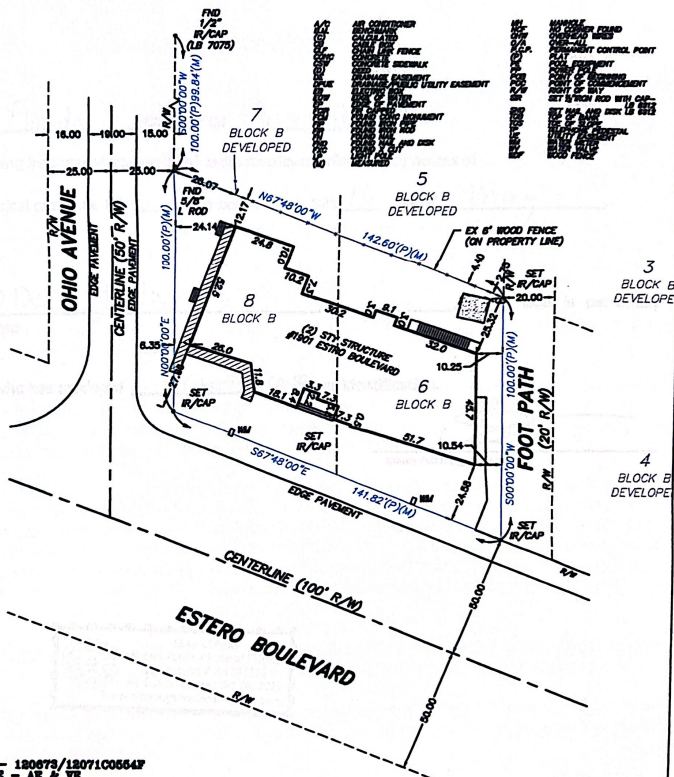
5/16/22
Date

OFFICE USE ONLY

PERMIT NUMBER _____ VALID CALENDAR YEAR _____
APPROVED BY COMMUNITY DEVELOPMENT DIRECTOR _____ DATE _____
APPLICANT FEE PAID: YES NO AMOUNT PAID _____
PAID BY: CASH CREDIT CARD CHECK (CHECK NUMBER _____) NUMBER OF SPACES _____

AN

Lots 6 and 8, Block B, Gulf-Bay-View, according to the plat thereof as recorded in Plat Book 8, Page 69, Public Records of Lee County, Florida.



☒ **CONTRACT DOCUMENT**
☒ **CONTRACT SCHEDULE**
☒ **CONTRACT SPECIFICATIONS**

(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE
FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR - IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY - OVERHANGS AND UNDERGROUND FOUNDATIONS OR UTILITIES HAVE NOT BEEN LOCATED AS PART OF THIS SURVEY.
(1) UNLESS STATED OTHERWISE THIS SURVEY IS AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND

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

DATE OF FIELD SURVEY 07/13/2020

 **BILL HYATT**
Surveyor & Licensed Engineer 453
1500 1st St. N. Suite 100
Grand Rapids, MI 49503

OWNED BY KNOW IT NOW, INC.
2011 HEIDELBERG AVENUE
DUNEDIN, FL 34608 USA

WILLIAM H. HENRY
2001.07.26
14-5327-0400

FLORIDASURVIVOR@aol.com



Oded Yanav

Typed or printed name of Property Owner

STATE OF Florida COUNTY OF Broward

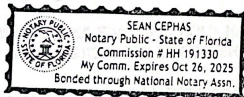
The foregoing Instrument was certified and subscribed before me by means of

☒ physical presence OR ☐ online notarization, this 16 day of May
2022

by Oded Yanav who is personally known to me

OR ☐ who has produced Drivers license as identification.

Notary Public Signature





HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

4000 (Applicant) assumes all risks in the operation and maintenance of the permitted area during the term of the permitted use. Applicant is solely and accepts that it is solely responsible and answerable for any and all accidents or injuries to persons or property arising out of or caused pursuant to Applicant's use of the permitted area. Applicant agrees to maintain the permitted area in good repair and in a neat and clean condition. Applicant agrees to follow all state, federal and local laws and ordinances relating to the use of the permitted area during the term of the permit.

4000 (Applicant) agrees to defend, indemnify and forever hold the Town of Fort Myers Beach, Florida, its officers, agents, officials and or employees from all claims, for any loss, damage or injury of any kind or character whatsoever without limitation, including reasonable attorney's fees, sustained by any person or property whatsoever kind and or nature, whether direct or indirect, as a result and in relation with the use of the permitted area; including, but not limited to, the defense of any claim and any and all costs in any judicial or quasi-judicial proceedings and for any and all damages or penalties of any kind or nature.

4000 (Applicant) agrees to vacate the permitted area after reasonable notice to allow the Town or any Town-authorized contractor to make repairs within the permitted area; or, utilities located within the permitted area. Applicant agrees to hold the Town harmless for any disruption, loss or termination of business during the repair period.

4000 (Applicant) agrees that it has obtained any required insurance and has listed the Town of Fort Myers Beach, Florida as an additional insured on said policy and that a certificate of endorsement has been made a part of said insurance policy. A copy of the Certificate of Insurance will be given to Town upon the Town's request. The Town intends that said insurance shall provide a source, in addition to the Applicant, from which the Town may seek payment of the Applicant's liability for both its own negligence, as well as actual or alleged negligence of the Town and or the cost to the Town of defending any such claims.

APPLICANT ACKNOWLEDGES THAT THIS HOLD HARMLESS AND INDEMNIFICATION AGREEMENT HAS BEEN READ AND IS UNDERSTOOD FOR ITS CONTENTS AND SIGNING THIS DOCUMENT IS A FREE ACT.

Applicant agrees that this Agreement is intended to be as broad and inclusive as permitted by the laws of Florida and that if any portion thereof is held invalid, it is agreed that the balance with continue, notwithstanding, in full force and effect.

I, [Signature] (Property Owner), hereby certify that

[Signature] is my authorized agent/representative of the property described herein. All answers to the questions in this registration and any supplementary information attached to and made part of this registration is honest and true.

Signature of Property Owner



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/12/2022

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

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

PRODUCER FLINSCO 2950 W Cypress Creek Rd #200 Fort Lauderdale FL 33309	CONTACT NAME: Laura Cintron PHONE: (A/C No. Ext): 754-210-4456 FAX (A/C No.): E-MAIL ADDRESS: laura@flinsco.com PRODUCER CUSTOMER ID #:																					
INSURED YEAA LLC 151 N. Nob Hill Rd suite 455 Fort Lauderdale FL 33324	<table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A :</td> <td>Northfield Insurance Company</td> <td></td> </tr> <tr> <td>INSURER B :</td> <td></td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :	Northfield Insurance Company		INSURER B :			INSURER C :			INSURER D :			INSURER E :			INSURER F :		
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COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSURER LTR	TYPE OF INSURANCE	ADDITIONAL INSURER WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC	☒	WS475369	08/10/2021	08/10/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS	☐				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DEDUCTIBLE \$ RETENTION \$	☐				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	Y/N N/A				WC STATUTORY LIMITS ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Total annual premium is \$100.00

Insured location : 1901 Estero Blvd , Fort Myers FL 33931

CERTIFICATE HOLDER

CANCELLATION

FMB TOWN HALL
 2525 ESTERO BOULEVARD
 FORT MYERS BEACH , FL 33931

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Laura Cintron

ROW Parking Fees

The current fee as approved in Resolution 18-20 is \$100 per parking space annually, unless the payment is received prior to Nov 30th where the fee would be discounted to \$50

Locations of ROW Permits issues pre-Hurricane Ian

Address	Use	Annual Fee
1901 Estero	9 parking spaces	\$900
1365-1375 Estero	ROW use	\$150 or \$200
6080-6090 Estero	10 parking spaces	\$500
3001 Estero	28 parking spaces on Donora St.	\$2,800
905 Estero	12 parking spaces on Lagoon	\$600
1335 Santos Rd	4 parking spots	\$400
2101 Estero Blvd.	6 parking spaces on Pearl St.	\$600

Maximum annual revenue was \$6,000 pre-Hurricane Ian.

1. **Request:**

Meeting Date: January 8, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING SPA-24-14-EN FOR ACTION OF THE TOWN TAKEN DECEMBER 2, 2024 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH FLORIDA MARINE CONTRACTING & RECOVERY, LLC TO REMOVE DEBRIS FROM WATERWAYS IN THE TOWN OF FORT MYERS BEACH CAUSED BY HURRICANES HELENE AND MILTON, AND DISPOSE OF DEBRIS AT AUTHORIZED WASTE MANAGEMENT SITE AT A COST NOT TO EXCEED \$200,000.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The copious amounts of debris deposited by Hurricanes Helene and Milton impairs navigation in the waterways of Fort Myers Beach. In addition, the debris poses physical and environmental hazards to the public's health and safety.

What the action accomplishes:

Approves SPA-24-14-EN contracting Florida Marine Contracting and Recovery to remove and dispose of debris in Fort Myers Beach Waterways caused by Hurricanes Helene and Milton.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Chadd Chustz, Environmental
Projects Manager

5. **Background:**

Hurricanes Helene and Milton caused significant damage resulting in copious amounts of debris impairing the waterways of Fort Myers Beach.

Attachments:

1. 25-26, Ratify FMCR Contract Marine Debris Helene Milton
2. SPA 24-14-EN, FMCR Marine Debris Contract SIGNED

Financial Impact:

The cost of removal and disposal of Marine Debris resulting from Hurricanes Helene and Milton is expected to qualify for Category A Public Assistance from the Federal Emergency Management Agency and Florida Department of Emergency Management, and costs associated with SPA-24-14-EN are expected to be reimbursed 100%.

6. **Alternative Action**

Do not ratify SPA-24-14 EN

7. **Management Recommendations:**

Approve SPA-24-14-EN, and provide for an effective date.

8. **Recommended Approval:**

Chadd Chustz, Environmental Projects Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney

Created/Initiated - 12/27/2024
Approved - 12/27/2024
Approved - 12/29/2024

Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 12/31/2024
Final Approval - 12/31/2024

RESOLUTION NUMBER 25-26

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING SPA-24-14-EN FOR ACTION OF THE TOWN TAKEN DECEMBER 2, 2024 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH FLORIDA MARINE CONTRACTING & RECOVERY, LLC TO REMOVE DEBRIS FROM WATERWAYS IN THE TOWN OF FORT MYERS BEACH CAUSED BY HURRICANES HELENE AND MILTON AND DISPOSE OF DEBRIS AT AUTHORIZED WASTE MANAGEMENT SITE AT A COST NOT TO EXCEED \$200,000.00; 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, on October 5, 2024 Governor Ron DeSantis by Executive Order No. 24-214, 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; and

WHEREAS, on October 6, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2580 for an Emergency Area of 61 counties including Lee County; and

WHEREAS, on October 6, 2024 the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2580 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, on October 6, 2024 the Town of Fort Myers Beach approved Resolution 24-214 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions by; and

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

WHEREAS, 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.

WHEREAS, on December 2, 2024 the Town Manager entered into a contract with Florida Marine Contracting and Recovery LLC for a term of 40 days (from 2nd day of December to the 11th day of January 2025) to remove debris from waterways in the Town of Fort Myers Beach caused by Hurricanes Helene and Milton and dispose of the debris at an authorized waste management facility to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach abate the socioeconomic impacts on the Community caused by debris impairing navigable waterways, as well as to protect the financial well-being of the businesses in the Town that depend on boating and waterfront rental properties; and

WHEREAS, the contract with Florida Marine Contracting and Recovery, LLC was for a not-to-exceed amount of \$200,000.00, which requires ratification by the Town Council;

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 Florida Marine Contracting and Recovery, LLC for removing and disposing of debris from the waterways of Fort Myers beach for a period of 40 days for a not-to-exceed amount of \$200,000.00 and approves the Town Manager’s emergency procurement.

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 _____ 2025 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 _____ 2025.

EMERGENCY SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on this ____ day of December 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 **FLORIDA MARINE CONTRACTING & RECOVERY LLC** with an address of **462 CICERO ST NW, PORT CHARLOTTE, FL 33948** (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 **40 days** from **2nd Day of December** to the **11th day of January 2025**.
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"; Exhibit "D"; Exhibit "E".
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. Provider 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, Provider 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. Public Records Compliance Indemnification. Provider agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the Provider's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Provider's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Provider authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Provider in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.
13. 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.
14. 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.
15. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien,

and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

a. 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.

b. 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.

c. *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.

16. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

17. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by

memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

18. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.
19. Disclosure Requirements for "Foreign Countries of Concern." Contractor shall comply with the disclosure requirements set forth in Section 286.101(3)(a), Florida Statutes, which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), Florida Statutes: "In addition to any fine assessed under [section 286.101(7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."

20. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.
21. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fees and costs.
22. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.
23. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.
24. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.
25. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.
26. No coercion for labor or services. The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

27. Additional Terms. The parties further agree as follows:

- A. Federal Emergency Management Agency Supplemental Conditions. The terms and conditions contained in the Federal Emergency Management Supplemental Conditions attached as Exhibit E are incorporated by reference herein.

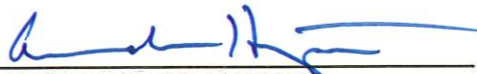
28. Miscellaneous Provisions.

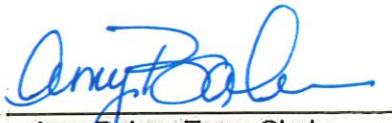
- a) Applicable Law. This Agreement is governed by the laws of the State of Florida.
- b) Non-Discrimination. The Provider covenants that in the furnishing of services hereunder, no person on the grounds of race, color, national origin, handicap, or sex will be excluded from participation in, denied 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.

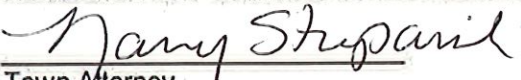
TOWN OF FORT MYERS BEACH

ATTEST:

BY: 
Andrew Hyatt, Town Manager,

BY: 
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

BY: 
Town Attorney

PROVIDER: Florida Marine Contracting & Recovery LLC

BY: 
Signature


Witness Signature

Stephen Lee
Printed name of person signing

Jo Ann Stafford
Printed name of witness

AMBR
Title (printed)

EXHIBIT "A"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED THE _ _ _
DAY OF DECEMBER 2024 BETWEEN THE TOWN AND PROVIDER.

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

The Contractor shall identify and document areas of debris impact to demonstrate a need for survey using side scan sonar. The Contractor shall survey debris impact areas confirmed to be areas of debris impact using side scan sonar as directed by the Town.

The Contractor shall remove and dispose of vegetative, construction and demolition debris necessary to eliminate the immediate threat to life, public health and safety, and improved property from the waterways of the Town of Fort Myers Beach. The Contractor shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services and facilities of any nature necessary to execute, complete and deliver the timely removal and lawful disposal of all eligible storm-generated debris within waterways.

Within navigable waterways identified by the Town, the Contractor shall remove and dispose of debris that obstructs the passage of vessels is eligible to a maximum depth of 2 feet below the low-tide draft of the largest vessel that utilized the waterway. Any debris below this zone is ineligible for removal unless it is necessary to remove debris extending upward into an eligible zone. If a tree is still rooted to an embankment and is floating or submerged, the cost to cut the tree at the water's edge is eligible. No mangroves shall be trimmed or altered.

Within non-navigable waterways, the Contractor shall remove and dispose of debris that obstructs the waterway.

The Contractor shall coordinate with the U.S. Coast Guard (USCG) when hazardous materials such as petroleum, hazardous substances, or contaminants are identified. The USGC has specific authority to remove hazardous materials from coastal water zones. Debris removal from federally maintained navigable waterways is ineligible. USCG and the U.S. Army Corps of Engineers have specific authorities for removal of hazardous substances, vessels, and other obstructions from federally maintained navigable waterways.

The Contractor shall open and operate the Debris Management Site upon request by the Town for monitoring and proper disposal of debris (both vegetative and non-vegetative) from waterways. The Contractor shall dispose of all debris at an authorized waste management site.

The Contractor shall coordinate with Town's Debris Monitoring Consultant and facilitate all debris to be properly inspected and documented to meet the requirements for FEMA reimbursement.

All work under this RFP shall be performed in accordance with FEMA rules and guidelines for federal reimbursements and with 2 CFR 200.318-326 as updated and where applicable.

EXHIBIT "B"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED THE ____
DAY OF DECEMBER 2024 BETWEEN THE TOWN AND PROVIDER.

PAYMENT OBLIGATION

The Town will pay the Provider as follows for all services listed in Exhibit "A":

The Town will compensate the Provider 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 Exhibit A and at the rates identified in Exhibit D.

Only debris meeting the criteria of the Federal Emergency Management Agency's *Public Assistance Program and Policy Guide Version 4* shall be eligible for payment under the terms of this contract.

Prices shall include disposal sites located in Lee County and at the Lee/Hendry Landfill in Felda FL. Tipping fees at final disposal site(s) shall be the responsibility of Vendor and passed through to the Town without mark-up, unless approved otherwise.

Compensation under this Agreement shall not exceed \$200,000.

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"

Description	Unit of Measure	Year 1 Unit Price
Debris Removal from Waterways / Canals / Natural Creeks and Hauling to Debris Management Sites (DMS)	CY	\$79.90
Debris Removal from Waterways / Canals / Natural Creeks and Hauling directly to Final Disposal Site (Note 1 & 2)	CY	\$79.90
Cost per mile for alternate disposal sites outside of Lee County. (Note 1 & 2)	Cost /Mile	\$20.00
Management of a Debris Management Site (DMS) (Note 4&5)	CY	\$1.95
Processing (Grinding/Chipping) of Debris at a DMS or Final Disposal Site	CY	\$3.50
Processing (Burning) of Debris at a DMS or Final Disposal Site	CY	\$2.00
White Goods Removal from Waterways / Canals / Natural Creeks and Hauling to nearest County ROW	UNIT	\$15.00
Construction Debris Removal from Waterways / Canals / Natural Creeks and Hauling to a Debris Management Site (DMS)	CY	\$79.90
Marine Property Removal from Waterways / Canals / Natural Creeks and Hauling to a Debris Management Site (DMS)	CY	\$79.90
Non Domestic Dead Animal Collection and Transportation to final disposal.	EACH	\$100.00
Household Hazardous Waste Removal from Waterways / Canals / Natural Creeks and Hauling to Final Disposal Site (Note 1 & 2)	LB	\$40.00
Removal of Reduced Debris from Debris Management Site (DMS) to Final Disposal Site (Note 1 & 2)	CY	\$3.95

EXHIBIT "D"

Description	Unit of Measure	Year 1 Unit Price
Wheel Loader w/ operator, 2.5 cy, Foreman with support vehicle and small equipment, Laborer w/ chainsaw & two (2) laborers with small tools	Hourly (entire crew)	\$325.00

Description	Unit of Measure	Year 1 Unit Price
Field Supervisor with truck and cell phone	Hourly	\$90.00
Administrative Assistant	Hourly	\$45.00
Heavy Equipment Operator	Hourly	\$56.00
Tool Operator (Chainsaw)	Hourly	\$45.00
Laborer w/ small tools	Hourly	\$39.00
Mechanic w/ truck and tools	Hourly	\$98.00
Tree Climber w/ chainsaw and gear	Hourly	\$137.00
22' - 31' Work Boat with Captain (Inclusive of Fuel, Mooring and Mobilization)	Per Boat / Per day	\$2,800.00
Services of 2 - 4 Laborers per Vessel	Per Boat / Per day	\$2,800.00

Description	Unit of Measure	Year 1 Unit Price
38,000 lb Excavator with Thumb	Daily (entire crew)	\$1,900.00

EXHIBIT "D"

Description	Specification	Capacity	Year 1 Rate Per Hour
Aerial Lift	FT	60	\$95.00
Chipper	IN	19	\$400.00
Crane	MT	70	\$450.00
Skid Steer	LBS	6000	\$110.00
Wheel Loader	CY	2	\$130.00
Pavement Sweeper	TON	55	\$100.00
Lowboy Trailer and Tractor			\$125.00
Dump Truck	CY	28	\$100.00
Knuckle Boom Truck			\$1,745.00
Pickup Truck	TON	0.75	\$25.00
Truck Tractor			\$75.00
Step-Deck or Flatbed Trailer			\$50.00
Tub or Horizontal Grinder			\$500.00
Light Tower: Trailer Mounted	WATT	500	\$80.00
All Terrain Vehicle	CC	1000	\$75.00
Water Truck	GAL	4000	\$95.00
Marsh Buggy			\$300.00
Self-Loading Barge	FT	30-45	\$500.00
Air Boat	FT	15-25	\$225.00

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.

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

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."

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.

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 \(floridadep.gov\)](http://ProjectMonitoring.floridadep.gov)

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

Certification

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

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name Florida Marine Contracting & Recovery LLC

Date 12/9/2024

Authorized Signature Stephen Lee

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

Florida Marine Contracting & Recovery LLC

By: Stephen Lee
Signature

Stephen Lee / AMBR
Name and Title

462 Cicero St NW
Street Address

Port Charlotte, FL 33948
City, State, Zip

UEI Unique Entity Identifier (for SAM.gov verification)

December 9, 2024
Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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 FID NUMBER		CONTRACT DOLLAR AMOUNT																	
IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MB/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS BA CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?		VETERAN Y N DBE? Y N MB? 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 /MB/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; font-size: x-small;"> <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 Woman</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 Woman	NMW	Other, not of any other group listed	O
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Subcont. Asian American	SAA																				
Asian-Pacific American	APA																				
Non-Minority Woman	NMW																				
Other, not of any other group listed	O																				
D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH																					
DEPARTMENT NAME		FMS CONTRACT # (F & W 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.

Florida Marine Contracting & Recovery LLC
Contractor (Firm Name)

Stephen Lee
Signature of Contractor's Authorized Official

AMBR
Name and Title of Contractor's Authorized Official

December 9, 2024
Date

1. **Request:**

Meeting Date: January 8, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDER #1 OF CONTRACT ITB-24-03-EN BETWEEN THE TOWN OF FORT MYERS BEACH AND AHTNA MARINE AND CONSTRUCTION COMPANY, LLC ADDING 24 DAYS OF CONTRACT TIME TO CONSTRUCT THE ESTERO ISLAND BEACH RENOURISHMENT AND HURRICANE RECOVERY PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

ARTICLE 12. CHANGE IN CONTRACT TIME

12.1 The Contract Time may only be changed by a Change Order on form FMB:009. Any claim for an extension in the Contract Time shall be in writing and delivered to the OWNER'S REPRESENTATIVE within fifteen (15) calendar days of the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data (analysis and documentation) shall be delivered within sixty (60) calendar days after such occurrence (unless the OWNER'S REPRESENTATIVE allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the CONTRACTOR's written statement that the adjustment claimed is the entire adjustment to which the CONTRACTOR has reason to believe it is entitled as a result of the occurrence of said event.

If adverse weather conditions are the basis of a claim for additional time, such claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that the weather conditions had an adverse effect on the scheduled construction. No claim by the CONTRACTOR under this provision shall be allowed unless the CONTRACTOR has given the notice and the analysis and documentation required in this paragraph. All claims for adjustment in the Contract Time shall be determined by the OWNER'S REPRESENTATIVE. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

What the action accomplishes:

Adds 24 days to original contract time of 180 days, resulting in a total contract time of 204 days.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Chadd Chustz, Environmental
Projects Manager

5. **Background:**

In July 2024, the Town proceeded with the nourishment and Hurricane Ian recovery work to rebuild the beach and dune on North Estero Island. Construction began on July 11, 2024 and fill placement commenced on August 11, 2024.

Hurricane Helene, a devastating Category 4 hurricane, made landfall near Perry, Florida, in the Big Bend region on September 26, 2024, becoming the strongest hurricane on record to strike that area since records began in 1851. The storm brought with it damaging winds of up to 140 mph, causing widespread destruction along its path and resulting in significant rainfall, leading to severe flooding. The hurricane caused storm surge of up to 10 feet resulting in significant property damage including Estero Island.

Hurricane Milton made landfall near Siesta Key, Florida, on October 9, 2024, as a Category 3 hurricane. The storm had devastating impacts across Southwest Florida including Estero Island (Figures 8 and 9), claiming at least 24 lives and wreaking havoc throughout the region. Hurricane Milton reached sustained winds of up to 130 mph, generating a storm surge that peaked at 5 to 10 feet. Following its landfall, Milton moved across the Florida peninsula towards the Atlantic Ocean, leaving destruction in its wake.

Construction of the North Beach Segment was approximately 50% complete when the hurricanes impacted the Project.

Attachments:

1. 25-29; Change Order #1 ITB 24-03-EN AHTNA Beach Renourishment
2. 24504 EI Beach CO #1 20241113

Financial Impact:

There is no change in the contract price for Ahtna Marine Construction Company to construct the Estero Island Renourishment and Hurricane Recovery Project

6. Alternative Action

Do not approve change order #1 of ITB-24-003.

7. Management Recommendations:

Approve Change Order #1 of ITB-24-03-EN.

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 - 12/27/2024
Approved - 12/30/2024
Approved - 1/2/2025
Approved - 1/3/2025
Final Approval - 1/3/2025

RESOLUTION NUMBER 25-29

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDER #1 OF CONTRACT ITB-24-03-EN BETWEEN THE TOWN OF FORT MYERS BEACH AND AHTNA MARINE AND CONSTRUCTION COMPANY, LLC ADDING 24 DAYS OF CONTRACT TIME TO CONSTRUCT THE ESTERO ISLAND BEACH RENOURISHMENT AND HURRICANE RECOVERY PROJECT; 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, the Town of Fort Myers Beach recognizes the beach as a vital economic and environmental asset for the Town residents and businesses, and

WHEREAS, the Town of Fort Myers Beach recognizes the importance of the beach providing recreational space, native habitat for listed species, and storm impact reduction benefit to upland properties, and

WHEREAS, the Town of Fort Myers Beach is responsible for beach management, restoration and maintenance of the beach in its jurisdiction, and

WHEREAS, the Town Council approved Contract ITB-24-03-EN with Ahtna Marine & Construction Company, LLC for \$22,722,385.09 to be completed in 180 days; and

WHEREAS, Hurricanes Helene and Milton caused significant impacts to the Town of Fort Myers Beach and delayed progress on construction; and

WHEREAS, it is in the best interest of the Town to approve the requested Change Order #1 of Contract ITB-24-03-EN to complete the Estero Island Beach Renourishment and Hurricane Recovery Project.

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

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

Section 2. The Town Council hereby approves Change Order #1 of Contract ITB-24-03-EN between the Town of Fort Myers Beach and Ahtna Marine & Construction Company LLC, adding 24 days to original contract time of 180 days, resulting in a total contract time of 204 days. A copy of the Change Order #1 of Contract ITB-24-03-EN is attached hereto as Attachment "A".

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

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

ADOPTED this ____ day of January 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____, 2025.



TOWN of FORT MYERS BEACH

BID NO. ITB-24-03-EN

PART E

FMB:011 - CONSTRUCTION CONTRACT
CHANGE ORDERNo.: 1

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

CONTRACT/PROJECT NAME: Estero Island Beach Nourishment and Hurricane Recovery Project

CONTRACTOR: Ahtna Marine & Construction Company, LLC PROJECT NO.: _____

CONTRACT NO.: ITB-24-03-EN BID NO.: ITB-24-03-EN

CHANGE REQUESTED BY: Ahtna Marine & Construction Co. DATE OF REQUEST: 10/30/2024

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

Description: Weather Delays

Purpose of Change Order: Add time to original contract to address Hurricanes Debby, Helene, and Milton

Attachments: (List documents supporting change) Ahtna Request for Time (10-30-24)

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIME:
Original Contract Price <u>\$21,722,385.09</u>	Original Contract Time <u>180</u> Calendar Days
Previous Change Order No. N/A to No. <u>N/A</u> <u>\$0</u>	Net Change from previous Change Orders <u>0</u> Calendar Days
Contract Price prior to this Change Order <u>\$21,722,385.09</u>	Contract Time prior to this Change Order <u>180</u> Calendar Days
Net Increase (Decrease) of this Change Order <u>\$0.00</u>	Net Increase (Decrease) of this Change Order <u>24</u> Calendar Days
Contract Price will all approved Change Orders <u>\$21,722,385.09</u>	Contract Time with all approved Change Orders <u>204</u> Calendar Days

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

RECOMMENDED:

By: _____
Consultant (if applicable) Date

By: _____
Department Director Date

Contracts Management

APPROVED:

Town Attorney Date

ACCEPTED

By: Wesley Gammons
Contractor

Date Accepted: 12/02/24

(CORPORATE SEAL)

Wes Gammons

TOWN APPROVAL:

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

Date Approved: _____

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

Date Approved: _____

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

Date Approved: _____

1. **Request:**

Meeting Date: January 8, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING SPA-24-13-EN FOR ACTION OF THE TOWN TAKEN OCTOBER 24, 2024 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO SCREEN DEBRIS FROM SAND OVERWASHED BY HURRICANE MILTON TO PRODUCE BEACH COMPATIBLE SAND, PLACE AND GRADE BEACH COMPATIBLE SAND ONTO THE BEACH, REMOVE DEBRIS FROM THE BEACH, REMOVE DEBRIS SAND FROM RIGHT OF WAY AND TOWN PROPERTY AND DELIVER TO DEBRIS MANAGEMENT SITE, AND DISPOSE OF DEBRIS AT AUTHORIZED WASTE MANAGEMENT SITE; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE NO'S. INV121024-31, INV121024-31, INV121124-31, INV121924-31 AND INV122324-31 IN THE AMOUNT \$ 721,814.17; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Hurricane Milton impacts resulted in 1000's of cubic yards of sand overwashed onto upland properties and right of way.

What the action accomplishes:

This action collects that overwash sand impeding right of ways and Town property, screens debris from the overwashed sand, and protects upland properties by placing the sand back onto the beach, raising the elevation of the beach and rebuilding protective berms.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Chadd Chustz, Environmental
Projects Manager

5. **Background:**

Hurricane Milton was an extremely powerful and destructive hurricane which became the second-most intense Atlantic hurricane ever recorded over the Gulf of Mexico, behind only Hurricane Rita in 2005. Milton made landfall on the west coast of the U.S. state of Florida, less than two weeks after Hurricane Helene devastated the state's Big Bend region. The thirteenth named storm, ninth hurricane, fourth major hurricane, and second Category 5 hurricane of the 2024 Atlantic hurricane season, Milton is, so far, the strongest tropical cyclone worldwide in 2024.

Attachments:

1. 25-23, Ratify ICS Contract Hurricane MILTON Sand Screening
2. SPA-24-13-EN - ICS Sand Screening MILTON Debris Removal Disposal signed pending NS review
3. INV120924-31 ICS Hurricane Milton Sand Haul Out 11.19.24 - 12.09.24
4. INV121024-31 ICS Hurricane Milton Sand Haul Out 12.10.24
5. INV121124-31 ICS Hurricane Milton Loads from ROW Town of FMB 11.02.24 - 12.11.24 - revised
6. INV121924-31 ICS Hurricane Milton Loads from ROW Town of FMB 12.19.24
7. INV122324-31 ICS Hurricane Milton Sand Haul Out 12.19.24 - 12.23.24

Financial Impact:

Compensation under SPA-24-13-EN shall not exceed \$900,000.00. Emergency protective

measures taken in the contracted time of SPA-24-13-EN to remove debris and overwash sand caused by Hurricane Milton, screen debris and return beach compatible sand to the beach, and dispose of debris at landfill qualify for 100% Category A Public Assistance from FEMA for Category A work completed by February 10, 2025.

6. Alternative Action

Do not ratify SPA 24-13-EN; Do not payment of ICS Materials, Inc. invoices INV121024-31, INV121024-31, INV121124-31, INV121924-31 AND INV122324-31 in the amount of \$ 721,814.17 to ICS MATERIALS INC. for services rendered; Do not provide an effective date.

7. Management Recommendations:

Ratify SPA 24-13-EN, authorize payment of ICS invoices INV121024-31, INV121024-31, INV121124-31, INV121924-31 AND INV122324-31 in the amount of \$ 721,814.17 to ICS MATERIALS INC. for services rendered, and provide 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 - 12/26/2024
Approved - 12/26/2024
Approved - 12/28/2024
Approved - 12/31/2024
Final Approval - 12/31/2024

RESOLUTION NUMBER 25-23

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING SPA-24-13-EN FOR ACTION OF THE TOWN TAKEN OCTOBER 24, 2024 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO SCREEN DEBRIS FROM SAND OVERWASHED BY HURRICANE MILTON TO PRODUCE BEACH COMPATIBLE SAND, PLACE AND GRADE BEACH COMPATIBLE SAND ONTO THE BEACH, REMOVE DEBRIS FROM THE BEACH, REMOVE DEBRIS SAND FROM RIGHT OF WAY AND TOWN PROPERTY AND DELIVER TO DEBRIS MANAGEMENT SITE, AND DISPOSE OF DEBRIS AT AUTHORIZED WASTE MANAGEMENT SITE; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE NO'S. INV121024-31, INV121024-31, INV121124-31, INV121924-31 AND INV122324-31 IN THE AMOUNT \$ 721,814.17; 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, on October 5, 2024 Governor Ron DeSantis by Executive Order No. 24-214, 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; and

WHEREAS, on October 6, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2580 for an Emergency Area of 61 counties including Lee County; and

WHEREAS, on October 6, 2024 the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2580 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, on October 6, 2024 the Town of Fort Myers Beach approved Resolution 24-214 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions by; and

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

WHEREAS, 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.

WHEREAS, on October 24th, 2024 the Town Manager entered into a contract with ICS Materials, Inc. for a term of 94 days (from 2nd day of November to the 4th day of February 2025) to screen debris from sand overwashed by Hurricane Milton to produce beach compatible sand, and returning screened sand to the beach to protect upland properties and the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, the contract with ICS Materials, Inc. was for a not-to-exceed amount of \$900,000.00, which requires ratification by the Town Council;

WHEREAS, the ICS Materials, Inc. invoice XXX in the amount of \$ \$427,870.00 requires approval for payment by the Town Council;

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 screening debris from overwash sand and returning screened sand to the beach for a period of 94 days for a not-to-exceed amount of \$900,000.00 and approves the Town Manager’s emergency procurement.

Section 3. This Resolution authorizes payment of invoices INV121024-31, INV121024-31, INV121124-31, INV121924-31 AND INV122324-31 in the amount of \$ 721,814.17 to ICS MATERIALS INC. for services rendered.

Section 4. 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 _____ 2025 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 _____ 2025.

EMERGENCY SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on this 24th day of **October, 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 16301 Palm Beach Blvd, Unit 3, Alva, FL 33920 (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 94 Days retroactive from 2nd Day of November, 2024 to the 4th Day of February, 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 60 days of the date of the invoice.
4. Provider's Obligations. The Provider's obligations include, but are not limited to, the following:
 - a) Licensure. The Provider will maintain all licenses and certifications required by governmental agencies responsible for regulating and licensing the services provided and performed by the Provider.
 - b) Provision of Services. The Provider will perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies that regulate or have jurisdiction over the services to be provided or performed by the Provider. All personnel assigned by Provider hereunder will be qualified to perform such duties. Provider will designate one person as the point of contact for the Town regarding its duties hereunder. Provider is solely responsible for all taxes incurred by Provider and will make all deductions required of employers by state, federal and local laws.

- c) Non-Waiver. Neither review, approval, nor acceptance by Town of data, studies, reports, memoranda, and incidental professional services, work and materials 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"; Exhibit "D"; Exhibit "E".
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. Provider 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, Provider 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. Public Records Compliance Indemnification. Provider agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the Provider's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Provider's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Provider authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Provider in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.
13. 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.
14. 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.
15. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien,

and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

a. 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.

b. 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.

c. *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.

16. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

17. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by

memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

18. Disclosure Requirements for "Foreign Countries of Concern." Contractor shall comply with the disclosure requirements set forth in Section 286.101(3)(a), Florida Statutes, which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), Florida Statutes: "In addition to any fine assessed under [section 286.101(7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."
19. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.
20. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fees and costs.
21. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.
22. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.
23. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

24. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

25. No coercion for labor or services. The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

26. Additional Terms. The parties further agree as follows:

- A. Federal Emergency Management Agency Supplemental Conditions. The terms and conditions contained in the Federal Emergency Management Supplemental Conditions attached as Exhibit E are incorporated by reference herein.

27. 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.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below.

TOWN OF FORT MYERS BEACH

ATTEST:

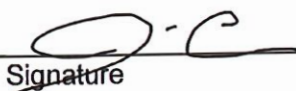
BY: 
Andrew Hyatt, Town Manager,

BY: 
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

BY: _____
Town Attorney

PROVIDER: ICS Materials, INC.

BY: 
Signature


Witness Signature

Jason Clark
Printed name of person signing

Sara Louis
Printed name of witness

President
Title (printed)

EXHIBIT "A"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED October 24, 2024
BETWEEN THE TOWN AND PROVIDER.

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

Screen overwash sand from Hurricane Milton to produce beach compatible sand that is free of all debris.

Place and grade beach compatible sand onto the beach as directed by the Town.

Remove debris from beach prior to placing sand on beach.

Remove debris sand from right of way and Town property and deliver to Town debris management site.

Dispose of screener debris byproduct and beach debris at permitted disposal site.

Follow all local, state and federal regulations.

EXHIBIT "B"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED October 24, 2024
BETWEEN THE TOWN AND PROVIDER.

PAYMENT OBLIGATION

The Town will pay the Provider as follows for all services listed in Exhibit "A":

The Town will compensate the Provider on a volume and weight basis in the performance of the scope of services listed in Exhibit A and at the rates identified in Exhibit D. Tipping fees at final disposal site(s) shall be the responsibility of the Contractor and passed through to the Town without markup, unless approved otherwise.

Invoicing for services must include the following documentation to support debris collection, sand processing, sand delivery, sand grading and debris disposal charges:

- All debris monitor documentation including debris load tickets and daily reports required for the Town to obtain FEMA reimbursement
- Proof of proper disposal of debris including, but not limited to scale tickets and receipts for tipping fees from an authorized solid waste disposal facility

Compensation under this Agreement shall not exceed \$900,000.00

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"

	Task	Unit	Unit Price
1	Sand Screener & Equipment Mobilization & Demobilization	Lump Sum	\$12,000.00
2	Beach Compatible Sand Production	Cubic Yard	\$11.50
3	Deliver, Place & Grade Sand onto Beach		
3a	On Road Truck Delivery from DDMS to Beach Access	Cubic Yard	\$7.00
3a	Off Road Truck Delivery from Beach Access to Beach	Cubic Yard	\$7.00
3a	Place and Grade onto Beach	Cubic Yard	\$6.49
3b	Off Road Truck Delivery from DDMS directly to Beach, Place and Grade	Cubic Yard	\$13.49
4	Remove Sand from right of way and deliver to DDMS	Cubic Yard	\$10.00
5	Debris Removal & Disposal at Landfill	Cubic Yard	\$14.00
6	Vegetation Landfill Dump Fee (Estimated Pass through Cost, No Mark Up)	Ton	\$42.37
7	Construction and Demo Landfill Dump Fee (Estimated Pass through Cost, No Mark Up)	Ton	\$67.78
8	Surveying & Asbuilts	Lump Sum	\$40,000.00

EXHIBIT "E"

ADDITIONAL TERMS – SUPPLEMENTAL FEDERAL EMERGENCY MANAGEMENT AGENCY SUPPLEMENTAL CONDITIONS

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

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.

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

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."

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.

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 \(floridadep.gov\)](http://ProjectMonitoring.floridadep.gov)

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

Certification

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

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

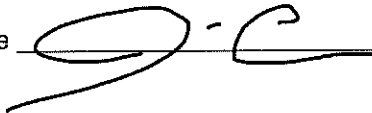
On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name ICS Materials Inc

Date 10/31/2024

Type text here

Authorized Signature

A handwritten signature in black ink, appearing to be 'J-C', is written over a horizontal line.

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
and VOLUNTARY EXCLUSION**

Contractor Covered Transactions

- (1) The prospective subcontractor of the Sub-recipient, Town, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the Sub-recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

CONTRACTOR

ICS Materials Inc

By:

Signature

Jason Clark - President

Name and Title

16301 Palm Beach Blvd. Unit 3

Street Address

Alva, FL 33920

City, State, Zip

RRA8DYJAMNK3

UEI Unique Entity Identifier (for SAM.gov verification)

10/31/2024

Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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 FID NUMBER		CONTRACT DOLLAR AMOUNT																		
IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MB/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS 8A CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?		VETERAN	Y	N	IS THE ACTIVITY OF THIS CONTRACT...																	
		DBE?	Y	N	CONSTRUCTION?	Y N																
		MBE?	Y	N	CONSULTATION?	Y N																
		WBE?	Y	N	OTHER?	Y N																
		SDV 8A?	Y	N																		
IS THIS SUBMISSION A REVISION?		Y	N	IF YES, REVISION NUMBER																		
B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION																						
DBE	M/WBE	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"> <thead> <tr> <th>ETHNICITY</th> <th>CODE</th> </tr> </thead> <tbody> <tr> <td>Black American</td> <td>BA</td> </tr> <tr> <td>Hispanic American</td> <td>HA</td> </tr> <tr> <td>Native American</td> <td>NA</td> </tr> <tr> <td>Subcont. Asian American</td> <td>SAA</td> </tr> <tr> <td>Asian-Pacific American</td> <td>APA</td> </tr> <tr> <td>Non-Minority Women</td> <td>NMW</td> </tr> <tr> <td>Other not of any other group listed</td> <td>O</td> </tr> </tbody> </table>							ETHNICITY	CODE	Black American	BA	Hispanic American	HA	Native American	NA	Subcont. Asian American	SAA	Asian-Pacific American	APA	Non-Minority Women	NMW	Other not of any other group listed	O
ETHNICITY	CODE																					
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Other not of any other group listed	O																					
D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH																						
DEPARTMENT NAME		FMB CONTRACT # (FBI/FP 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)



Signature of Contractor's Authorized Official

Jason Clark - President

Name and Title of Contractor's Authorized Official

10/31/2024

Date

[Remainder of Page Intentionally Left Blank]

ICS Materials Inc.

16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us



Invoice

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

INVOICE
DATE
TERMS
DUE DATE
INV120924-31
12/10/2024
Net 7
12/17/2024

DESCRIPTION	QTY	RATE	AMOUNT
Project: Town of Fort Myers Beach Hurricane Milton	1	12,000.00	12,000.00
Date: 11.19.24			
Sand Screener & Equipment Mobilization & Demobilization			
Qty: 1			
Rate: \$12,000			
11.19.24 - 11.26.24	10,135.40	11.50	116,557.10
Beach Compatible Sand Production (Cubic Yards)			
Rate: \$11.50 / CY			
11.19.24 - 11.26.24	10,135.40	7.00	70,947.80
On Road Truck Delivery from DDMS to Beach Access (Cubic Yards)			
Rate: \$7 / CY			
11.19.24 - 11.26.24	10,135.40	7.00	70,947.80
Off Road Truck Delivery from Beach Access to Beach (Cubic Yards)			
Rate: \$7/CY			
11.19.24 - 11.26.24	10,135.40	6.49	65,778.75
Place and Grade onto Beach (Cubic Yards)			
Rate: \$6.49			
11.27.24 - 12.09.24	8,153.40	11.50	93,764.10
Beach Compatible Sand Production (Cubic Yards)			
Rate: \$11.50 / CY			
11.27.24 - 12.09.24	8,153.40	7.00	57,073.80
On Road Truck Delivery from DDMS to Beach Access (Cubic Yards)			
Rate: \$7/CY			
11.27.24 - 12.09.24	8,153.40	7.00	57,073.80
Off Road Truck Delivery from Beach Access to Beach (Cubic Yards)			
Rate: \$7/CY			

11.27.24 - 12.09.24	8,153.4	6.49	52,915.57
Place and Grade onto Beach (Cubic Yards)	0		

SUBTOTAL 597,058.72

TAX 0.00

TOTAL 597,058.72

BALANCE DUE **\$597,058.72**

ICS Materials Inc.

16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us



Invoice

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

INVOICE
DATE
TERMS
DUE DATE
INV121024-31
12/17/2024
Net 7
12/24/2024

DESCRIPTION	QTY	RATE	AMOUNT
Project: Town of Fort Myers Beach Hurricane Milton	207.80	11.50	2,389.70
Date: 12.10.24 Beach Compatible Sand Production (Cubic Yards) Rate: \$11.50 / CY			
Date: 12.10.24 On Road Truck Delivery from DDMS to Beach Access (Cubic Yards)	207.80	7.00	1,454.60
Rate: \$7 / CY			
Date: 12.10.24 Off Road Truck Delivery from Beach Access to Beach (Cubic Yards) Rate: \$7/CY	207.80	7.00	1,454.60
Date: 12.10.24 Place and Grade onto Beach (Cubic Yards) Rate: \$6.49	207.80	6.49	1,348.62

SUBTOTAL	6,647.52
TAX	0.00
TOTAL	6,647.52
BALANCE DUE	\$6,647.52

ICS Materials Inc.

16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us



Invoice

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

INVOICE
DATE
TERMS
DUE DATE
INV121124-31
12/11/2024
Net 7
12/18/2024

DESCRIPTION	QTY	RATE	AMOUNT
Town of Fort Myers Beach Project: Hurricane Milton	4,970.10	10.00	49,701.00
Dates: 11.02.24 - 11.15.24 Remove sand from right of way and deliver to DDMS Quantity: 4,970.10 Cubic Yards Rate: \$10.00/CY			
Dates: 11.16.24 - 11.25.24 Remove sand from right of way and deliver to DDMS Quantity: 577.15 Cubic Yards Rate: \$10.00/CY	577.15	10.00	5,771.50
Dates: 11.26.24 - 12.11.24 Remove sand from right of way and deliver to DDMS Quantity: 1,166 Cubic Yards Rate: \$10.00/CY	1,166	10.00	11,660.00
SUBTOTAL			67,132.50
TAX			0.00
TOTAL			67,132.50
BALANCE DUE			\$67,132.50

ICS Materials Inc.

16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us



Invoice

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

INVOICE
DATE
TERMS
DUE DATE
INV121924-31
12/26/2024
Net 7
01/02/2025

DESCRIPTION	QTY	RATE	AMOUNT
Town of Fort Myers Beach Project: Hurricane Milton	565.20	10.00	5,652.00

Dates: 12.19.24
Remove sand from right of way and deliver to DDMS
Quantity: 565.2 Cubic Yards
Rate: \$10.00/CY

SUBTOTAL	5,652.00
TAX	0.00
TOTAL	5,652.00
BALANCE DUE	\$5,652.00

ICS Materials Inc.

16301 Palm Beach Blvd Unit 3
Alva, FL 33920 US
(239) 839-0862
info@floridacontractors.us



Invoice

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

INVOICE
DATE
TERMS
DUE DATE
INV121924-31-2
12/26/2024
Net 7
01/02/2025

DESCRIPTION	QTY	RATE	AMOUNT
Project: Town of Fort Myers Beach Hurricane Milton	1,416.80	11.50	16,293.20
Date: 12.19.24 - 12.23.24 Beach Compatible Sand Production (Cubic Yards) Rate: \$11.50 / CY			
Date: 12.19.24 - 12.23.24 On Road Truck Delivery from DDMS to Beach Access (Cubic Yards)	1,416.80	7.00	9,917.60
Rate: \$7 / CY			
Date: 12.19.24 - 12.23.24 Off Road Truck Delivery from Beach Access to Beach (Cubic Yards) Rate: \$7/CY	1,416.80	7.00	9,917.60
Date: 12.19.24 - 12.23.24 Place and Grade onto Beach (Cubic Yards) Rate: \$6.49	1,416.80	6.49	9,195.03

SUBTOTAL	45,323.43
TAX	0.00
TOTAL	45,323.43
BALANCE DUE	\$45,323.43

1. **Request:**

Meeting Date: January 8, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN SEPTEMBER 27, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ANDREW SITEWORK LLC TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE TOWN'S STREETS AND RIGHT-OF-WAY; AUTHORIZING PAYMENT OF INVOICE #2024-19E #1 IN THE AMOUNT OF \$154,282.75; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council is required to ratify an emergency contract over \$75,000.

What the action accomplishes:

The action ratifies the emergency contract.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Andy Hyatt, Town Manager

5. **Background:**

On September 26, 2024 the storm surge generated by Hurricane Helene deposited sand and debris on Town roads, right of ways and public areas, which created hazards to public safety and transportation. The Town manager is authorized by the Town's purchasing ordinance to make emergency purchases to ensure the safety and wellbeing of its citizens and businesses.

On September 27, 2024 the Town Manager entered into a contract with Andrew Sitework LLC for a term of 10 days (from 27th day of September to the 6th day of October 2024) to remove hazards to public safety in the form of overwash sand and debris deposited by Hurricane Helene from the Town roads, right of ways, beach accesses and public areas within the Town's jurisdiction in order to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism. Andrew Sitework was already on site as the contractor for the Tier 1 stormwater project, and they agreed to honor the Tier 1 contractual pricing.

Attachments:

1. 25-21, Ratify Andrew Sitework Emergency Contract - Hurricane Helene Recovery 9-27-2024
2. 25-21, Andrew Sitework Emergency Contract - Hurricane Helene Recovery 9-27-2024
3. 25-21, Andrew Sitework Emergency Contract - Rate Sheet
4. 25-21, Andrew Sitework Emergency - Invoice 2024-19E #1

Financial Impact:

The contract is a not-to-exceed amount of \$200,000. However, the actual cost was only \$154,282.75. It is expected to be fully reimbursed by FEMA as an emergency protective measure.

6. **Alternative Action**

The town council may choose not to approve the emergency expenditure, however the Town would still be obligated to pay for the services that were provided.

7. Management Recommendations:

Management recommends ratification of this expenditure.

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 - 12/19/2024
Approved - 12/19/2024
Approved - 12/28/2024
Approved - 12/31/2024
Final Approval - 12/31/2024

RESOLUTION NUMBER 25-21

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN SEPTEMBER 27, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ANDREW SITEWORK LLC TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE TOWN'S STREETS AND RIGHT-OF-WAY; AUTHORIZING PAYMENT OF INVOICE #2024-19E #1 IN THE AMOUNT OF \$154,282.75; 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, on September 23, 2024 Governor Ron DeSantis by Executive Order No. 24-208, as amended by Executive Order No. 24-209, 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; and

WHEREAS, on September 24, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2534 for an Emergency Area of 61 counties including Lee County; and

WHEREAS, on September 24, 2024, the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2533 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, on September 23, 2024 the Town of Fort Myers Beach approved Resolution 24-192 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions by; and

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

WHEREAS, 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.

WHEREAS, on September 27, 2024 the Town Manager entered into a contract with Andrew Sitework LLC for a term of 10 days (from 27th day of September to the 6th day of October 2024) to remove hazards to public safety in the form of overwash sand and debris deposited by Hurricane Helene from the Town roads, right of ways, beach accesses and public areas within the Town's jurisdiction in order to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, the contract with Andrew Sitework LLC was for a not-to-exceed amount of \$200,000, which requires ratification by the Town Council; and

WHEREAS, the Andrew Sitework LLC invoice #2024-19E #1 in the amount of \$154,282.75 requires approval for payment by the Town Council.

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 ANDREW SITEWORK LLC for removal of hazards to public safety from Town roads, right of ways, beach accesses and public areas within the Town's jurisdiction for a period of 10 days for a not-to-exceed amount of \$200,000 and approves the Town Manager's emergency procurement.

Section 3. This Resolution authorizes payment of invoices #2024-19E #1 in the amount of \$154,282.75 to ANDREW SITEWORK LLC for services rendered.

Section 4. 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 Council Member King and seconded by Council Member Safford, 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 _____ 2025 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 _____ 2025.

EMERGENCY SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on **September 27, 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 **ANDREW SITEWORK, LLC** with an address of **2511 PALM AVE, FORT MEYERS, FL 33931** (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 **10 Days** from **September 27, 2024 to October 6, 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.
4. Provider's Obligations. The Provider's obligations include, but are not limited to, the following:
 - a) Licensure. The Provider will maintain all licenses and certifications required by governmental agencies responsible for regulating and licensing the services provided and performed by the Provider.
 - b) Provision of Services. The Provider will perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies that regulate or have jurisdiction over the services to be provided or performed by the Provider. All personnel assigned by Provider hereunder will be qualified to perform such duties. Provider will designate one person as the point of contact for the Town regarding its duties hereunder. Provider is solely responsible for all taxes incurred by Provider and will make all deductions required of employers by state, federal and local laws.

- c) *Non-Waiver*. Neither review, approval, nor acceptance by Town of data, studies, reports, memoranda, and incidental professional services, work and materials 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"; Exhibit "D"; Exhibit "E".
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. Provider 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, Provider 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. Public Records Compliance Indemnification. Provider agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the Provider's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Provider's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Provider authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Provider in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.
13. 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.
14. 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.
15. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such

statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

a. 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.

b. 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.

c. *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.

16. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

17. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.
18. Disclosure Requirements for "Foreign Countries of Concern." Contractor shall comply with the disclosure requirements set forth in Section 286.101(3)(a), Florida Statutes, which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), Florida Statutes: "In addition to any fine assessed under [section 286.101(7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."
19. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.
20. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fees and costs.
21. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.
22. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

23. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.
24. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.
25. No coercion for labor or services. The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

26. Additional Terms. The parties further agree as follows:

- A. Federal Emergency Management Agency Supplemental Conditions. The terms and conditions contained in the Federal Emergency Management Supplemental Conditions attached as Exhibit E are incorporated by reference herein.

27. 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.

[Remainder of Page Intentionally Left Blank]

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

ANDREW SITEWORK, LLC

BY: _____
Signature

Witness Signature

Printed name of person signing

Printed name of witness

Title (printed)

EXHIBIT "A"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED SEPTEMBER 27, 2024,
BETWEEN THE TOWN AND PROVIDER.

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

Provide emergency measures to protect public life, health, and safety within the jurisdiction of the Town of Fort Myers Beach as directed by Town Staff including:

- Clear roads, right of ways, beach access and public areas as directed by Town Staff of storm generated overwash sand and debris by collecting, removing, transporting and staging storm generated overwash sand and debris to Town Staff approved disaster debris management sites and landfills.

Storm-related debris must be properly disposed of at Town approved and 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.

Town Staff approved disaster debris management sites shall be used for staging and handling of debris as directed by Town Staff. 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 and construction 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, United States National Marine Fisheries Service Sea Turtle and Saw Fish Construction Conditions, and the United States Fish and Wildlife Service EHP FEMA Statewide Programmatic Consultation.

EXHIBIT "B"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED SEPTEMBER 27, 2024
BETWEEN THE TOWN AND PROVIDER.

PAYMENT OBLIGATION

The Town will pay the Provider as follows for all services listed in Exhibit "A":

The Town will compensate the Provider 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 Exhibit A and at the rates identified in Exhibit D.

The Provider 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 as may be required by federal, state or local regulations or laws.

Compensation under this Agreement shall not exceed \$200,000.00.

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"

RATE SHEET ATTACHED

EXHIBIT “E”

**ADDITIONAL TERMS – SUPPLEMENTAL FEDERAL EMERGENCY MANAGEMENT
AGENCY SUPPLEMENTAL CONDITIONS**

**FEDERAL EMERGENCY MANAGEMENT AGENCY
PUBLIC ASSISTANCE**

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

Prohibition on Covered Telecommunications Equipment or Services

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

(b) Prohibitions.

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

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

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

(c) Exceptions.

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

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

(d) Reporting requirement.

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

CONSTRUCTION ACTIVITIES

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

Certification

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

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name _____

Date _____

Authorized Signature _____

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
and VOLUNTARY EXCLUSION**

Contractor Covered Transactions

- (1) The prospective subcontractor of the Sub-recipient, Town, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the Sub-recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

CONTRACTOR

By: _____
Signature

Name and Title

Street Address

City, State, Zip

UEI Unique Entity Identifier (for SAM.gov verification)

Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

TOWN OF FORT MYERS BEACH																						
ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT																						
Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.																						
A. PRIME VENDOR/CONTRACTOR INFORMATION																						
PRIME NAME		PRIME FID 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 8A CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?		VETERAN	Y	N	IS THE ACTIVITY OF THIS CONTRACT... CONSTRUCTION ? Y N CONSULTATION? Y N OTHER? Y N																	
		DBE?	Y	N																		
		MBE?	Y	N																		
		WBE?	Y	N																		
		SDB 8A?	Y	N																		
IS THIS SUBMISSION A REVISION?		Y	N	IF YES, REVISION NUMBER _____																		
B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION																						
DOE	M/WBE	SUBCONTRACTOR OR SUPPLIER	TYPE OF WORK OR	ETHNICITY CODE	SUB/SUPPLIER	PERCENT OF CONTRACT																
VETERAN		NAME	SPECIALTY	(See Below)	DOLLAR AMOUNT	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; font-size: x-small;"> <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																					
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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 TOWN OF FORT MYERS BEACH																						
DEPARTMENT NAME			FMB CONTRACT # (IFB/RFP or PO/REQ)		GRANT PROGRAM/CONTRACT																	
ACCEPTED BY:					DATE																	

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

LOBBYING CERTIFICATION
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Contractor (Firm Name)

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date



Description of Work Performed:

Date:

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Mini Excavator			0	\$ 35.63	\$ -	FOREMAN			\$ 82.26	\$ 123.39	\$ -	\$ -	\$ -
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR			\$ 54.85	\$ 82.28	\$ -	\$ -	\$ -
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.54	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER			\$ 37.19	\$ 55.79	\$ -	\$ -	\$ -
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.54	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.57	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader			0	\$ 83.13	\$ -	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks			0	\$ 71.25	\$ -	LABOR Subtotal:							\$0.00
Full Size Loader With Forks			0	\$ 99.75	\$ -	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -								
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools			0	\$ 47.50	\$ -							\$ -	\$ -
Dump Truck (Includes Driver)			0	\$ 118.75	\$ -							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -								
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor			0	\$ 35.63	\$ -							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -								
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only	6.5%						\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip	10.00%						\$ -
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials	15.00%						\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -	Additional Bond	1.50%						\$ -
EQUIPMENT Subtotal:					\$0.00	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ -

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:
Owner Field Mgr./ Inspector:

\$0.00

Were Subcontractors Utilized?	YES	NO	Names of Subcontractors on Site:
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Contractor Notes:



ANDREW SITEWORK, LLC

2511 PALM AVE
FORT MYERS, FL 33916

Invoice

Date	Invoice #
10/23/2024	2024-19E #1

Bill To
Fort Myers Beach 2523 Estero Blvd Fort Myers Beach, FL 33931

P.O. No.	Terms	Project
2024-19E #1		2024-19E - Hurricane Beac...

Quantity	Description	Rate	Amount
	HURRICANE HELENE RECOVERY EFFORTS - TOWN OF FORT MYERS BEACH September 27, 2024 to October 4, 2024		
	Friday, September 27, 2024 - Crew #1	19,765.32	19,765.32
	Friday, September 27, 2024 - Crew #2	16,859.41	16,859.41
	Saturday, September 28, 2024	19,188.52	19,188.52
	Sunday, September 29, 2024	3,804.43	3,804.43
	Monday, September 30, 2024	20,817.78	20,817.78
	Tuesday, October 1, 2024	18,289.49	18,289.49
	Wednesday, October 2, 2024	19,068.28	19,068.28
	Thursday, October 3, 2024	14,520.53	14,520.53
	Friday, October 4, 2024	21,968.99	21,968.99
		Total	\$154,282.75

**Description of Work Performed:**

Town of Fort Myers Beach Hurricane Helene Recovery (Clearing for First Responders)

ASW mobilized crews, superintendents, and equipment to the town of Fort Myers Beach and cleared roads of debris and sand covering the roads to provide access for first responders.

Date: Friday, September 27, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	11.0		\$ 110.50	\$ 165.75	\$ 1,215.50	\$ -	\$ 1,215.50
Mini Excavator			0	\$ 35.63	\$ -	FOREMAN	24.0		\$ 82.26	\$ 123.39	\$ 1,974.24	\$ -	\$ 1,974.24
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	48.0		\$ 54.85	\$ 82.28	\$ 2,632.80	\$ -	\$ 2,632.80
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER			\$ 37.19	\$ 55.78	\$ -	\$ -	\$ -
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	2	12	24	\$ 83.13	\$ 1,995.12	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks	1	12	12	\$ 71.25	\$ 855.00	LABOR Subtotal:							\$ 5,822.54
Full Size Loader With Forks	1	12	12	\$ 99.75	\$ 1,197.00	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -								
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	2	12	24	\$ 47.50	\$ 1,140.00							\$ -	\$ -
Dump Truck (Includes Driver)	3	11	33	\$ 118.75	\$ 3,918.75							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -								
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor			0	\$ 35.63	\$ -							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer	1	12	12	\$ 35.63	\$ 427.56	Subcontractor Subtotal:							\$ -
Large Equipment Moves	1	1	1	\$ 1,187.50	\$ 1,187.50								
Small Equipment Moves	3	1	3	\$ 475.00	\$ 1,425.00	Tax on Materials Only	6.50%						\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip	10.00%						\$ 1,796.85
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials	15.00%						\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								
EQUIPMENT Subtotal:					\$ 12,145.93	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,796.85

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:

Mark Huff

Owner Field Mgr./ Inspector:

\$19,765.32

Were Subcontractors Utilized?

YES

NO

Names of Subcontractors on Site:

Contractor Notes:

**Description of Work Performed:**

Town of Fort Myers Beach Hurricane Helene Recovery (Clearing for First Responders)

ASW mobilized crews, superintendents, and equipment to the town of Fort Myers Beach and cleared roads of debris and sand covering the roads to provide access for first responders.

Date: Friday, September 27, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	12.0		\$ 110.50	\$ 165.75	\$ 1,326.00	\$ -	\$ 1,326.00
Mini Excavator	2	12	24	\$ 35.63	\$ 855.12	FOREMAN	12.0		\$ 82.26	\$ 123.39	\$ 987.12	\$ -	\$ 987.12
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	36.0		\$ 54.85	\$ 82.28	\$ 1,974.60	\$ -	\$ 1,974.60
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER	12.0		\$ 37.19	\$ 55.79	\$ 446.28	\$ -	\$ 446.28
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	1	12	12	\$ 83.13	\$ 997.56	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks	1	12	12	\$ 71.25	\$ 855.00	LABOR Subtotal:							\$4,734.00
Full Size Loader With Forks			0	\$ 99.75	\$ -	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	1	12	12	\$ 47.50	\$ 570.00							\$ -	\$ -
Dump Truck (Includes Driver)	3	12	36	\$ 118.75	\$ 4,275.00							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -							\$ -	\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor			0	\$ 35.63	\$ -							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer	1	12	12	\$ 35.63	\$ 427.56	Subcontractor Subtotal:							\$ -
Large Equipment Moves	1	1	1	\$ 1,187.50	\$ 1,187.50	Tax on Materials Only 6.50%							\$ -
Small Equipment Moves	3	1	3	\$ 475.00	\$ 1,425.00	Administrative fee on labor and Equip 10.00%							\$ 1,532.67
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Markup on Subs & Materials 15.00%							\$ -
Small Tap & Equipment Fee			0	\$ 437.50	\$ -								\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								\$ -
EQUIPMENT Subtotal:					\$10,592.74	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,532.67
NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.													

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:

John Paulsen

Owner Field Mgr./ Inspector:

\$16,859.41

Were Subcontractors Utilized?

YES

NO

Names of Subcontractors on Site:

Contractor Notes:

**Description of Work Performed:**

Town of Fort Myers Beach Hurricane Helene Recovery (Clearing for First Responders)

ASW mobilized crews, superintendents, and equipment to the town of Fort Myers Beach and cleared roads of debris and sand covering the roads to provide access for first responders.

Date: Saturday, September 28, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT		9.5	\$ 110.50	\$ 165.75	\$ -	\$ 1,574.63	\$ 1,574.63
Mini Excavator	2	10.5	21	\$ 35.63	\$ 748.23	FOREMAN			\$ 82.28	\$ 123.39	\$ -	\$ -	\$ -
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR		63.0	\$ 54.85	\$ 82.28	\$ -	\$ 5,183.64	\$ 5,183.64
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER		21.0	\$ 37.19	\$ 55.78	\$ -	\$ 1,171.38	\$ 1,171.38
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	1	10.5	10.5	\$ 83.13	\$ 872.87	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks	1	10.5	10.5	\$ 71.25	\$ 748.13	LABOR Subtotal:							\$7,929.65
Full Size Loader With Forks	1	10.5	10.5	\$ 99.75	\$ 1,047.38	DESCRIPTION OF MATERIALS USED							
Rubber Tire Backhoe			0	\$ 47.50	\$ -								
Plate Compactor			0	\$ 23.75	\$ -								
Roller			0	\$ 47.50	\$ -								
Forman Truck With Tools	1	10.5	10.5	\$ 47.50	\$ 498.75								
Dump Truck (Includes Driver)	4	11	44	\$ 118.75	\$ 5,225.00								
6" Hydraulic Pump			0	\$ 59.38	\$ -								
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -								
Wellpoint Pump			0	\$ 83.13	\$ -								
Wellpoint System			0	\$ 47.50	\$ -								
Rock Box Large			0	\$ 11.88	\$ -								
Rock Box Small			0	\$ 7.13	\$ -								
8" X 20' Trenchbox			0	\$ 19.00	\$ -								
10' X 20' Manhole Box			0	\$ 18.13	\$ -								
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks							
Water Truck			0	\$ 62.50	\$ -								
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -								
Broom Tractor	1	10.5	10.5	\$ 35.63	\$ 374.12								
Concrete Mixer			0	\$ 31.88	\$ -								
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -	Tax on Materials Only							\$ -
Small Equipment Moves			0	\$ 475.00	\$ -	Administrative fee on labor and Equip							\$ 1,744.41
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Markup on Subs & Materials							\$ -
Small Tap & Equipment Fee			0	\$ 437.50	\$ -								
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								
EQUIPMENT Subtotal:					\$9,514.46	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,744.41

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager: John Paulsen

Owner Field Mgr./ Inspector:

\$19,188.52

Were Subcontractors Utilized?

YES

NO

Names of Subcontractors on Site:

Contractor Notes:

**Description of Work Performed:** Fort Myers Beach Hurricane Helene Recovery (Clearing for First Responders)

Ft Myers Beach clearing roads of sand and debris from Hurricane Helene.

Date: Sunday, September 29, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Mini Excavator			0	\$ 35.63	\$ -	FOREMAN			\$ 82.26	\$ 123.39	\$ -	\$ -	\$ -
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR		19.0	\$ 54.85	\$ 82.28	\$ -	\$ 1,563.32	\$ 1,563.32
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER			\$ 37.19	\$ 55.78	\$ -	\$ -	\$ -
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader			0	\$ 83.13	\$ -	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks			0	\$ 71.25	\$ -	LABOR Subtotal:							\$1,563.32
Full Size Loader With Forks	2	9.5	19	\$ 99.75	\$ 1,895.25	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools			0	\$ 47.50	\$ -							\$ -	\$ -
Dump Truck (Includes Driver)			0	\$ 118.75	\$ -							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -							\$ -	\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor			0	\$ 35.63	\$ -							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -	Tax on Materials Only				6.50%			\$ -
Small Equipment Moves			0	\$ 475.00	\$ -	Administrative fee on labor and Equip				10.00%			\$ 345.86
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Markup on Subs & Materials				15.00%			\$ -
Small Tap & Equipment Fee			0	\$ 437.50	\$ -								\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								\$ -
EQUIPMENT Subtotal:					\$1,895.25	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 345.86

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager: Eddie Ramirez

Owner Field Mgr./ Inspector:

\$3,804.43

Were Subcontractors Utilized?	YES	NO	Names of Subcontractors on Site:
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Contractor Notes:

**Description of Work Performed:**

Town of Fort Myers Beach Hurricane Helene Recovery

Clearing roads of debris and sand covering the roads, sidewalks and driveway aprons along Estero Blvd.

Date: Monday, September 30, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE	
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	9.5		\$ 110.50	\$ 165.75	\$ 1,049.75	\$ -	\$ 1,049.75	
Mini Excavator	2	10	20	\$ 35.63	\$ 712.60	FOREMAN	20.0		\$ 82.26	\$ 123.39	\$ 1,645.20	\$ -	\$ 1,645.20	
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	80.0		\$ 54.85	\$ 82.28	\$ 4,388.00	\$ -	\$ 4,388.00	
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -	
200 Excavator			0	\$ 154.38	\$ -	LABORER	70.0		\$ 37.19	\$ 55.79	\$ 2,603.30	\$ -	\$ 2,603.30	
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -	
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -	
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -	
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -	
Skid Loader	1	10	10	\$ 83.13	\$ 831.30	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -	
Mini Loader With Forks	1	10	10	\$ 71.25	\$ 712.50	LABOR Subtotal:							\$9,686.25	
Full Size Loader With Forks	2	10	20	\$ 99.75	\$ 1,995.00	DESCRIPTION OF MATERIALS USED					Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -								\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -								\$ -	\$ -
Roller			0	\$ 47.50	\$ -								\$ -	\$ -
Forman Truck With Tools	4	10	40	\$ 47.50	\$ 1,900.00								\$ -	\$ -
Dump Truck (Includes Driver)	2	10	20	\$ 118.75	\$ 2,375.00								\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -								\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -								\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -								\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -								\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -								\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -								\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -								\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -								\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -	
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks					Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -								\$ -	\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -								\$ -	\$ -
Broom Tractor	2	10	20	\$ 35.63	\$ 712.60								\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -								\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -	
Large Equipment Moves			0	\$ 1,187.50	\$ -								\$ -	\$ -
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only			6.50%				\$ -	
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip			10.00%				\$ 1,892.53	
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials			15.00%				\$ -	
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								\$ -	
EQUIPMENT Subtotal:					\$9,239.00	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,892.53	
NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.														

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:

Mark Huff

Owner Field Mgr./ Inspector:

\$20,817.78

Were Subcontractors Utilized?

YES

NO

Names of Subcontractors on Site:

Contractor Notes:

**Description of Work Performed:**

Town of Fort Myers Beach Hurricane Helene Recovery

Clearing roads of debris and sand covering the roads, sidewalks and driveway aprons along Estero Blvd.

Date: Tuesday, October 1, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	10.5		\$ 110.50	\$ 165.75	\$ 1,160.25	\$ -	\$ 1,160.25
Mini Excavator	2	10	20	\$ 35.63	\$ 712.60	FOREMAN	20.0		\$ 82.26	\$ 123.39	\$ 1,645.20	\$ -	\$ 1,645.20
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	80.0		\$ 54.85	\$ 82.28	\$ 4,388.00	\$ -	\$ 4,388.00
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER	10.5		\$ 41.69	\$ 62.54	\$ 437.75	\$ -	\$ 437.75
200 Excavator			0	\$ 154.38	\$ -	LABORER	19.0		\$ 37.19	\$ 55.79	\$ 706.61	\$ -	\$ 706.61
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	1	10	10	\$ 83.13	\$ 831.30	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks	1	10	10	\$ 71.25	\$ 712.50	LABOR Subtotal:							\$8,337.81
Full Size Loader With Forks	2	10	20	\$ 99.75	\$ 1,995.00	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	2	10	20	\$ 47.50	\$ 950.00							\$ -	\$ -
Dump Truck (Includes Driver)	2	10	20	\$ 118.75	\$ 2,375.00							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -							\$ -	\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor	2	10	20	\$ 35.63	\$ 712.60							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -								
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only	6.50%						\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip	10.00%						\$ 1,662.68
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials	15.00%						\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								
EQUIPMENT Subtotal:					\$8,289.00	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,662.68

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:

Mark Huff

Owner Field Mgr./ Inspector:

\$18,289.49

Were Subcontractors Utilized?

YES

NO

Names of Subcontractors on Site:

Contractor Notes:

**Description of Work Performed:**

Town of Fort Myers Beach Hurricane Helene Recovery

Clearing debris and sand from roadways, sidewalks, and driveway aprons along Estero Blvd. and side streets.

Date: Wednesday, October 2, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE	
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	10.0		\$ 110.50	\$ 165.75	\$ 1,105.00	\$ -	\$ 1,105.00	
Mini Excavator	1	10	10	\$ 35.63	\$ 356.30	FOREMAN	20.0		\$ 82.26	\$ 123.39	\$ 1,645.20	\$ -	\$ 1,645.20	
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	60.0		\$ 54.85	\$ 82.28	\$ 3,291.00	\$ -	\$ 3,291.00	
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER	40.0		\$ 41.69	\$ 62.54	\$ 1,667.60	\$ -	\$ 1,667.60	
200 Excavator			0	\$ 154.38	\$ -	LABORER	50.0		\$ 37.19	\$ 55.79	\$ 1,859.50	\$ -	\$ 1,859.50	
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -	
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -	
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -	
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -	
Skid Loader	2	10	20	\$ 83.13	\$ 1,662.60	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -	
Mini Loader With Forks	1	10	10	\$ 71.25	\$ 712.50	LABOR Subtotal:							\$9,568.30	
Full Size Loader With Forks	1	10	10	\$ 99.75	\$ 997.50	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE	
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -	
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -	
Roller			0	\$ 47.50	\$ -							\$ -	\$ -	
Forman Truck With Tools	2	10	20	\$ 47.50	\$ 950.00							\$ -	\$ -	
Dump Truck (Includes Driver)	2	10	20	\$ 118.75	\$ 2,375.00							\$ -	\$ -	
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -	
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -	
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -	
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -	
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -	
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -	
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -	
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -	
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -	
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE	
Water Truck			0	\$ 62.50	\$ -							\$ -	\$ -	
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -	
Broom Tractor	1	10	10	\$ 35.63	\$ 356.30							\$ -	\$ -	
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -	
Equipment Trailer	1	10	10	\$ 35.63	\$ 356.30	Subcontractor Subtotal:							\$ -	
Large Equipment Moves			0	\$ 1,187.50	\$ -								\$ -	
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only			6.50%				\$ -	
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip			10.00%				\$ 1,733.48	
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials			15.00%				\$ -	
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								\$ -	
EQUIPMENT Subtotal:					\$7,766.50	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:								\$ 1,733.48
NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.														

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:

Mark Huff

Owner Field Mgr./ Inspector:

\$19,068.28

Were Subcontractors Utilized?

YES

NO

Names of Subcontractors on Site:

Contractor Notes:

**Description of Work Performed:**

Town of Fort Myers Beach Hurricane Helene Recovery

Crew continued clearing sand from side streets, sidewalks, and driveway aprons off of Estero Blvd from Hurricane Helene.

Date: Thursday, October 3, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	5.5		\$ 110.50	\$ 165.75	\$ 607.75	\$ -	\$ 607.75
Mini Excavator	1	10	10	\$ 35.63	\$ 356.30	FOREMAN	10.5		\$ 82.26	\$ 123.39	\$ 863.73	\$ -	\$ 863.73
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	60.0		\$ 54.85	\$ 82.28	\$ 3,291.00	\$ -	\$ 3,291.00
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER	80.0		\$ 37.19	\$ 55.79	\$ 2,975.20	\$ -	\$ 2,975.20
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	2	10	20	\$ 83.13	\$ 1,662.60	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks	1	10	10	\$ 71.25	\$ 712.50	LABOR Subtotal:							\$7,737.68
Full Size Loader With Forks			0	\$ 99.75	\$ -	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	1	10	10	\$ 47.50	\$ 475.00							\$ -	\$ -
Dump Truck (Includes Driver)	1	10	10	\$ 118.75	\$ 1,187.50							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -							\$ -	\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor	2	10	20	\$ 35.63	\$ 712.60							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer	1	10	10	\$ 35.63	\$ 356.30	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -								
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only 6.50%							\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip 10.00%							\$ 1,320.05
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials 15.00%							\$ -
4" to 6" Tap & Equipment Fee			0	\$ 812.50	\$ -								
EQUIPMENT Subtotal:					\$5,462.80	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,320.05

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:

John Paulsen

Owner Field Mgr./ Inspector:

\$14,520.53

Were Subcontractors Utilized?

YES

NO

Names of Subcontractors on Site:

Contractor Notes:



Description of Work Performed:

Town of FMB, Clean streets of sand & debris & from Hurricane Helene

Continue cleaning street along Estero Blvd., Side streets removing sand washed up on roads and sidewalks, against curbs, in ROW filling up swales blocking drainage and inlets. Haul sand to stockpile for cleaning. Track time on T&M.

Town of FMB

Date: Friday, October 4, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	15.0		\$ 110.50	\$ 165.75	\$ 1,657.50	\$ -	\$ 1,657.50
Mini Excavator	3	6	18	\$ 35.63	\$ 641.34	FOREMAN	40.0		\$ 82.26	\$ 123.39	\$ 3,290.40	\$ -	\$ 3,290.40
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	70.0		\$ 54.85	\$ 82.28	\$ 3,839.50	\$ -	\$ 3,839.50
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER	28.0		\$ 41.69	\$ 62.54	\$ 1,167.32	\$ -	\$ 1,167.32
200 Excavator			0	\$ 154.38	\$ -	LABORER	77.0		\$ 37.19	\$ 55.79	\$ 2,863.63	\$ -	\$ 2,863.63
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	2	6	12	\$ 83.13	\$ 997.56	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks	1	6	6	\$ 71.25	\$ 427.50	LABOR Subtotal:							\$12,818.35
Full Size Loader With Forks	2	6	12	\$ 99.75	\$ 1,197.00	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	5	8	40	\$ 47.50	\$ 1,900.00							\$ -	\$ -
Dump Truck (Includes Driver)	2	5	10	\$ 118.75	\$ 1,187.50							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck	1	6	6	\$ 62.50	\$ 375.00								\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -								\$ -
Broom Tractor	2	6	12	\$ 35.63	\$ 427.56							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -								
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only 6.50%							\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip 10.00%							\$ 1,997.18
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials 15.00%							\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								
EQUIPMENT Subtotal:					\$7,153.46	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,997.18

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:

Mark Huff

Owner Field Mgr./ Inspector:

\$21,968.99

Were Subcontractors Utilized?

YES

NO

Names of Subcontractors on Site:

Contractor Notes:

1. **Request:**

Meeting Date: January 8, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN OCTOBER 10, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ANDREW SITEWORK LLC TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE TOWN'S STREETS AND RIGHT-OF-WAY; AUTHORIZING PAYMENT OF INVOICES #2024-19E #2 AND #2024-19E #3 FOR A TOTAL AMOUNT OF \$96,787.08; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council is required to ratify emergency purchases over \$75,000.

What the action accomplishes:

This action ratifies the emergency purchase.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Joe Onzick, Finance Director

5. **Background:**

On October 9, 2024 the storm surge generated by Hurricane Milton deposited sand and debris on Town roads, right of ways and public areas, which created hazards to public safety and transportation. The Town manager is authorized by the Town's purchasing ordinance to make emergency purchases to ensure the safety and wellbeing of its citizens and businesses. On October 10, 2024 the Town Manager entered into a contract with Andrew Sitework LLC for a term of 10 days (from 10th day of October to the 19th day of October 2024) to remove hazards to public safety in the form of overwash sand and debris deposited by Hurricane Milton from the Town roads, right of ways, beach accesses and public areas within the Town's jurisdiction in order to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism. Andrew Sitework was already on site as the contractor for the Tier 1 stormwater project, and they agreed to honor the Tier 1 contractual pricing.

Attachments:

1. 25-22, Ratify Andrew Sitework Emergency Contract - Hurricane Milton 10-10-2024
2. 25-22, Andrew Sitework Emergency Contract - Hurricane Milton Recovery 10-10-2024
3. 25-22, Andrew Sitework Emergency Contract - Rate Sheet
4. 25-22, Andrew Sitework - Invoice 2024-19E #2
5. 25-22, Andrew Sitework - Invoice 2024-19E #3

Financial Impact:

The contract not-to-exceed amount was \$100,000. The actual cost of the emergency services was \$96,787.08. This is expected to be fully reimbursed by FEMA.

6. **Alternative Action**

The Town Council may choose not to ratify this contract, but the Town is still obligated to pay for the emergency services provided.

7. Management Recommendations:

Management recommends ratification of this emergency expenditure.

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 - 12/19/2024
Approved - 12/19/2024
Approved - 12/28/2024
Approved - 12/31/2024
Final Approval - 12/31/2024

RESOLUTION NUMBER 25-22

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN OCTOBER 10, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ANDREW SITEWORK LLC TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE TOWN'S STREETS AND RIGHT-OF-WAY; AUTHORIZING PAYMENT OF INVOICES #2024-19E #2 AND #2024-19E #3 FOR A TOTAL AMOUNT OF \$96,787.08; 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, on October 5, 2024 Governor Ron DeSantis by Executive Order No. 24-214, 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; and

WHEREAS, on October 6, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2580 for an Emergency Area of 61 counties including Lee County; and

WHEREAS, on October 6, 2024 the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2580 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, on October 6, 2024 the Town of Fort Myers Beach approved Resolution 24-214 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions by; and

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

WHEREAS, 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.

WHEREAS, on October 10, 2024 the Town Manager entered into a contract with Andrew Sitework LLC for a term of 10 days (from 10th Day of October to the 19th day of October 2024) to remove hazards to public safety in the form of overwash sand and debris deposited by Hurricane Milton from the Town roads, right of ways, beach accesses and public areas within the Town's jurisdiction in order to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, the contract with Andrew Sitework LLC was for a not-to-exceed amount of \$100,000, which requires ratification by the Town Council; and

WHEREAS, the Andrew Sitework LLC invoices #2024-19E #2 and #2024-19E #3 totaling \$96,787.08 require approval for payment by the Town Council.

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 ANDREW SITEWORK LLC for removal of hazards to public safety from Town roads, right of ways, beach accesses and public areas within the Town's jurisdiction for a period of 10 days for a not-to-exceed amount of \$100,000 and approves the Town Manager's emergency procurement.

Section 3. This Resolution authorizes payment of invoices #2024-19E #2 and #2024-19E #3 totaling \$96,787.08 to ANDREW SITEWORK LLC for services rendered.

Section 4. 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 Council Member King and seconded by Council Member Safford, 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 _____ 2025 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 _____ 2025.

EMERGENCY SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on **October 10, 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 **ANDREW SITEWORK, LLC** with an address of **2511 PALM AVE, FORT MEYERS, FL 33931** (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 **10 Days** retroactive from **October 10, 2024 to October 19, 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.
4. Provider's Obligations. The Provider's obligations include, but are not limited to, the following:
 - a) Licensure. The Provider will maintain all licenses and certifications required by governmental agencies responsible for regulating and licensing the services provided and performed by the Provider.
 - b) Provision of Services. The Provider will perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies that regulate or have jurisdiction over the services to be provided or performed by the Provider. All personnel assigned by Provider hereunder will be qualified to perform such duties. Provider will designate one person as the point of contact for the Town regarding its duties hereunder. Provider is solely responsible for all taxes incurred by Provider and will make all deductions required of employers by state, federal and local laws.

- c) *Non-Waiver*. Neither review, approval, nor acceptance by Town of data, studies, reports, memoranda, and incidental professional services, work and materials 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"; Exhibit "D"; Exhibit "E".
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. Provider 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, Provider 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. Public Records Compliance Indemnification. Provider agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the Provider's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Provider's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Provider authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Provider in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.
13. 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.
14. 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.
15. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such

statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

a. 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.

b. 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.

c. *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.

16. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

17. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.
18. Disclosure Requirements for "Foreign Countries of Concern." Contractor shall comply with the disclosure requirements set forth in Section 286.101(3)(a), Florida Statutes, which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), Florida Statutes: "In addition to any fine assessed under [section 286.101(7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."
19. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.
20. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fees and costs.
21. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.
22. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

23. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.
24. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.
25. No coercion for labor or services. The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

26. Additional Terms. The parties further agree as follows:

- A. Federal Emergency Management Agency Supplemental Conditions. The terms and conditions contained in the Federal Emergency Management Supplemental Conditions attached as Exhibit E are incorporated by reference herein.

27. 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.

[Remainder of Page Intentionally Left Blank]

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

ANDREW SITEWORK, LLC

BY: _____
Signature

Witness Signature

Printed name of person signing

Printed name of witness

Title (printed)

EXHIBIT "A"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED OCTOBER 10, 2024
BETWEEN THE TOWN AND PROVIDER.

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

Provide emergency measures to protect public life, health, and safety within the jurisdiction of the Town of Fort Myers Beach as directed by Town Staff including:

- Clear roads, right of ways, beach access and public areas as directed by Town Staff of storm generated overwash sand and debris by collecting, removing, transporting and staging storm generated overwash sand and debris to Town Staff approved disaster debris management sites and landfills.

Storm-related debris must be properly disposed of at Town approved and 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.

Town Staff approved disaster debris management sites shall be used for staging and handling of debris as directed by Town Staff. 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 and construction 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, United States National Marine Fisheries Service Sea Turtle and Saw Fish Construction Conditions, and the United States Fish and Wildlife Service EHP FEMA Statewide Programmatic Consultation.

EXHIBIT "B"

TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED OCTOBER 10, 2024
BETWEEN THE TOWN AND PROVIDER.

PAYMENT OBLIGATION

The Town will pay the Provider as follows for all services listed in Exhibit "A":

The Town will compensate the Provider 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 Exhibit A and at the rates identified in Exhibit D.

The Provider 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 as may be required by federal, state or local regulations or laws.

Compensation under this Agreement shall not exceed \$100,000.00.

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"

RATE SHEET ATTACHED

EXHIBIT “E”

**ADDITIONAL TERMS – SUPPLEMENTAL FEDERAL EMERGENCY MANAGEMENT
AGENCY SUPPLEMENTAL CONDITIONS**

**FEDERAL EMERGENCY MANAGEMENT AGENCY
PUBLIC ASSISTANCE**

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

Prohibition on Covered Telecommunications Equipment or Services

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

(b) Prohibitions.

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

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

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

(c) Exceptions.

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

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

(d) Reporting requirement.

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

CONSTRUCTION ACTIVITIES

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

Certification

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

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name _____

Date _____

Authorized Signature _____

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
and VOLUNTARY EXCLUSION**

Contractor Covered Transactions

(1) The prospective subcontractor of the Sub-recipient, Town, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the Sub-recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

CONTRACTOR

By: _____
Signature

Name and Title

Street Address

City, State, Zip

UEI Unique Entity Identifier (for SAM.gov verification)

Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

TOWN OF FORT MYERS BEACH																					
ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT																					
Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.																					
A. PRIME VENDOR/CONTRACTOR INFORMATION																					
PRIME NAME		PRIME FBD NUMBER		CONTRACT DOLLAR AMOUNT																	
IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS 8A CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?		VETERAN Y N DBE? Y N MBE? Y N WBE? Y N SDB 8A? 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; margin-top: 10px;"> <thead> <tr> <th style="font-size: x-small;">ETHNICITY</th> <th style="font-size: x-small;">CODE</th> </tr> </thead> <tbody> <tr><td style="font-size: x-small;">Black American</td><td style="font-size: x-small;">BA</td></tr> <tr><td style="font-size: x-small;">Hispanic American</td><td style="font-size: x-small;">HA</td></tr> <tr><td style="font-size: x-small;">Native American</td><td style="font-size: x-small;">NA</td></tr> <tr><td style="font-size: x-small;">Subcont. Asian American</td><td style="font-size: x-small;">SAA</td></tr> <tr><td style="font-size: x-small;">Asian-Pacific American</td><td style="font-size: x-small;">APA</td></tr> <tr><td style="font-size: x-small;">Non-Minority Women</td><td style="font-size: x-small;">NMW</td></tr> <tr><td style="font-size: x-small;">Other: not of any other group listed</td><td style="font-size: x-small;">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																				
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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 TOWN OF FORT MYERS BEACH																					
DEPARTMENT NAME		FMB CONTRACT # (IF RFP or PO/REQ)		GRANT PROGRAM/CONTRACT																	
ACCEPTED BY:				DATE																	

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

LOBBYING CERTIFICATION
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Contractor (Firm Name)

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date



Description of Work Performed:

Date:

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Mini Excavator			0	\$ 35.63	\$ -	FOREMAN			\$ 82.26	\$ 123.39	\$ -	\$ -	\$ -
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR			\$ 54.85	\$ 82.28	\$ -	\$ -	\$ -
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.54	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER			\$ 37.19	\$ 55.79	\$ -	\$ -	\$ -
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.54	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.57	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader			0	\$ 83.13	\$ -	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks			0	\$ 71.25	\$ -	LABOR Subtotal:							\$0.00
Full Size Loader With Forks			0	\$ 99.75	\$ -	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -								
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools			0	\$ 47.50	\$ -							\$ -	\$ -
Dump Truck (Includes Driver)			0	\$ 118.75	\$ -							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -								
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor			0	\$ 35.63	\$ -							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -								
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only	6.5%						\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip	10.00%						\$ -
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials	15.00%						\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -	Additional Bond	1.50%						\$ -
EQUIPMENT Subtotal:					\$0.00	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ -

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:
Owner Field Mgr./ Inspector:

\$0.00

Were Subcontractors Utilized?	YES	NO	Names of Subcontractors on Site:
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Contractor Notes:



ANDREW SITEWORK, LLC
2511 PALM AVE
FORT MYERS, FL 33916

Invoice

Date	Invoice #
10/23/2024	2024-19E #2

Bill To
Fort Myers Beach 2523 Estero Blvd Fort Myers Beach, FL 33931

P.O. No.	Terms	Project
2024-19E #2		2024-19E - Hurricane Beac...

Quantity	Description	Rate	Amount
	HURRICANE MILTON RECOVERY EFFORTS - TOWN OF FORT MYERS BEACH October 10, 2024 to October 12, 2024		
	Thursday, October 10, 2024	28,169.68	28,169.68
	Friday, October 11, 2024	16,877.51	16,877.51
	Saturday, October 12, 2024	18,965.05	18,965.05
		Total	\$64,012.24

Signed by:
Ralph C Andrew III
CE693518227740C...

10/23/2024



Description of Work Performed:Fort Myers Beach Hurricane Milton Recovery

Clear debris and sand off Roadway, Estero Blvd. North of Time Square on Fort Myers Beach after Hurricane Milton.

Date: Thursday, October 10, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	11.5		\$ 110.50	\$ 165.75	\$ 1,270.75	\$ -	\$ 1,270.75
Mini Excavator			0	\$ 35.63	\$ -	FOREMAN	22.0		\$ 82.26	\$ 123.39	\$ 1,809.72	\$ -	\$ 1,809.72
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	77.0		\$ 54.85	\$ 82.28	\$ 4,223.45	\$ -	\$ 4,223.45
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER	73.0		\$ 37.19	\$ 55.79	\$ 2,714.87	\$ -	\$ 2,714.87
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	2	11	22	\$ 83.13	\$ 1,828.86	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks	2	11	22	\$ 71.25	\$ 1,567.50	LABOR Subtotal:							\$10,018.79
Full Size Loader With Forks	2	11	22	\$ 99.75	\$ 2,194.50	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	3	11	33	\$ 74.50	\$ 2,458.50							\$ -	\$ -
Dump Truck (Includes Driver)	2	11	22	\$ 118.75	\$ 2,612.50							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8' X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -							\$ -	\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor	1	5	5	\$ 35.63	\$ 178.15							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves	2	1	2	\$ 1,187.50	\$ 2,375.00	Tax on Materials Only	6.50%						
Small Equipment Moves	5	1	5	\$ 475.00	\$ 2,375.00	Administrative fee on labor and Equip	10.00%						\$ 2,560.88
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Markup on Subs & Materials	15.00%						\$ -
Small Tap & Equipment Fee			0	\$ 437.50	\$ -								
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								
EQUIPMENT Subtotal:					\$15,590.01	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 2,560.88
NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.													

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager: John Paulsen

Owner Field Mgr./ Inspector:

\$28,169.68

Were Subcontractors Utilized?	YES	NO	Names of Subcontractors on Site:
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Contractor Notes:



Description of Work Performed: Fort Myers Beach Hurricane Milton Recovery
Clearing debris and sand off of Roadway, Sidewalks, along Estero Blvd.
and side streets on Fort Myers Beach after Hurricane Milton.

Date: Friday, October 11, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	11.0		\$ 110.50	\$ 165.75	\$ 1,215.50	\$ -	\$ 1,215.50
Mini Excavator	1	10	10	\$ 35.63	\$ 356.30	FOREMAN	19.0		\$ 82.26	\$ 123.39	\$ 1,562.94	\$ -	\$ 1,562.94
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	60.0		\$ 54.85	\$ 82.28	\$ 3,291.00	\$ -	\$ 3,291.00
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.54	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER	45.0		\$ 37.19	\$ 55.79	\$ 1,673.55	\$ -	\$ 1,673.55
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	2	10	20	\$ 83.13	\$ 1,662.60	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks	1	10	10	\$ 71.25	\$ 712.50	LABOR Subtotal:							\$7,742.99
Full Size Loader With Forks	1	10	10	\$ 99.75	\$ 997.50	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	2	9.5	19	\$ 47.50	\$ 902.50							\$ -	\$ -
Dump Truck (Includes Driver)	2	11	22	\$ 118.75	\$ 2,612.50							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -							\$ -	\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor	1	10	10	\$ 35.63	\$ 356.30							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -								\$ -
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only	6.50%						\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip	10.00%						\$ 1,534.32
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials	15.00%						\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								\$ -
EQUIPMENT Subtotal:					\$7,600.20	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,534.32

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager: John Paulsen
Owner Field Mgr./ Inspector:

\$16,877.51

Were Subcontractors Utilized?	YES	NO	Names of Subcontractors on Site:	
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Contractor Notes:

**Description of Work Performed:**

Fort Myers Beach Hurricane Milton Recovery

Clearing debris and sand off of Roadway, Sidewalks, along Estero Blvd. and side streets on Fort Myers Beach after Hurricane Milton, north of Time Square for Town of FMB.

Town of FMB

Date: Saturday, October 12, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT		10.5	\$ 110.50	\$ 165.75	\$ -	\$ 1,740.38	\$ 1,740.38
Mini Excavator			0	\$ 35.63	\$ -	FOREMAN			\$ 82.26	\$ 123.39	\$ -	\$ -	\$ -
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR		54.0	\$ 54.85	\$ 82.28	\$ -	\$ 4,443.12	\$ 4,443.12
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER		30.0	\$ 37.19	\$ 55.79	\$ -	\$ 1,673.70	\$ 1,673.70
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	2	9	18	\$ 83.13	\$ 1,496.34	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks	1	9	9	\$ 71.25	\$ 641.25	LABOR Subtotal:							\$7,857.20
Full Size Loader With Forks	2	9	18	\$ 99.75	\$ 1,795.50	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	2	9	18	\$ 47.50	\$ 855.00							\$ -	\$ -
Dump Truck (includes Driver)	4	9	36	\$ 118.75	\$ 4,275.00							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -							\$ -	\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor	1	9	9	\$ 35.63	\$ 320.67							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -	Tax on Materials Only	6.50%						\$ -
Small Equipment Moves			0	\$ 475.00	\$ -	Administrative fee on labor and Equip	10.00%						\$ 1,724.10
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Markup on Subs & Materials	15.00%						\$ -
Small Tap & Equipment Fee			0	\$ 437.50	\$ -								
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								
EQUIPMENT Subtotal:					\$9,383.76	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,724.10

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager:

John Paulsen

Owner Field Mgr./ Inspector:

\$18,965.05

Were Subcontractors Utilized?

YES

NO

Names of Subcontractors on Site:

Contractor Notes:



ANDREW SITEWORK, LLC
2511 PALM AVE
FORT MYERS, FL 33916

Invoice

Date	Invoice #
10/29/2024	2024-19E #3

Bill To
Fort Myers Beach 2523 Estero Blvd Fort Myers Beach, FL 33931

P.O. No.	Terms	Project
2024-19E #3		2024-19E - Hurricane Beac...

Quantity	Description	Rate	Amount
	HURRICANE MILTON RECOVERY EFFORTS - TOWN OF FORT MYERS BEACH October 14, 2024 to October 16, 2024		
	Monday, October 14, 2024	9,635.45	9,635.45
	Tuesday, October 15, 2024	11,533.07	11,533.07
	Wednesday, October 16, 2024	11,606.32	11,606.32
		Total	\$32,774.84

Signed by:
Ralph C. Andrew III
CE693518227740C...

10/29/2024



Description of Work Performed: Town of FMB Hurricane Milton Recovery (Clearing for First Responders)

ASW mobilized crews, superintendents, and equipment to the town of Fort Myers Beach to clear roads of debris and sand to provide access for first responders. Haul sand to designated stockpile yard.

Date: **Monday, October 14, 2024**

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	6.0		\$ 110.50	\$ 165.75	\$ 663.00	\$ -	\$ 663.00
Mini Excavator			0	\$ 35.63	\$ -	FOREMAN	10.0		\$ 82.26	\$ 123.39	\$ 822.60	\$ -	\$ 822.60
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	30.0		\$ 54.85	\$ 82.28	\$ 1,645.50	\$ -	\$ 1,645.50
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER	30.0		\$ 37.19	\$ 55.79	\$ 1,115.70	\$ -	\$ 1,115.70
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.54	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.57	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	2	10	20	\$ 83.13	\$ 1,662.60	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks			0	\$ 71.25	\$ -	LABOR Subtotal:							\$4,246.80
Full Size Loader With Forks			0	\$ 99.75	\$ -	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -								
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	1	10	10	\$ 47.50	\$ 475.00							\$ -	\$ -
Dump Truck (Includes Driver)	1	10	10	\$ 118.75	\$ 1,187.50							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -								
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor	1	10	10	\$ 35.63	\$ 356.30							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer	1	10	10	\$ 35.63	\$ 356.30	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -								
Small Equipment Moves	1	1	1	\$ 475.00	\$ 475.00	Tax on Materials Only		6.50%					\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip		10.00%					\$ 875.95
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials		15.00%					\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								
EQUIPMENT Subtotal:					\$4,512.70	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 875.95
NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.													

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager: John Paulsen
Owner Field Mgr./ Inspector: _____

\$9,635.45

Were Subcontractors Utilized?	YES	NO	Names of Subcontractors on Site:
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Contractor Notes:



Description of Work Performed: Town of FMB Hurricane Milton Recovery (Clearing for First Responders)

ASW's crew, superintendent, and equipment clearing roads of debris and sand to provide access for first responders and residents. Haul sand to designated stockpile yards via dump trucks.

Date: Tuesday, October 15, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	11.0		\$ 110.50	\$ 165.75	\$ 1,215.50	\$ -	\$ 1,215.50
Mini Excavator			0	\$ 35.63	\$ -	FOREMAN	11.0		\$ 82.26	\$ 123.39	\$ 904.86	\$ -	\$ 904.86
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	33.0		\$ 54.85	\$ 82.28	\$ 1,810.05	\$ -	\$ 1,810.05
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER	33.0		\$ 37.19	\$ 55.79	\$ 1,227.27	\$ -	\$ 1,227.27
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN	7.0		\$ 41.69	\$ 62.54	\$ 291.83	\$ -	\$ 291.83
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	1	10	10	\$ 83.13	\$ 831.30	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks			0	\$ 71.25	\$ -	LABOR Subtotal:							\$5,449.51
Full Size Loader With Forks	1	10	10	\$ 99.75	\$ 997.50	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -								
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	1	10	10	\$ 47.50	\$ 475.00							\$ -	\$ -
Dump Truck (Includes Driver)	2	10	20	\$ 118.75	\$ 2,375.00							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10' X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -								
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor	1	10	10	\$ 35.63	\$ 356.30							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -								
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only	6.50%						\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip	10.00%						\$ 1,048.46
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials	15.00%						\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								
EQUIPMENT Subtotal:					\$5,035.10	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,048.46
NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.													

ASW Field Manager: John Paulsen
Owner Field Mgr./ Inspector:

\$11,533.07

Were Subcontractors Utilized?	YES	NO	Names of Subcontractors on Site:
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Contractor Notes:



Description of Work Performed: Town of FMB Hurricane Milton Recovery (Clearing for First Responders)

ASW's reworking on town of Fort Myers Beach clearing roads of debris and sand to provide access for first responders and residents. Hauling sand to designated stockpile yard.

Date: Wednesday, October 16, 2024

DESCRIPTION OF EQUIPMENT USED	QTY	HOURS	EXTENDED HOURS	UNIT PRICE	EXTENDED PRICE	DESCRIPTION OF LABOR USED	Regular HOURS Under 40	Over Time Hrs Billed at 1.5 regular time	HOURLY RATE	OT HOURLY RATE	Regular time price	OT time price	EXTENDED PRICE
Small Trenching Machine			0	\$ 26.13	\$ -	SUPERINTENDENT	5.0		\$ 110.50	\$ 165.75	\$ 552.50	\$ -	\$ 552.50
Mini Excavator			0	\$ 35.63	\$ -	FOREMAN	10.0		\$ 82.26	\$ 123.39	\$ 822.60	\$ -	\$ 822.60
Mini Excavator With Hammer			0	\$ 78.38	\$ -	OPERATOR	40.0		\$ 54.85	\$ 82.28	\$ 2,194.00	\$ -	\$ 2,194.00
135 Excavator			0	\$ 90.25	\$ -	PIPE LAYER			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
200 Excavator			0	\$ 154.38	\$ -	LABORER	30.0		\$ 37.19	\$ 55.79	\$ 1,115.70	\$ -	\$ 1,115.70
180 Excavator			0	\$ 130.63	\$ -	LEAD MEN			\$ 41.69	\$ 62.53	\$ -	\$ -	\$ -
180 Excavator With Hammer			0	\$ 225.63	\$ -	MECHANIC W/ truck			\$ 102.38	\$ 153.56	\$ -	\$ -	\$ -
330 Excavator			0	\$ 201.88	\$ -	WELDER			\$ 162.50	\$ 243.75	\$ -	\$ -	\$ -
470 Excavator			0	\$ 427.50	\$ -	PROJECT MANAGER			\$ 110.50	\$ 165.75	\$ -	\$ -	\$ -
Skid Loader	2	10	20	\$ 83.13	\$ 1,662.60	GENERAL SUPERINTENDENT			\$ 183.75	\$ 275.63	\$ -	\$ -	\$ -
Mini Loader With Forks			0	\$ 71.25	\$ -	LABOR Subtotal:							\$4,684.80
Full Size Loader With Forks	1	10	10	\$ 99.75	\$ 997.50	DESCRIPTION OF MATERIALS USED				Qty	U/M	Unit Price	EXTENDED PRICE
Rubber Tire Backhoe			0	\$ 47.50	\$ -							\$ -	\$ -
Plate Compactor			0	\$ 23.75	\$ -							\$ -	\$ -
Roller			0	\$ 47.50	\$ -							\$ -	\$ -
Forman Truck With Tools	1	10	10	\$ 47.50	\$ 475.00							\$ -	\$ -
Dump Truck (Includes Driver)	2	10	20	\$ 118.75	\$ 2,375.00							\$ -	\$ -
6" Hydraulic Pump			0	\$ 59.38	\$ -							\$ -	\$ -
Diesel Generator (Billed at 8 Hr/day)			0	\$ 35.63	\$ -							\$ -	\$ -
Wellpoint Pump			0	\$ 83.13	\$ -							\$ -	\$ -
Wellpoint System			0	\$ 47.50	\$ -							\$ -	\$ -
Rock Box Large			0	\$ 11.88	\$ -							\$ -	\$ -
Rock Box Small			0	\$ 7.13	\$ -							\$ -	\$ -
8" X 20' Trenchbox			0	\$ 19.00	\$ -							\$ -	\$ -
10" X 20' Manhole Box			0	\$ 18.13	\$ -							\$ -	\$ -
6' X 24' Trench Box			0	\$ 28.50	\$ -	MATERIALS Subtotal:							\$ -
Road Plates			0	\$ 11.88	\$ -	DESCRIPTION OF Sub Contractor Tasks				Qty	U/M	Unit Price	EXTENDED PRICE
Water Truck			0	\$ 62.50	\$ -							\$ -	\$ -
Boat/Barge (8 Hr. Min)			0	\$ 156.25	\$ -							\$ -	\$ -
Broom Tractor	1	10	10	\$ 35.63	\$ 356.30							\$ -	\$ -
Concrete Mixer			0	\$ 31.88	\$ -							\$ -	\$ -
Equipment Trailer			0	\$ 35.63	\$ -	Subcontractor Subtotal:							\$ -
Large Equipment Moves			0	\$ 1,187.50	\$ -							\$ -	\$ -
Small Equipment Moves			0	\$ 475.00	\$ -	Tax on Materials Only	6.50%						\$ -
Small Dewatering / Test Pump			0	\$ 23.75	\$ -	Administrative fee on labor and Equip	10.00%						\$ 1,055.12
Small Tap & Equipment Fee			0	\$ 437.50	\$ -	Markup on Subs & Materials	15.00%						\$ -
4" to 8" Tap & Equipment Fee			0	\$ 812.50	\$ -								\$ -
EQUIPMENT Subtotal:					\$5,866.40	Total of Materials, Subcontractors, Taxes & Allowable Markup and Admin fee:							\$ 1,055.12

NOTE: The labor rates above represent a 40 hour work week. Time over 40 hours will be billed at rate of 1.5 times the hourly rate shown.

ASW Field Manager: John Paulsen
Owner Field Mgr./ Inspector:

\$11,606.32

Were Subcontractors Utilized?	YES	NO	Names of Subcontractors on Site:
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Contractor Notes: