



Fort Myers Beach Town Council

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Agenda

Monday, May 2, 2022

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 AND REPORTS**
- VIII. PROCLAMATIONS**
 - A. Safe Boating Week
The U.S.Coast Guard Auxiliary respectfully requests May 21- May 27, 2022 be designated as "Safe Boating Week" in the Town of Fort Myers Beach
- IX. APPROVAL OF MINUTES**
 - A. April 18, 2022 Town Council
- X. PUBLIC HEARINGS**
 - A. Ordinance 22-10 Restructuring Advisory Committees
1st Reading and Public Hearing on proposed Ordinance 22-10 entitled: **AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES", CHAPTER 2 OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, DISSOLVING THE BAY OAKS RECREATIONAL CAMPUS ADVISORY BOARD ("BORCAB"), COMMUNITY RESOURCE ADVISORY BOARD ("CRAB"), AND CULTURAL AND ENVIRONMENTAL LEARNING CENTER**

ADVISORY BOARD ("CELCAB"); ESTABLISHING A NEW ADVISORY BOARD TO TAKE OVER THE FUNCTIONS OF BORCAB, CRAB, AND CELCAB; RENAMING THE MARINE RESOURCE TASK FORCE ("MRTF"); AND PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER'S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on May 16, 2022 at 9:00 AM

B. Ordinance 22-06; Tuckaway Cafe CPD Amendment

Second Reading and Public Hearing for proposed Ordinance 22-06: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 12-07, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

C. VAR20220021 -- 292 Ohio Ave. -- Pool Setback

Approve/Approve with Conditions/Deny VAR20220021. Jesse Hallman, owner of the property at 292 Ohio Ave., is seeking a 5-foot variance from LDC Sec.34-1174(d)(1)(d), to allow an in-ground pool closer to a side-yard property line than allowed for under current LDC requirements.

XI. ADMINISTRATIVE AGENDA

A. Mulholland Stewardship Award

Select the recipient of the 2022 Mayor John Mulholland Stewardship Award. The MRTF, at their April 13, 2022 meeting, recommended Cindy Johnson for the 2022 Mulholland award by a vote of 5-0 with one member recused. If awarded, the recipient will be recognized at the June 6th Town Council meeting.

B. Purchase of AC unit for Bay Oaks Recreation Center

Authorize the award of a contract to Page Mechanical Group, LLC to install a new AC unit for Bay Oaks Recreation Center, as the low, responsive and responsible bidder, in response to ITB-22-13-PR "Air Conditioner Replacement at Bay Oaks Recreational Campus" in the amount of \$43,900.00; authorizing the Town Manager to execute the contract documents and expend FY22 budgeted Capital funds on behalf of the Town, and to waive the DBE participation form which is not required for this project.

C. Resolution 22-18; FDOT Maintenance Agreement

Adopt Resolution 22-18; Approving a Maintenance Agreement with

FDOT for dinghy dock and features within the leased area under the Matanzas Pass Bridge and allowing for all associated documents to be executed by the Town Mayor and/or Town Manager or his designee.

D. Special Event - Hands Across the Sand

Sierra Club is requesting permission to hold an event in Times Square and on the Beach - Hands Across the Sand. Requesting waiver of the permit fee.

E. Ordinance 21-03: Sea Turtle Conservation

Review the Marine Resources Task Force (MRTF) recommendations and discuss modifying:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED “SEA TURTLE CONSERVATION” ESTABLISHING AN IMPLEMENTATION SCHEDULE FOR THE FIFTEEN PERCENT (15%) TINTED GLASS LIGHT TRANSMITTANCE VALUE; PROVIDING FOR CODIFICATION; CONFLICTS OF LAW; SCRIVENER’S ERRORS; SEVERABILITY; AND AN EFFECTIVE DATE.

XII. FINAL PUBLIC COMMENT

XIII. TOWN MANAGER’S ITEMS

XIV. TOWN ATTORNEY’S ITEMS

XV. COUNCILMEMBERS ITEMS AND REPORTS

XVI. ADJOURNMENT

NOTE: THIS MEETING IS TELEVISED LIVE ON COMCAST CHANNEL 98.

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

	For special accommodations, please notify the Town Clerk’s Office at least 72 hours in advance. (239) 765-0202		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk’s Office.
---	--	---	--

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

1. **Requested Motion:**

Meeting Date: May 2, 2022

The U.S.Coast Guard Auxiliary respectfully requests May 21- May 27, 2022 be designated as "Safe Boating Week" in the Town of Fort Myers Beach

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

PROCLAMATIONS

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Recreational boating is fun and enjoyable, and we are fortunate that we have sufficient resources to accommodate the wide variety of pleasure boating demands. However, our waterways can become crowded at times and be a place of chaos and confusion. While being a marvelous source of recreation, boating to the unprepared, can be a risky sport. Not knowing or obeying the Navigation Rules or the nautical " Rules of the Road," drinking alcohol or taking drugs while operating a boat, or choosing not to wear your life jacket, are all examples of human error or a lack of proper judgement. One particular behavior that can reduce the number of boaters who lose their by drowning each year by approximately 80% is the wearing of a life jacket. It is a simple task that has the potential to reduce terrible loss of lives. Knowledge and skills are important in reducing human error and improving judgement. If people are aware of the risk, they are more likely to take the precautionary measures to protect themselves, their friends , and family. Therefore, we must continue to spread the messages of boating safety not only during National Safe Boating Week but throughout the entire year.

Attachments:

1. Safe Boating Week 2022

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Yadzia Roa, Deputy Town Clerk/Contracts Manager
Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/26/2022
Approved - 4/26/2022
Approved - 4/27/2022
Approved - 4/27/2022
Final Approval - 4/27/2022

Town of Fort Myers Beach PROCLAMATION

WHEREAS, The Town of Ft. Myers Beach, in Lee County, Florida, with its unique weather and water resources, offers special water-related recreational activities to its residents, and people from around the world; and

WHEREAS, this area's miles of saltwater tidal coastline, rivers, bays and canals provide many of the needed outlets for recreation and relaxation; and

WHEREAS, recreational boating is one of Florida's leading outdoor activities with more than 44,000 registered boats in Lee county alone, distinguishing Florida as the "Boating Capital of the World"; and

WHEREAS, every year lives are lost in boating accidents in spite of the educational efforts of the U.S. Coast Guard, the U.S. Coast Guard Auxiliary, the U.S. Power Squadrons, the Florida Fish and Wildlife Commission, and local agencies; and

WHEREAS, federal state and local agencies and private companies and groups have combined their efforts to reduce boating accidents by developing and executing safety training programs, such as, "Boat Smart – Boat Safe", and "You're in Command"; and

WHEREAS, the sponsors of these programs have focused their efforts toward youth and general public of Ft. Myers Beach, Florida, urging them to enhance boating pleasure and avoid possible loss of life, while reducing the loss of property, and marine accidents; and

WHEREAS on average, 700 people die each year in boating-related accidents in the U.S.; where cause of death was known, 75% of fatal boating accident victims drowned. Of those drowning victims with reported life jacket usage, 86% were not wearing a life jacket.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Fort Myers Beach, Florida, does hereby designate May 21 - May 27, 2022 as

SAFE BOATING WEEK

and urges all citizens to join in learning and practicing safe boating by wearing a life jacket, taking boating education courses, getting a vessel safety check, operating their vessels responsibly, safely, soberly, and obeying Coast Guard regulations established after September 11th related to Homeland Security.

IN TESTIMONY WHEREOF, the Mayor and Council of the Town of Ft. Myers Beach, have hereunto subscribed their names and have caused the official Seal of the Town of Fort Myers Beach to be hereunto affixed on the 2nd Day in May, 2022

Ray Murphy, Mayor



Fort Myers Beach Town Council

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Minutes

Monday, April 18, 2022

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Mayor Murphy questioned pulling Ordinance 22-09 from the agenda and rewriting it since TPI decided not to self-perform. Town Attorney Herin, Jr. suggested that the ordinance be redone and workshopped before funneling it through the LPA (Local Planning Agency) and MRTF (Marine Resources Task Force) for their review. The ordinance would then be brought back to Council for a first and second public hearing. Council Member Veach supported leaving it on the agenda for discussion and deciding whether the ordinance needed a rewrite or just a modification.

Vice Mayor Hosafros moved to approve the final agenda and delete Ordinance 22-09 from the agenda; second by Mayor Murphy.

Council Members Veach and Allers disagreed and wanted to keep it on the agenda for discussion and continue it to a later date. Town Attorney Herin, Jr. cautioned that if there were significant changes to the scope of Ordinance 22-09, the process would have to start from scratch.

Motion failed, 3-2, with Council Members Allers, Atterholt and Veach dissenting.

Council Member Veach moved to approve the final agenda; second by Council Member Atterholt.

Motion carried unanimously.

Council Member Allers stated he would submit form 8B to the Town Clerk to abstain from Public Hearings Item A: Ordinance 22-06 Tuckaway Café CPD Amendment.

V. PUBLIC COMMENT

Richard Sabina, resident, commented on the beach renourishment plan and indicated he did not want to relinquish control of their beach. He felt they would lose control if the FDEP (Florida Department of Environmental Protection) classified their beach as critically eroded. He stated that the area between R-200 and R-203 was an accreting beach and did not need additional sand. He discussed why he did not support creating dunes with plants.

Dave Nusbaum, resident and President of Island Winds Condominium discussed the cost and availability of the new tinted windows. He noted that MRTF recommended a one-year moratorium, but it was an unreasonable timeframe, and he requested a minimum five-year moratorium. Mr. Nusbaum stated that Environmental Project Manager Chadd Chustz spoke at a condominium association meeting and indicated that condominiums could opt out of beach renourishment and dune plantings. Project Manager Chustz added that the associations would have to approach the Town Council regarding written approval. Glen Harris with Alair Homes, builder of the home on Randy Lane, requested that proposed Ordinance 22-05 be delayed for further discussion. He displayed an illustration of a 7,500 footprint and discussed how the proposed ordinance would have affected the Randy Lane home. He commented that he had four clients who had or would be affected by the proposed ordinance.

Mike Miller, resident, commented that they purchased a vacant lot next to their home to expand their house. He discussed how the setback changes and limited footprint ordinance cost him money. He requested that they vote no on the ordinance.

Bruce Butcher, resident, represented the Laguna Shores homeowner association. He presented a petition with over 50% of homeowners' signatures agreeing to pay 50% of the dredging costs.

Attorney Beverly Grady requested a workshop for beach vendors and those proposed ordinances be ready for distribution earlier.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Hosafros thanked the Beach Ministerial Association for their efforts in coordinating the Easter sunrise service.

Council Member Allers thanked Cultural, Parks & Recreation Director Alison Giesen and staff for hosting an Easter egg hunt at Bay Oaks on Saturday. Mayor Murphy thanked Council Member Allers for dressing up as a easter bunny at the Bay Oaks Easter egg hunt.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

MRTF Chair Steve Johnson reported on recommendations from their recent meeting including providing additional staff to enforce compliance with the sea turtle lighting ordinance, placing a one-year moratorium on the 15% window tint requirement and temporarily allowing the 45% tint with the caveat that the town will enforce the sea turtle ordinance. MRTF objected to the use of broadcast herbicides in the EC (Environmentally Critical) zone; however, FWC (Fish & Wildlife Conservation) will broadcast Imazapyr on Carlos Beach. MRTF questioned whether signs would be installed warning beachgoers about the use of the herbicide. Council Member Veach expanded on the use of Imazapyr.

VIII. APPROVAL OF MINUTES

- A. April 4, 2022 Town Council
Vice Mayor Hosafros moved to approve the minutes; second by Council Member Allers.
Motion carried unanimously.
- B. April 7, 2022 Management & Planning
Vice Mayor Hosafros moved to approve the minutes; second by Council Member Allers.
Motion carried unanimously.

IX. PRESENTATIONS

- A. Presentation: Marcus Goodson, Executive Director, Lee County Housing Authority
Mr. Goodson reviewed his background and experience in Fort Myers and Puerto Rico. He discussed the lack of affordable housing in Lee County. He noted that a housing unit was considered affordable if gross rent plus utilities cost no more than 30% of household income. He continued presenting statistics and reported that rent prices increased by 30% in the last year, while the average increase was typically between 2-3%. He noted that HUD (Department of Housing and Urban Development) did not distinguish between affordable and workforce housing. Mr. Goodson described available funds from Lee County and tax credits. He applauded the Town Council for having the conversation and stated he would help move the project forward. Vice Mayor Hosafros expressed her disappointment with Lee County for backing out of a deal to construct an affordable housing complex. She described another situation where Lee County made it difficult to build affordable housing by charging high permitting fees to a non-profit organization. She suggested that Lee County lower the fees or eliminate them for non-profits. She felt the lack of affordable housing was one of the biggest problems the county and the town faced. Mr. Goodson explained that in the instance, the developer decided to default and paid to return the money to Lee County. Those funds were used to finance an affordable housing project in Cape Coral.

B. Discussion of Roadway Safety Lighting

Town Lighting Engineers and Florida Power & Light will be available for questions.

Town Manager Hernstadt commented that responses to questions posed by Town Council Members to FP&L (Florida Power & Light) and the lighting consultants were distributed via email. He indicated that Lee County did not commit to lighting Estero Blvd. and offered to consider turning funds over to the town.

Council Member Atterholt noted that if FP&L approved the Visionnaire light, it would cost the town approximately \$1,482,000.00 under the tariff program.

Since Lee County pledged \$1,400,000.00 for lighting Estero Blvd., it would offset costs for the town.

Joe Hancock from Town Lighting stated the tariff was state-funded and was not an incentive program to upgrade lights. He explained the tariff program and said that costs were fully contained and not subsidized. He noted the initial cost for Estero Blvd. would be \$1.8 million.

Vice Mayor Hosafros suggested they focus on lighting Estero Blvd. and work it into next year's budget. Council Member Allers disagreed and stated they had to look at lighting the entire island.

Suzanne Lansford from Town Lighting provided lighting costs. Zachary Jarrell from FP&L explained the town's current bill. He stated the Visionnaire fixture was being tested and if it passed, it could be added to the FP&L catalog by October. The estimate for the fixtures was \$25.00 per month. He indicated that FP&L did not own stock or manufacture fixtures. Mr. Hancock stated that the FDOT (Florida Department of Transportation) approved the Visionnaire fixture, and it was already in use.

Eric Culling from FP&L discussed the cost as reflected in the Visionnaire chart. Additional hardened in-line distribution poles would be a one-time upfront cost to the town, but poles dedicated to lighting would result in a monthly charge. The town would not pay the upfront capital for installing and purchasing the poles. He added there might be opportunities to avoid in-line distribution poles, but there was limited room in the right-of-way.

Council Member Veach indicated the estimated total monthly cost would increase from \$4,600.00 to \$9,500.00 for Estero Blvd. Including the side streets would increase the bill to \$24,000.00 per month. Council Member Allers clarified that the Visionnaire fixture would cost approximately \$1.5 million for Estero Blvd.

Eric Culling noted that if FP&L approved the Visionnaire fixtures in October, it would take 8-12 weeks to receive the fixtures, not 9 months. Council Member Allers questioned how the town would pay for the lights. Town Manager Hernstadt stated the money was not budgeted for the project and the Town Council would have to determine whether to consider a future tax increase.

X. CONSENT AGENDA

Vice Mayor Hosafros moved to approve the consent agenda; second by Council Member Veach.

Motion carried unanimously.

- A. Resolution 22-13; Interlocal Agreement with Lee County regarding Hazardous Waste Enforcement

Adopt Resolution 22-13 approving an Interlocal Agreement with Lee County for Hazardous Waste Enforcement and authorizing the Town Manager to execute the ILA and expend budgeted funds on behalf of the Town.

Vice Mayor Hosafros moved to adopt the resolution; second by Council Member Veach.

Motion carried unanimously.

XI. PUBLIC HEARINGS

- A. Ordinance 22-06; Tuckaway Cafe CPD Amendment

First Reading and Public Hearing for proposed Ordinance 22-06: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 12-07, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on May 2, 2022 at 9:00 AM

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. swore in those providing testimony. He stated the public hearing was properly advertised. Ex parte communications: All Council Members (except Council Member Allers) disclosed a site visit or familiarity with the site.

Community Development Planner Sarah Propst reviewed the request to allow beer brewing for consumption on-premises. She utilized PowerPoint to display slides, including Application/Request Information; Background Information; Request Information; Findings and Conclusions; Conditions and Deviations and Staff Recommendation. Staff recommended approval with conditions.

Vice Mayor Hosafros questioned whether the establishment's name should be changed in the ordinance to reflect the current name. Town Attorney Herin, Jr. replied that the correct name could be added. Vice Mayor Hosafros noted the number of conditions should be changed for clarity.

Tre Gillet, applicant, explained why he wanted to add a small brewing operation to his restaurant.

No public comment.

Council Member Veach moved to schedule for second reading and final adoption of Ordinance 22-06 to May 2, 2022, at 9:00 a.m.; second by Council Member Atterholt.

Motion carried unanimously.

B. Ordinance 22-05; Building Footprint Limits

Second Reading and Public Hearing for proposed Ordinance 22-05: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING ARTICLE III., DIVISION 3, SECTIONS 34-638 “MINIMUM SETBACKS”, TABLE 34-3 “DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS”, AND TABLE 34-1 “LAND USES ASSIGNED TO USE GROUPS AND SUB-GROUPS” OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING FOR CODIFICATION, CONFLICTS, SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. stated the hearing was properly advertised.

Planner Propst utilized PowerPoint for her presentation. Slides included: Several Approaches were Evaluated; Proposed Solution; Since the LPA Meeting and Questions & Answers about the Proposed Change.

Council Member Atterholt questioned whether they could extend the effective date to protect property owners with pending projects. Planner Propst agreed it was a good idea. Town Attorney Herin, Jr. stated that Town Council could decide whenever the ordinance took effect.

Council Member Allers questioned how to determine the point of no return before property owners had to comply with the ordinance. Glen Harris, developer, explained that a client could spend thousands on architectural and engineering designs before submitting plans to the town. He indicated it could take a minimum of 8-12 weeks between designs and submitting an application for a permit. He stated that one design currently in the permitting process would be affected by the change. Council Member Atterholt questioned whether extending the effective date to six months after passage would address Mr. Harris's concerns. Mr. Harris replied affirmatively.

Town Attorney Herin, Jr. explained that a 60 to 90-day effective date after passage was typical. He stated that an application would have to be submitted within the 90-day period to be considered in the pipeline.

Applications submitted after the effective date were subject to the new regulations.

Public comment:

Carolyn Caney from Woodland Custom Homes commented that the 90-day extension after applying for a permit was no use to anyone.

Mike Miller, resident, commented that he did not have a complete set of blueprints yet to submit an application, although he had already spent thousands of dollars. He needed more time to complete the blueprints. He felt that a six-month extension would probably work for his team.

Town Attorney Herin, Jr. explained that extending the effective date to six months would allow more people to apply before being subject to the new regulations.

Nate Johnson of Potter Homes requested that the effective date be extended to six months.

Public comment closed.

Council Member Veach discussed why the ordinance was contemplated in the first place. He felt that six months was excessive and would consider a two to a three-month extension.

Town Manager Hernstadt requested a short break to discuss a possible solution. The request was granted.

Town Manager Hernstadt suggested that after a sketch was submitted, staff could calculate whether the intention was to exceed 7,500 feet. If the final plans reflected the survey, the application could move forward. Town Attorney Herin, Jr. suggested 30 days to submit the drawing and 60 days to submit and obtain a building permit. Vice Mayor Hosafros agreed with the compromise as proposed with the addition by Town Attorney Herin, Jr.

Council Member Allers suggested requiring the drawing to be submitted within 30 days and allowing property owners six months to submit their application for a permit. Director Green explained the application timeline and indicated a back-end deadline was difficult, especially with incomplete applications. Council Member Allers stated that if property owners submitted a sketch in the next 30 days, they would not have enough time to submit an application for a permit within six months anyway.

Vice Mayor Hosafros stated they were only limiting people to 7,500 square feet, which was almost 14,000 square feet of livable space. She discussed the adverse effects of building huge houses in neighborhoods. She supported the compromise proposed by Town Attorney Herin, Jr. Council Member Atterholt felt that only a few properties would qualify and six months was fair.

Director Green clarified that property owners should have done a substantial design by the time the sketch was submitted. If anything changed from the drawing, the application would be denied. He stated that most of the applications were returned because they were not complete, which delayed the process.

Mayor Murphy thought they could compromise between 90 days and 6 months.

Council Member Allers moved to approve, as amended, Ordinance 22-05 with a six-month time frame. 30 days to get the initial drawing as described to the town and the six-month timeframe to obtain a permit; second by Council Member Atterholt.

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

Lunch break.

C. Ordinance 22-09; PWVL/PAL's

Second Reading and Public Hearing for Proposed Ordinance 22-09 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 27 "PERSONAL WATERCRAFT AND PARASAILING", SECTION 27-45 "DEFINITIONS"; SECTION 27-49 "REGULATIONS AND LOCATIONS FOR PERSONAL WATERCRAFT RENTALS"; SECTION 27-52 "PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE APPLICATIONS AND REGULATORY FEES"; SECTION 27-53 "PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE RENEWALS"; SECTION 27-55 "TRANSFERABILITY OF PWVL AND PAL LICENSES" OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DEFINITIONS; AMENDING OPERATIONAL REQUIREMENTS AND LICENSE RENEWAL REQUIREMENTS; PROVIDING A LIMITED EXEMPTION TO THE CAP ON THE NUMBER OF ANNUAL LICENSES; PROVIDING THAT PERSONAL WATERCRAFT VENDOR LICENSES AND PARASAILING ACTIVITY LICENSE THAT ARE NOT ANNUALLY RENEWED OR ARE INACTIVE FOR ONE-YEAR OR MORE SHALL REVERT BACK TO THE TOWN; ESTABLISHING NEW REQUIREMENTS FOR THE SALE AND TRANSFER OF PWVL AND PAL LICENSES; PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER'S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. stated the hearing was properly advertised. He reviewed the changes and noted they were double-underlined.

Council Member Veach remarked that Tom Torgerson decided not to move forward with a jet ski or parasailing business on his property. He referred to 3 & 4 on page 20 and recommended that licenses expire every three to five years and vendors reapply based on a point system. Operators with violations would be penalized and risk losing their licenses.

Council Member Allers felt that the ordinance should clarify that even though the town did not own the businesses, they did own the licenses. He provided a document for Council Members with highlighted sections to discuss. He felt that the town should require boat inspections by the Coast Guard. He read section 27-49 regarding direct access and land-based sites. Council Veach was not sure that a land-based site was necessary, but Vice Mayor Hosafros commented that a land-based site was needed for service of process if someone wanted to sue.

Council Member Allers brought up the lack of enforcement by the town. He felt the town, vendors and landowners needed to provide input before redoing the ordinance. He questioned why they needed a cap on the number of permits if vendors were already meeting the safety requirements. He added that the safety factor was more important to him than the numbers. Mayor Murphy disagreed and remarked that vendors were out of control before the cap. Council Member Allers clarified that he meant the number did not seem as important as the operator itself.

Council Member Veach stated many non-conforming sites were grandfathered. He suggested they change the rules so the grandfathered locations could adapt. He indicated there were two vendors ten feet away from each other. He brought up adding language regarding jet ski tours. Mayor Murphy recommended continuing the discussion with more input before reworking the ordinance. He agreed with conducting workshops. Town Attorney Herin, Jr. stated they could eliminate Ordinance 22-09 and start from scratch or amend the ordinance. In the meantime, the existing regulations would continue to be in effect.

Public comment:

Attorney Beverly Grady represented Mid-Island Water Sports. She noted there were unintended consequences in the draft ordinance and disagreed with the definition of a land-based site. She brought up other issues that concerned the vendors.

Chris Weber, of Mid-Island Water Sports, stated that insurance companies inspect his operation once a year.

Tracey Gore, resident, stated that a promise was never made to TPI that they could self-perform. She read condition 9 of the TPI CPD. She felt adding additional language was unnecessary.

Public comment closed.

Town Attorney Herin, Jr. stated he would research what other municipalities were doing and make the town's draft ordinance easier to understand and follow. Town Manager Hernstadt suggested that specific policy decisions be made before drafting another ordinance.

Vice Mayor Hosafros moved that they overrule proposed Ordinance 22-09 and start over; second by Mayor Murphy.

Motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. New Beach Access Naming

The naming of the new beach access, which could replace Canal St., was provided by TPI Hospitality as a condition of development approval.

Mayor Murphy suggested that they name the road that circled the Mound House after Ann and Dan Hughes. He suggested a contest to name the new beach access. Vice Mayor Hosafros stated that it made sense to name it after the street like the rest of the beach accesses. Mayor Murphy commented that Council Members could think about the issue.

B. Preliminary Audit Review

Review of Preliminary Audited Financials

Wade Sansbury from Mauldin & Jenkins commented that Council Members had a draft of the financial statements. The audit showed an increase in the overall net position of about \$6.3 million from the governmental activities and about \$2.6 million from the business activities. The general fund would end the year with just about \$7 million in total fund balance. He noted the building

fund erased its deficit balance from the prior year and the beach access fund reduced its deficit from the preceding year. He added that the beach access fund showed an unavailable revenue of about \$200,000 because of when revenues were received. Mr. Sansbury stated the overall fund balance was closer to a zero fund balance, which was reasonable.

The water fund had about \$6.1 million in total revenue and the stormwater had approximately \$1.1 million. Both had a positive operating income, with the water fund at about \$2.2 million and the stormwater fund at about \$632,000.00.

The cash flow statement had positive operating cash flows from the water fund of about \$2.2 million and approximately \$662,000.00 from the stormwater fund. Mr. Sansbury stated that overall the fund performance was good for the year. He indicated they were trying to wrap up the audit and were waiting for information from a third-party consultant regarding a possible duplicate draw from the State Revolving Fund.

Mr. Sansbury remarked that it looked like a couple of the same findings would be repeated from last year. He did not think it was a reflection of the current staff but a reflection of the current system.

Mayor Murphy indicated they needed people with a finance background to join the Audit Committee.

C. Resolution 22-16; Exposhow, Inc. Agreement

Adopt Resolution 22-16, Approving a piggyback contract between the Town and Exposhow, Inc. to provide fireworks for the 4th of July and New Years Eve, in an amount not to exceed \$60,000, utilizing the City of Marco Island's fireworks contract #2022-007, authorizing the Town Manager to execute the Agreement, expend budgeted funds, and take all appropriate actions to conduct the fireworks displays, and providing for an effective date.

Vice Mayor Hosafros moved to adopt Resolution 22-16; second by Council Member Veach.

Vice Mayor Hosafros noted the cost went up because the town no longer had the same provider. She mentioned informing the Chamber of Commerce.

Town Manager Hernstadt remarked that he had a pending meeting with Chamber Director

Motion carried unanimously.

D. Approval of Bridge closure for 4th of July parade and fireworks.

Approve closing of Matanzas Pass Bridge on July 4, 2022, from 9:30am to 11:30am for the parade, and from 9pm to 11:30pm for traffic coming on the island.

Council Member Veach moved to approve the bridge closures; second by Vice Mayor Hosafros.

Motion carried unanimously.

E. Resolution 22-15, Updating Joint Local Mitigation Strategy

Adopt Resolution 22-15, Updating the Town's Joint Local Mitigation Strategy.

Vice Mayor Hosafros moved to adopt Resolution 22-15; second by Council Member Veach.

Motion carried unanimously.

F. STA#12: Times Square LAP Project Administration

Approve Supplemental Task Authorization #12 with DRMP, Inc. for engineering services in the not to exceed amount of \$78,200 and approve the one-year renewal for DRMP and authorize the Town Manager to execute the contract documents.

Council Member Veach moved to approve the supplemental task authorization; second by Vice Mayor Hosafros.

Motion carried unanimously.

G. Potable Water - South Tank Repairs

Authorize the Town Manager to spend an additional \$131,896.00 for the emergency repairs to the South Potable Water storage tank.

Vice Mayor Hosafros moved to authorize; second by Mayor Murphy.

Town Manager Hernstadt explained that the tank had to be recoated on the inside and it was discovered that the outside of the tank also had issues.

Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated he would bring back an assessment of \$3,000.00 for the Laguna Shores residents' dredging project and a resolution to authorize the contractor's dredging contract.

Town Manager Hernstadt indicated staff had checked with a window company regarding the tinted windows and was told that the price was comparable to regular windows. He discussed the additional work that would be created by allowing a phasing-in period for installation. Council Member Atterholt discussed the dark tint of the windows. He suggested that individual violators be punished instead of everyone who lived on the beach.

XV. TOWN ATTORNEY'S ITEMS

A. Code Violations / Liens

Vice Mayor Hosafros moved to authorize the Town Attorney to enforce code violations and liens as shown in Attachment A, through court actions to include - but not be limited to - foreclosure, injunctive relief, monetary judgment and attorney fees, if possible; second by Council Member Veach. Motion carried unanimously.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers commented that the lighting consultants seemed underprepared and felt that continuing to pay them was a waste of money. Mayor Murphy agreed. Town Manager Hernstadt stated that they could stop engaging with the consultants at any time.

Council Member Veach read a letter provided by Allie McCue from the FWC. She requested that the town approve the use of Imazapyr in the bird nesting area.

Council Member Veach recommended approval. Consensus was reached to approve the use.

No items from other members.

XVII. ADJOURNMENT

Vice Mayor Hosafros moved to adjourn; second by Mayor Murphy.
Motion carried unanimously.

The meeting was adjourned at 2:26 p.m.

1. Requested Motion:

Meeting Date: May 2, 2022

1st Reading and Public Hearing on proposed Ordinance 22-10 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES", CHAPTER 2 OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, DISSOLVING THE BAY OAKS RECREATIONAL CAMPUS ADVISORY BOARD ("BORCAB"), COMMUNITY RESOURCE ADVISORY BOARD ("CRAB"), AND CULTURAL AND ENVIRONMENTAL LEARNING CENTER ADVISORY BOARD ("CELCAB"); ESTABLISHING A NEW ADVISORY BOARD TO TAKE OVER THE FUNCTIONS OF BORCAB, CRAB, AND CELCAB; RENAMING THE MARINE RESOURCE TASK FORCE ("MRTF"); AND PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER'S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on May 16, 2022 at 9:00 AM

Why the action is necessary:

Implements Town Council directive to update the Town's advisory boards

What the action accomplishes:

Implementation of Town Council directive

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

4. Submitter of Information:

5. Background:

At the request of the Town Council, draft Ordinance 22-10 dissolves BORCAB, CRAB & CELCAB;; Establishes a replacement advisory board and renames the Marine Resources Task Force.

Attachments:

1. 22-10, Ordinance 22-10 Amending Article IV of Chapter 2 of the Town Code re Advisory Boards(133561718.1)-C

Financial Impact:

6. Alternative Action

7. Management Recommendations:

Approve on first reading

8. Recommended Approval:

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/21/2022
Approved - 4/28/2022
Approved - 4/28/2022
Final Approval - 4/28/2022

ORDINANCE NO. 22-10

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 2-94 “QUALIFICATIONS AND APPOINTMENTS OF MEMBERS” OF ARTICLE IV “BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES”, CHAPTER 2 OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, DISSOLVING THE BAY OAKS RECREATIONAL CAMPUS ADVISORY BOARD (“BORCAB”), COMMUNITY RESOURCE ADVISORY BOARD (“CRAB”), AND CULTURAL AND ENVIRONMENTAL LEARNING CENTER ADVISORY BOARD (“CELCAB”); ESTABLISHING A NEW ADVISORY BOARD TO TAKE OVER THE FUNCTIONS OF BORCAB, CRAB, AND CELCAB; RENAMING THE MARINE RESOURCE TASK FORCE (“MRTF”); AND PROVIDING FOR CODIFICATION; CONFLICTS; 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 (“Town”) empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town finds that consolidating the functions of BORCAB, CRAB, and CELCAB and sunseting BORCAB, CRAB, and CELCAB will streamline the advisory board functions and reporting requirements of the Town’s advisory boards and facilitate the recruitment and appointment of volunteers to serve as members of the Town’s advisory boards; and

WHEREAS, the Town finds that re-naming MRTF will better reflect the function and responsibilities of MRTF; and

WHEREAS, the Town finds that it is in the best interests of the health, safety, and welfare of the Town’s residents and visitors to consolidate, rename, and sunset BORCAB, CRAB, CELCAB, and MRTF as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:¹

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.

^{1/} Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as strikethrough.

Section 2. Article III, of Chapter 28 of the Code of Ordinance, Town of Fort Myers Beach is hereby amended to read as follows:

CHAPTER 2 – ADMINISTRATION

ARTICLE IV. – BOARDS, COMMISSIONS, COMMITTEES, AND OTHER AGENCIES

Sec. 2-94. –Qualifications and appointments of members.

In addition to qualifications, which may be specified for membership by state statutes, Charter, ordinance, or resolution, a person appointed to an agency, board, committee, or commission shall give preference to a registered voter within the town's jurisdiction or a property owner within the town's jurisdiction. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the subject matter. ~~In the event that~~ If any member is no longer a qualified elector, or is convicted of a felony, an offense involving moral turpitude while in office, or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee, or commission.

- (1) *Anchorage advisory committee.* The anchorage advisory committee shall advise the town council concerning all matters relevant to the management and use of the waters of the town for mooring and anchoring. The anchorage advisory committee shall prepare and submit the Matanzas Harbor Management Plan and any amendments thereto for review and approval by the town council and make recommendations for the establishment of managed municipal anchorages and mooring fields where warranted by objective evidence of environmental damage or user conflicts; or any other topics as assigned by the town council.
- (2) *Audit committee.* All members of the audit committee shall be town residents who do not have any direct financial or business interests involving the town. The town council may waive the residency requirements by majority vote if there are an insufficient number of applicants who reside in the town. All members should, through education and experience, possess a basic understanding of governmental

(3) _____ . The _____ shall advise the town council concerning all matters relevant to the operation of the Bay Oaks Recreational Campus, the Mound House, Newton Beach through stewardship, advocacy, and oversight according to best practices of museums and the requirement as stated in the Florida Communities Trust Agreements for each property; the implementation of the town as a “living park” as defined in the comprehensive plan; and make recommendations to the town council on acquisition and management of public areas.

(4) *Community resource advisory board.* The broad objectives of CRAB are to further the welfare of the citizens of the town in the implementation of our community as a "living park" as defined in the comprehensive plan and make recommendations to the town council on acquisition and management of public areas including, but no limited to, pools, parks, beach accesses, streetscapes and other public easements and property to further the living park concept. The CRAB shall advise the town council on these matters or any other topics as assigned by the town council.

(5) ~~Cultural and Environmental Learning Center advisory board.~~ The broad objectives of CELCAB are to ensure and promote the mission of the Mound House and Newton Beach Park to be accomplished through stewardship, advocacy and oversight according to best practices of museums and the

~~requirement as stated in the Florida Communities Trust Agreements for each property. The CELCAB shall advise the town council on these matters or any other topics as assigned by the town council.~~

- (64) *Marine and environmental resources and task force.* The broad objectives of MERTF are to further the welfare of the business owners, residents, and visitors ~~citizens~~ of the town by helping to promote a better, more healthful, safe, and attractive community environment and to ensure that the unique and natural characteristics of our marine and environmental resources are preserved; or any other topics as assigned by the town council.
- (75) *Public safety committee.* The PSC shall address any safety and transportation issues specifically assigned to the committee by the town council for the purpose of the health, safety and welfare of the ~~citizens~~ business owners, residents, and visitors to the town ~~Town of Fort Myers Beach~~. The committee shall review, discuss, and evaluate the most significant safety and transportation issues within the town. The PSC shall advise the town council on these matters or any other topics as assigned by the town council.

Section 3. The Town Council intends that the provisions of this Ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification.

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

Section 5. Any typographical errors that do not affect intent 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 shall become effective upon adoption by the Town Council.

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

Raymond P. Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Dan Allers, Council Member	_____
Jim Atterholt, Council Member	_____
Bill Veach, Council Member	_____

ADOPTED this _____ day of May 2022, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

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

John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ____ day of May 2022.

1. **Requested Motion:**

Meeting Date: May 2, 2022

Second Reading and Public Hearing for proposed Ordinance 22-06: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 12-07, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The restaurant has a CPD, the CPD does not include the use of brewing for on-site consumption. In order to allow the brewing activity, the CPD must be amended. The purpose of the review is to insure no additional impacts are created by the use.

What the action accomplishes:

Adoption of the amendment will allow the additional use of brewing for consumption on premises with additional conditions which are included in the staff report.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

The CPD amendment will
require an ordinance.

4. **Submitter of Information:**

5. **Background:**

Tre Gillet, the applicant for 2301 Estero Blvd, Tuckaway Café, is requesting an amendment to the existing CPD (approved by Resolution 12-07), to allow the brewing of craft beer for consumption on premises. The existing approved CPD allows the current restaurant use with eight conditions and 11 deviations. The hours of operation for the restaurant are 6 am to 12 midnight. The hours of operation for the indoor restaurant are 7 am to 12 midnight with the outdoor seating area limited to between the hours of 7 am and 10 pm, seven days a week. The restaurant currently holds a 2COP to allow for the sale of alcohol for consumption on premises. The applicant is requesting an amendment to the existing CPD to allow a small brewing operation in the interior of the existing building. Brewing would be for sale and consumption of alcohol on premises only. The applicant is not requesting any other modification of the existing conditions or deviations found in the current CPD. Additional conditions have been recommended by staff and LPA to address the impacts of the brewing use.

Attachments:

1. Ordinance 22-06
2. Staff Report Tuckaway CPD Amend
3. Exhibit B Master Concept Plan
4. Exhibit C - public hearing app
5. Exhibit D 2nd hearing notification

Financial Impact:

None

6. **Alternative Action**

Denial or modification of proposed conditions.

7. **Management Recommendations:**

Approve the CPD amendment to allow brewing for consumption on premises.

8. **Recommended Approval:**

Sarah Propst, Planning & Zoning

Daphnie Bercher, Community Services Administrator

Jason Green, Community Development Services

John R Herin Jr, Town Attorney

Amy Baker, Town Clerk

Roger Hernstadt, Town Manager

Created/Initiated - 4/18/2022

Approved - 4/26/2022

Approved - 4/26/2022

Approved - 4/27/2022

Approved - 4/27/2022

Final Approval - 4/27/2022

ScheORDINANCE 22-06

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 12-07, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Tre and Amy, Inc. ("Applicant"), the owner of the property generally located at 2301, 2307 & 2311 Estero Blvd., and 111 and 121 Mango St. and identified by STRP numbers 19-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020 and 19-46-24-W3-0120E.0030 - comprising .66 +/- acre of land ("Property"), filed an application to amend the Property's Commercial Planned Development ("CPD") to allow on-site brewing and consumption of beer; and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on March 22, 2022, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6-0 to recommend approval of the CPD amendment with conditions, and

WHEREAS, on April 18, 2022 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Fort Myers Beach Land Development Code ("LDC"); and

WHEREAS, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on April 18, 2022; at which time the Town Council gave full and complete consideration to the request of the Applicant,

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

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

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested zoning amendment **does/does not** meet the requirements of the Town Comprehensive Plan and LDC and approving the request to allow the use of on-site brewing and consumption of malt liquor with conditions **is/is not** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/DENIES** the requested amendment to the CPD zoning of the Property.

Section 3. Town Resolution 12-07 is repealed and replaced by this Ordinance and the schedule of uses and conditions of approval for the Property's CPD set forth in Exhibit "A," attached hereto and incorporated herein by this reference is approved.

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

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

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

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

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

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

Raymond P. Murphy, Mayor _____
Rexann Hosafros, Vice Mayor _____
Dan Allers, Council Member _____
Bill Veach, Council Member _____
Jim Atterholt, Council Member _____

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

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

John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ____ day of May 2022.

This Ordinance was filed in the Office of the Town Clerk on this __ day of __, 2022.

Exhibits

Exhibit "A" Schedule of Uses and Conditions of Approval

Exhibit "B" Master Concept Plan

EXHIBIT “A”

The Town Council APPROVES the applicant's request for an amendment to the existing CPD, formerly known as Big John's Board Walk Eatery, now known as CJT Properties LLC, to provide required parking on-site for the existing restaurant uses, stormwater management improvements, and landscape buffers, with such approval subject to the Schedule of Allowable Uses, & 11 conditions and 11 deviations set forth with specificity below.

Schedule of Allowable Uses:

Residential – Open

Lodging – Limited

Office – Limited

- Offices, general or medical

- Personal services

Retail – Limited

- Restaurant (limited to two (2) with a total maximum area of 4000 square feet of indoor space with additional outdoor seating as indicated on the MCP)

- On-premises consumption of alcoholic beverages (limited to beer and wine served only in conjunction with meals) including approximately 1000 square feet of outdoor seating in conjunction with the proposed deck.

- On-site brewing of beer for consumption on premises.

Civic – Open

In approving the amendment to the CPD zoning of the Property, the following conditions of approval are imposed on the Applicant and the Property:

1. If the principal building on the subject property (2301 parcel) is removed or replaced for any reason, deviations 3, 4, 5, 6, and 7 will become null and void. Any new buildings replaced on the subject property must comply with required setbacks and any other regulations in effect at the time of permitting.
2. Any changes or fracturing of ownership of the four parcels within the subject property will require, at a minimum, an administrative amendment to the Master Concept Plan to reflect the change in ownership, which will include recorded unified control documentation.
3. The parking lot must be stabilized in accordance with the provisions in Section 34-2017 (b) of the LDC.
4. A local development order is required prior to any expansion of the existing restaurant or any use of the second restaurant bay in accordance with this planned development approval. Approval of this request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order, including payment of additional impact fees.

5. A Traffic Impact Study (TIS) is not warranted, and the Town Council hereby overrules the Director's decision to require a TIS. The Applicant has provided mitigation for traffic impacts by providing the following: additional on-site parking for tenants and customers, landscape buffers, bicycle racks, extension of the sidewalk along Estero Boulevard in front of the property, elimination of the back out parking in front of the existing building, a reduction in the outdoor dining area to 1,000 square feet, and provision of storm water management improvements. The current restaurant use has demonstrated that it is mainly a pedestrian and bicycle-oriented destination and, as a result, the traffic impacts may actually be less than would be expected from a traffic impact study.
6. Bicycle racks shall be provided for a minimum of 8 bicycles.
7. The hours of operation for business use are 6am to 12 midnight. The hours of operation for indoor restaurant uses are 7am to 12 midnight with outdoor seating area limited to between the hours of 7am and 10 pm, seven days a week.
8. ~~No outdoor entertainment is permitted.~~
8. No amplified music or entertainment is permitted outdoors.
9. All brewing activities shall be contained within the building.
10. No outdoor storage shall be allowed including the use of portable storage units, cargo containers and tractor trailers except as follows: spent grain may be placed outdoors for a period not to exceed 24 hours. Spent grain must be stored in fully enclosed containers that are screened from adjacent properties and Estero Blvd.
11. Must comply with guidelines set forth by the Florida Department of Alcoholic Beverages and Tobacco for the CMBP permit.

The following limits apply to the Property and its development

Council grants the following deviations:

Deviation #1

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a Type C/F buffer where proposed commercial uses abut single family residential uses, to allow for an eight (8) foot high solid stockade fence and 14-15 foot Type C buffers without a wall, as indicated on the MCP and landscape plan is APPROVED.

Deviation #2

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a 15 foot Type D buffer between parking areas and right-of-way, to allow for a 5 foot Type D buffer between parking areas and right-of-way is APPROVED.

Deviation #3

Deviation from the requirement of LDC Section 34-704(a), which requires buildings to be constructed between five (5) to ten (10) feet from Estero Boulevard, to allow a front setback of 46 feet to accommodate the existing building is APPROVED.

Deviation #4

Deviation from the requirements of LDC Section 34-707(b)(1)a, which requires a minimum 10 foot street setback to allow for a 2.39 foot street setback from Fairweather Lane to

accommodate the existing building is APPROVED.

Deviation #5

Deviation from the requirement of LDC Section 34-704(b)(1)b, which requires a minimum 20 foot rear setback, to allow for a two-foot rear setback to accommodate the existing building is APPROVED.

Deviation #6

Deviation from the requirement of LDC Section 34-995(a)(3), which prohibits a principal facade facing a primary street from having blank walls greater than 10 feet in length, to allow for one (1) section of the principal facade to be 16 feet in length is APPROVED.

Deviation #7

Deviation from the requirements of LDC Section 34-995(d), which requires corner buildings to be located no more than 20 feet from the intersection of right-of-way lines, to allow the existing corner building to be located a distance of 48.5 feet from the intersection of Estero Boulevard and Fairweather Lane is APPROVED.

Deviation #8

Deviation from LDC Section 34-2020(d)(2)h, which requires 8 parking spaces per 1,000 square feet of total floor area, including any outdoor seating area (for a total of 47 required parking spaces) to allow for a 30% reduction from the LDC requirement for a total of 34 provided spaces is APPROVED.

Deviation #9

Deviation from LDC Section 34-2017, which requires high turnover parking lots to have a paved surface, to allow for a crushed shell or limerock surface is APPROVED.

Deviation #10

Deviation from LDC Section 34-285 and Table 10-1, which requires 125 feet of connection separation along local roads, to allow for 96± feet of connection separation along Mango Street is APPROVED.

Deviation #11

Deviation from LDC Section 10-289(d) which requires an 8 foot wide sidewalk along the property's Estero Boulevard frontage, to allow for a 5 foot wide sidewalk is APPROVED.

Nothing in this rezoning, including any of the attached conditions, constitute a variance or deviation from the provisions of Chapter 6, Article IV "Floodplain Regulations" of the LDC. Approval of this rezoning does not exempt the subject property from any provisions of the LDC with the exception of any approved deviation contained herein.



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Commercial Planned Development Amendment

CASE NUMBER: DCI Rezoning, 20210115

CASE NAME: 2301/2307 Estero Blvd, amend the existing Commercial Planned Development to allow brewing of beer for consumption on-site.

SECOND TOWN COUNCIL HEARING DATE: May 2, 2022 at 9:00 AM

FIRST TOWN COUNCIL HEARING DATE: April 18, 2022 at 9:00 AM

LPA HEARING DATE: March 22, 2022 at 9:00 AM

STAFF RECOMMENDATION: Approve with conditions

**PREPARED/
SUBMITTED BY:** Sarah Propst, AICP, PMP/ Jason Green AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: Tre Gillette

Request: The applicant is requesting an amendment to the existing CPD to allow on-site brewing of beer to serve to patrons.

Subject property: See attached site plan

Physical Address: 2301/2307 & 2311 Estero Blvd, 111 & 121 Mango St

STRAP #: 19-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, 19-46-24-W3-0120E.0030

FLU: Boulevard

Zoning: Commercial Planned Development

Adjacent zoning and land uses:

North:	RESIDENTIAL MULTI-FAMILY (RS) Single-Family Residence
South:	COMMERCIAL RESORT (CR) AND COMMERCIAL BOULEVARD (CB) Commercial
East:	COMMERCIAL PLANNED DEVELOPMENT (CPD) Parking lot
West:	COMMERCIAL BOULEVARD (CB) Commercial

II. BACKGROUND AND ANALYSIS

Background:

Tre Gillette, the applicant for 2301 Estero Blvd, Tuckaway Café, is requesting an amendment to the existing CPD, resolution 12-07, to allow the brewing of craft beer for consumption on premises. The existing approved CPD allows the current restaurant use with eight conditions and 11 deviations. The hours of operation for the restaurant are 6 am to 12 midnight. The indoor restaurant uses is open to the public from 7am to 12 midnight with outdoor seating area limited to between the hours of 7am and 10 pm, seven days a week.

The restaurant currently holds a 2COP to allow for the sale of alcohol for consumption on premises. The applicant is requesting an amendment to the existing CPD to allow a small brewing operation interior to the existing building. Brewing would be for sale and consumption of alcohol on premises only. The applicant is not requesting any modification from the existing conditions or deviations found in the current CPD. Additional conditions have been recommended by staff and LPA to address impacts of the brewing use.

Analysis:

Tuckaway Café has been on Fort Myers Beach for over 10 years. The property has had a 2COP license to serve beer and wine since 12/13/2017, with no complaint for noise or any other disturbances. The café has passed all state and local inspections. The property is located within a CPD zoning district, which allows the consumption on-premises currently held by the applicant.

The CMBP license is required by the Florida Division of Alcoholic Beverages and Tobacco for manufacturing of malt beverages on vendor premises. The class CMBP

permit allows the production and consumption on premises of less than 10,000 kegs annually of malt beverage. This license is issued in connection with a primary consumption on premises vendor license.

The existing conditions and deviations can be found in this staff report under the headings "Conditions of Approval" and "Approved Deviations". No additional deviations are proposed, the new conditions associated with the request for brewing are underlined.

Neighborhood Compatibility:

In review of the aerial photography of the neighborhood, staff found the property is similar to other properties located along that portion of Estero Blvd. The existing building has received deviations for the site which does not meet all locational requirements. The proposed brewing use for consumption on premises would likely have no negative impact on the surrounding area, as the property already has a consumption on premises permit and has had no complaints.

Findings and Conclusions:

LDC Sec. 34-88 sets forth the required findings and conclusions for the approval of a special exception:

- a. *Whether there exist changed or changing condition which make approval of the request appropriate*

The property with the current use and consumption on premises is existing. Any exterior impacts from brewing are addressed by the proposed conditions.

- b. *Whether the request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.*

The request is consistent with goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.

- c. *Whether the request meets or exceeds all performance and locational standards for the proposed use*

The request meets performance and location standards if approved

- d. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

The request will have no impact on protection, conservation, or preservation of environmentally critical areas and natural resources

- e. *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 as the business is already in operation and all brewing activities will be indoors.

- f. Whether a requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Town's Land Development Code.*

The request will be in compliance with the applicable zoning provisions and supplemental regulations.

III. RECOMMENDATION

Staff finds that the amendment to the CPD meets the criteria set forth in Section 34-88 of the LDC and recommends approval of DCI20210115, with the attached conditions.

At the March 22, 2022 LPA hearing the LPA recommended one change to eliminate existing condition number 8 and amend proposed condition number 9. Those changes are reflected in strikethrough underline format in the conditions below. The LPA recommended **APPROVAL WITH CONDITIONS** for DCI20210115, to allow brewing of beer for consumption on premises.

IV. CONDITIONS OF APPROVAL

1. If the principal building on the subject property (2301 parcel) is removed or replaced for any reason, deviations 3, 4, 5, 6, and 7 will become null and void. Any new buildings replaced on the subject property must comply with required setbacks and any other regulations in effect at the time of permitting.
2. Any changes or fracturing of ownership of the four parcels within the subject property will require, at a minimum, an administrative amendment to the Master Concept Plan to reflect the change in ownership, which will include recorded unified control documentation.
3. The parking lot must be stabilized in accordance with the provisions in Section 34- 2017 (b){1}.
4. A local development order is required prior to any expansion of the existing restaurant or any use of the second restaurant bay in accordance with this planned development approval. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order, including payment of additional impact fees.
5. A Traffic Impact Study (TIS) is not warranted and Town Council hereby overrules the Director's decision to require a TIS. The applicant has provided mitigation for traffic impacts by providing the following: additional on-site parking for tenants and customers, landscape buffers, bicycle racks, extension of the sidewalk along Estero Boulevard in front of the property, elimination of the back out parking in front of the existing building, a reduction in the outdoor dining area to 1,000 square feet, and provision of storm water

management improvements. The current restaurant use has demonstrated that it is mainly a pedestrian and bicycle-oriented destination and, as a result, the traffic impacts may actually be less than would be expected from a traffic impact study.

6. Bicycle racks shall be provided for a minimum of 8 bicycles.
7. The hours of operation for business use are 6am to 12 midnight. The hours of operation for indoor restaurant uses are 7am to 12 midnight with outdoor seating area limited to between the hours of 7am and 10 pm, seven days a week.
8. ~~No outdoor entertainment is permitted.~~
8. No amplified music or entertainment is permitted outdoors.
9. All brewing activities shall be contained within the building.
10. No outdoor storage shall be allowed including the use of portable storage units, cargo containers and tractor trailers except as follows: spent grain may be placed outdoors for a period not to exceed 24 hours. Spent grain must be stored in fully enclosed containers that are screened from adjacent properties and Estero Blvd.
11. Must comply with guidelines set forth by the Florida Department of Alcoholic Beverages and Tobacco for the CMBP permit.

V. APPROVED DEVIATIONS (deviations were approved by CPD Resolution 12-07)

Deviation #1

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a Type C/F buffer where proposed commercial uses abut single family residential uses, to allow for an eight (8) foot high solid stockade fence and 14-15 foot Type C buffers without a wall, as indicated on the MCP and landscape plan.

Deviation #2

Deviation from the requirements of LDC Section 10-416(d)(2) and LDC Table 10-8, which requires a 15 foot Type D buffer between parking areas and right-of-way, to allow for a 5 foot Type D buffer between parking areas and right-of-way.

Deviation #3

Deviation from the requirement of LDC Section 34-704(a), which requires buildings to be constructed between five (5) to ten (10) feet from Estero Boulevard, to allow a front setback of 46 feet to accommodate the existing building.

Deviation #4

Deviation from the requirements of LDC Section 34-707(b)(1)a, which requires a minimum 10-foot street setback to allow for a 2.39 foot street setback from Fairweather Lane to accommodate the existing building.

Deviation #5

Deviation from the requirement of LDC Section 34-704(b)(1)b, which requires a minimum 20-foot rear setback, to allow for a two-foot rear setback to accommodate the existing building.

Deviation #6

Deviation from the requirement of LDC Section 34-995(a)(3), which prohibits a principal façade facing a primary street from having blank walls greater than 10 feet in length, to allow for one (1) section of the principal façade to be 16 feet in length.

Deviation #7

Deviation from the requirements of LDC Section 34-995(d), which requires corner buildings to be located no more than 20 feet from the intersection of right-of-way lines, to allow the existing corner building to be located a distance of 48.5 feet from the intersection of Estero Boulevard and Fairweather Lane.

Deviation #8

Deviation from LDC Section 34-2020(d)(2)h, which requires 8 parking spaces per 1,000 square feet of total floor area, including any outdoor seating area (for a total of 47 required parking spaces) to allow for a 30% reduction from the LDC requirement for a total of 34 provided spaces.

Deviation #9

Deviation from LDC Section 34-2017, which requires high turnover parking lots to have a paved surface, to allow for a crushed shell or limerock surface.

Deviation #10

Deviation from LDC Section 34-285 and Table 10-1, which requires 125 feet of connection separation along local roads, to allow for 96± feet of connection separation along Mango Street.

Deviation #11

Deviation from LDC Section 10-289(d) which requires an 8-foot-wide sidewalk along the property's Estero Boulevard frontage, to allow for a 5-foot wide sidewalk.

Staff Report Exhibits:

A – Ordinance

B – Master Concept Plan

C – Complete Application

D – Letter to Adjacent Property Owners



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

Site Address: 2301 Estero Blvd, Fort Myers Beach 33931
 STRAP Number: 19-46-24-W3-0110D.0010
 Applicant: Tre and Amy Inc. DBA Truckway Cafe Phone: 239-463-5398
 Contact Name: Tre Gillette Phone: 918-406-6495
 Email: tre.gillette@gmail.com Fax: _____
 Current Zoning District: CB
 Future Land Use Map (FLUM) Category: Boulevard
 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*: Tre Gillette Phone: 918-406-6495
**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: 435 Donora Blvd
 Email: tre.gillette@gmail.com Fax: _____
 Contact Name: Tre Gillette Phone: 918-406-6495



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) <u>LLC</u> | |

*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: Tre Gillette Phone: 918-406-6495
Address: 435 Donora Blvd. Fort Myers Beach, FL 33931
Email: tre.gillette@gmail.com Fax: _____

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

Name: Amy Gillette Phone: 918-289-3985
Address: 435 Donora Blvd. Fort Myers Beach FL 33931
Email: agillette24@gmail.com Fax: _____

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

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☒ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ 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.

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

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

Name and Address

Percentage of Ownership

<u>Tra Gillette 435 Donora Blvd FMB</u>	<u>50%</u>
<u>Amy Gillette 435 Donora Blvd FMB</u>	<u>50%</u>
_____	_____
_____	_____

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

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



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, Tre Gillette (name), as manager (title)
of CJT 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.

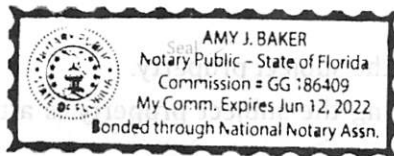


COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

CJT Properties LLC
Name of Entity (corporation, partnership, LLP, LLC, etc)
[Signature]
Signature
Tre Gillette
Typed or Printed Name
Manager
Title
11-17-2021
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 17 day of November, 2021, by [Signature] ☐ who is personally known to me OR ☒ who has produced Florida Driver License as identification.



[Signature]
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W3-0110D.0010
Property Address: 2301 Estero Blvd. FMB

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

☒ Yes. Property identified in subdivision: Beach Estates

Book: 6 Page: 68 Unit: Block: D Lot(s): 1+2

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) 164 Ft. feet
Depth (please provide an average width if irregular in shape) 137 Ft feet
Frontage on street: 168 feet. Frontage on waterbody: NA feet
Total land area: 28700 ☐ acres ☒ square feet

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

Estero Blvd, .9 miles to Sky Bridge

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
☒ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☒ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

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

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☐ Provide Staff with two (2) sets of surrounding property owner mailing labels.

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

- | | |
|--|--|
| ☐ Low Density | ☐ Marina |
| ☐ Mixed Residential | ☐ Recreation |
| ☒ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |



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

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Town Council of the Town of Fort Myers Beach will hold a public hearing which will take place at Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Florida, 33931.

TIME: 9:00AM

DATE: APRIL 18, 2022 + May 2, 2022

CASE: DCI20210115

ADDRESS: 2301/2307 ESTERO BLVD

APPLICANT: TRE GILLETTE

REQUEST: THE APPLICANT IS REQUESTING AN AMENDMENT TO THE EXISTING CPD TO ALLOW ON-SITE BREWING OF BEER TO SERVE TO PATRONS.

TOWN CONTACT: DAPHNIE BERCHER DAPHNIEB@FMBGOV.COM

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

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

1. Requested Motion:

Meeting Date: May 2, 2022

Approve/Approve with Conditions/Deny VAR20220021. Jesse Hallman, owner of the property at 292 Ohio Ave., is seeking a 5-foot variance from LDC Sec.34-1174(d)(1)(d), to allow an in-ground pool closer to a side-yard property line than allowed for under current LDC requirements.

Why the action is necessary:

The property owner has requested a variance to a side yard setback for new construction of an in-ground pool. The LPA is responsible for making a recommendation to the Town Council.

What the action accomplishes:

The LPA review provides a recommendation to the Town Council.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution by Town Council

4. Submitter of Information:

5. Background:

Jesse Hallman, the applicant for 292 Ohio Avenue, has requested a variance from the Town's Land Development Code (LDC), Sec. 34-638 (Table 34-3), which requires primary structure setbacks of 15-percent of the calculated width of the lot. Currently, the LDC requires setbacks of 11-feet from the side property line, the applicant has provided side-yard setbacks of 6-feet to the proposed pool, a difference of 5-feet. Lot widths have been determined based on a provided survey from the applicant and publicly accessible property data, measurements are approximate but within generally established margins-of-error.

The house was built in 1950, with building permits from 1996 and 1998 to construct an addition and do remodeling of the structure. The current owners bought the house in 2020.

Attachments:

1. 10943979-variance part 1-Public Hearing
2. 10943976-variance list
3. 11174619-Resub 1-craig 4-1-pool plan
4. 10943977-variance part 2-03102022024047
5. 10943978-variancemap
6. VAR20220021_292 Ohio Ave_Staff Report_TC DRAFT
7. FINAL POOL DESIGN_292 Ohio Ave

Financial Impact:

6. Alternative Action

Approve or Deny request for variance to side-yard setbacks.

7. Management Recommendations:

Deny

8. Recommended Approval:

Jason Smalley, Senior Planner

Daphnie Bercher, Community Services Administrator

John R Herin Jr, Town Attorney

Amy Baker, Town Clerk

Created/Initiated - 4/28/2022

Approved - 4/28/2022

Approved - 4/28/2022

Final Approval - 4/28/2022



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: 292 OHIO AVE, FMB

STRAP Number: 19-46-24-W4-0040E. 015A

Applicant: JESSE B HALLMAN

Phone: 757-344-0670

Contact Name: SAME

Phone: _____

Email: JESSUH@VERIZON.NET

Fax: _____

Current Zoning District: LOT 16 BLOCK E GULF BAY VIEW

Future Land Use Map (FLUM) Category: _____

FLUM Density Range: _____ Platted Overlay: ☐ YES ☐ NO

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*: JESSE B HALLMAN Phone: 757-344-0670

**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: 292 OHIO AVE FMB, FL 33431

Email: JESSUH@VERIZON.NET

Fax: _____

Contact Name: SAME

Phone: _____



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

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

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

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

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

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

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

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

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☒ Special Exception
☒ Variance from LDC Section 34 - 1174(D)(1)(d) 34-638(D)(1)(g)
☐ 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: JESSE B HALLMAN Phone: 757 344-0670

Mailing Address: 292 OHIO AVE

Email: JESSE.H@verizon.net Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, JESSE B HALLMAN 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.

Jesse Hallman
Signature

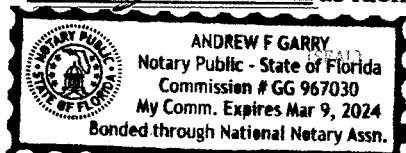
JESSE HALLMAN
Printed Name

STATE OF FL COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ____ online notarization, this 10 day of MARCH, 2022 by

J. Hallman ☐ who is personally known to me OR ☒ who has produced DL

DL as identification.



Andrew Garry
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

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

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

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

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

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____

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

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



**COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING**

Date of Contract: _____

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

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

_____	_____
Signature	Printed Name

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

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

Signature

Title

Typed or Printed Name

Date

STATE OF COUNTY OF

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

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0090E-015A

Property Address: 292 OHIO AVE 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: 8 Page: 69 Unit: Block: E Lot(s): 16

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) 70 feet
Depth (please provide an average width if irregular in shape) 90 feet
Frontage on street: 8.4 feet. Frontage on waterbody: 40 feet
Total land area: 8068 ☐ acres ☒ square feet

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

ACROSS THE STREET FROM DIAMOND HEAD RESORT

☐ 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 |

Subjects: 1 Affected: 5 Buffer: 500 Date: 3/10 List Size: 93

Index	Subject	FolioId	STRAP	OwnerName	OwnerName	MailAddress	MailAddress	MailCity	MailState
0	TRUE	10228307	19-46-24-V HALLMAN JESSE B +		292 OHIO AVE			FORT MYER FL	
1	FALSE	10227975	19-46-24-V REALBOOK LLC		7901 4 ST N STE 300			ST PETERSE FL	
2	FALSE	10227977	19-46-24-V LAIER DALE J & ROVER		7455 ARGENTINE RD			HOWELL MI	
3	FALSE	10227978	19-46-24-V AMBERJACK PROPERTI		PO BOX 446			OTTOVILLE OH	
4	FALSE	10227980	19-46-24-V OSTEGO INC		1314 LAFAYETTE ST			CAPE CORA FL	
5	FALSE	10227981	19-46-24-V TLR INVESTMENTS LLC		1100 MANCHESTER DR			LINCOLN NE	
6	FALSE	10227982	19-46-24-V JEMS ACQUISITIONS LI		481 NE INDUSTRIAL DR			AURORA IL	
7	FALSE	10227983	19-46-24-V GALLAGHER BETSY I &		1058 GLEN HALL RD			KENNETT S PA	
8	FALSE	10227984	19-46-24-V HODAPP JAMES B + NC		1481 PALOMINO WAY			OVIDO FL	
9	FALSE	10227985	19-46-24-V PIEC DANIEL J & JOYCE		230 CAROLINA AVE			FORT MYER FL	
10	FALSE	10227986	19-46-24-V DONOGHUE BRIAN J +		256 OSTEGO DR			FORT MYER FL	
11	FALSE	10227988	19-46-24-V NEAF JAMES +		125 PEARL ST			FORT MYER FL	
12	FALSE	10227989	19-46-24-V PROULX DAVID C +		261 OSTEGO DR			FORT MYER FL	
13	FALSE	10227990	19-46-24-V LUTTRELL JOHN P + JAI		258 OSTEGO DR			FORT MYER FL	
14	FALSE	10227992	19-46-24-V AMBERJACK PROPERTI		PO BOX 466			OTTOVILLE OH	
15	FALSE	10227993	19-46-24-V MOORE ERIK & SUSAN		8136 KRONLOKKEN LA			LAFAYETTE IN	
16	FALSE	10227994	19-46-24-V MARSAM COURTVID L		267 CAROLINA AVE			FORT MYER FL	
17	FALSE	10227995	19-46-24-V 253 OSTEGO LLC		1659 FOUNTAINHEAD			FORT MYER FL	
18	FALSE	10227998	19-46-24-V ISLAND BAY MARINA L		290 PEARL ST			FORT MYER FL	
19	FALSE	10228008	19-46-24-V TIMMERMAN PROPER		819 E LAKE ST			OSAKIS MN	
20	FALSE	10228009	19-46-24-V WATER CITY PROPERTI		5377 INLET CT			OMRO WI	
21	FALSE	10228010	19-46-24-V PUNT GREGORY D		7360 195TH AVE SW			PRINSBURG MN	
22	FALSE	10228018	19-46-24-V PORTER CHRISTOPHER		2814 W ESTES AVE			CHICAGO IL	
23	FALSE	10228024	19-46-24-V HAATAJA JUDY A		400 BAYLAND RD			FORT MYER FL	
24	FALSE	10228025	19-46-24-V PASZKIEWICZ AND COI		W282N6554 IRVING PI			HARTLAND WI	
25	FALSE	10228026	19-46-24-V ROY RAYMOND W + JA		243 PEARL ST			FORT MYER FL	
26	FALSE	10228027	19-46-24-V SCHOLTZ DANIEL J + JC		94 WAXWING DR			OTTAWA ON	
27	FALSE	10228028	19-46-24-V BELLEFEUILLE EDWARD		249 PEARL ST			FORT MYER FL	
28	FALSE	10228029	19-46-24-V CARTER EDWARD RUS		251 PEARL ST			FORT MYER FL	
29	FALSE	10228030	19-46-24-V BAKER DONALD J & SH		275 PEARL ST			FORT MYER FL	
30	FALSE	10522406	19-46-24-V BAKER DONALD J & SH		275 PEARL ST			FORT MYER FL	
31	FALSE	10228209	19-46-24-V KARST VERNON		186 MIRAMAR ST			FORT MYER FL	
32	FALSE	10228212	19-46-24-V JOHN MYER RETIREME		519 VAN BUREN ST			RIDGEWOOD NJ	
33	FALSE	10228213	19-46-24-V OLIVER STEPHANIE LY		129 WATSON AVE			OAKVILLE ON	
34	FALSE	10228214	19-46-24-V TRIBBLE KENNETH + LI		226 MIRAMAR ST			FORT MYER FL	
35	FALSE	10228215	19-46-24-V STROUD SUSAN J +		258 RUMSEY RD			TORONTO ON	
36	FALSE	10228216	19-46-24-V DJC ESTATES LLC		151 MATANZAS ST			FORT MYER FL	
37	FALSE	10228217	19-46-24-V SHUFF JOSHUA G & KE		3040 GREEN COOK RO			JOHNSTOWN OH	
38	FALSE	10228218	19-46-24-V CHAR PROP INC		1821 RIVERSIDE AVE			MARINETT WI	
39	FALSE	10228219	19-46-24-V CHESHER JOHN E + TE		493 RIVERPOINTE DR			DAYTON KY	
40	FALSE	10228220	19-46-24-V KOSTER THERESE A + R		880 3RD ST			FORT MYER FL	
41	FALSE	10228221	19-46-24-V POLLY JAMIE M +		16211 SHENANDOAH C			FORT MYER FL	
42	FALSE	10228222	19-46-24-V WYSONG TERRY L + TC		270 MIRAMAR ST			FORT MYER FL	
43	FALSE	10228223	19-46-24-V CRONEN DANIEL W TR		272 MIRAMAR ST			FORT MYER FL	
44	FALSE	10228234	19-46-24-V CLAYTON LINDA +		205 MIRAMAR ST			FORT MYER FL	

45	FALSE	10228235	19-46-24-V HUNTER DONALD R + I	268 BONNIEMERE RD	SHELBYVILLE KY
46	FALSE	10228236	19-46-24-V BARKER CYNTHIA J	PO BOX 1736	MARTINSVILLE IN
47	FALSE	10228237	19-46-24-V BADA BENG HOLDING	1504 SW 57TH ST	CAPE CORAL FL
48	FALSE	10228238	19-46-24-V WAYNE N KUEHN TR	225 MIRAMAR ST	FORT MYERS FL
49	FALSE	10228239	19-46-24-V KING ROBERT C +	5757 W DELPHI PIKE	MARION IN
50	FALSE	10228240	19-46-24-V LOWE LLC	229 FAIRWEATHER LN	FORT MYERS FL
51	FALSE	10228241	19-46-24-V PITTMAN PAUL & LINDA	165 RIDGEVIEW DR	SPRINGVILLE IN
52	FALSE	10228242	19-46-24-V BOURASSA OLGA K TR	247 MIRAMAR ST	FORT MYERS FL
53	FALSE	10228243	19-46-24-V MCKAY TIMOTHY E & S	2383 FOUR SEASONS F	CROWN POINT IN
54	FALSE	10558954	19-46-24-V TELLO CHRISTOPHER +	16531 SW 49TH CT	MIRAMAR FL
55	FALSE	10557465	19-46-24-V MARTINEK PAULA	275 MIRAMAR ST	FORT MYERS FL
56	FALSE	10228271	19-46-24-V POMEROY LIANA	7011 FAIRWAYS DR	LONGMONT CO
57	FALSE	10228272	19-46-24-V TRUMBULL DEANNA	653 GALWAY DR	IOWA CITY IA
58	FALSE	10228273	19-46-24-V YODER ALLEN + LOU A	PO BOX 307	SUGARCREE OH
59	FALSE	10605176	19-46-24-V NORWOOD DANNY L	217 VIRGINIA AVE	FORT MYERS FL
60	FALSE	10605177	19-46-24-V NORWOOD DANNY L	217 VIRGINIA AVE	FORT MYERS FL
61	FALSE	10228275	19-46-24-V SCHMITT JOHN A	1944 MASSACHUSETTS	ENGLEWOOD FL
62	FALSE	10228276	19-46-24-V SURFUS JOHN D	PO BOX 3053	FORT MYERS FL
63	FALSE	10228277	19-46-24-V NORWOOD ROBERT M	286 VIRGINIA AVE	FORT MYERS FL
64	FALSE	10228278	19-46-24-V SURFUS JOHN D	PO BOX 3053	FORT MYERS FL
65	FALSE	10228285	19-46-24-V MATSON DAVID R & M	281 COUNTRY RD 19	COOPERSTOWN ND
66	FALSE	10228286	19-46-24-V NORWOOD DAN L	1906 ROSE CREEK PKW	FARGO ND
67	FALSE	10228287	19-46-24-V SURFUS JOHN D	PO BOX 3053	FORT MYERS FL
68	FALSE	10228288	19-46-24-V SURFUS JOHN D	PO BOX 3053	FORT MYERS FL
69	FALSE	10228289	19-46-24-V SURFUS JOHN D	PO BOX 3053	FORT MYERS FL
70	FALSE	10228290	19-46-24-V SURFUS JOHN D	PO BOX 3053	FORT MYERS FL
71	FALSE	10228291	19-46-24-V SURFUS JOHN D	PO BOX 3053	FORT MYERS FL
72	FALSE	10228292	19-46-24-V SURFUS JOHN D	291 VIRGINIA AV	FORT MYERS FL
73	FALSE	10228299	19-46-24-V OVIEDO MICHAEL A TR	1569 CRANFORD AVE	FORT MYERS FL
74	FALSE	10228300	19-46-24-V OLIVER ALAN GEORGE	2480 ROYAL WINDSOR	MISSISSAUGA ON
75	FALSE	10228301	19-46-24-V YBARRA KAREN TR	321 N CLARK ST # 100	CHICAGO IL
76	FALSE	10228302	19-46-24-V LENTZ WILLIAM F	270 OHIO AVE	FORT MYERS FL
77	FALSE	10228303	19-46-24-V LYNN ROBERT F + LINDA	715 MT TABOR RD	NEW ALBANY IN
78	FALSE	10228304	19-46-24-V TRAVIS DAVID L + JENNIFER	282 OHIO AVE	FORT MYERS FL
79	FALSE	10228305	19-46-24-V YOUNG DOUGLAS E TR	750 MATANZAS CT	FORT MYERS FL
80	FALSE	10228306	19-46-24-V LOFENDO ANTHONY &	5420 BOXWOOD WAY	NAPLES FL
81	FALSE	10228308	19-46-24-V CULHANE JOHN M TR	7 RESERVIOR RD	STONY POINT NY
82	FALSE	10228315	19-46-24-V WYATT MICHAEL J + HILARY	5750 LAMBERT RANCH	SEDALIA CO
83	FALSE	10228316	19-46-24-V RESSA ROSE MARIE L/E	259 OHIO AVE	FORT MYERS FL
84	FALSE	10228317	19-46-24-V ITEL HOWARD	265 OHIO AV	FORT MYERS FL
85	FALSE	10228318	19-46-24-V SOTB LLC	1101 NW 42ND PL	CAPE CORAL FL
86	FALSE	10228319	19-46-24-V LUDVIGSEN MARK	281 OHIO AVE	FORT MYERS FL
87	FALSE	10228320	19-46-24-V WETHINGTON BRADLEY	6615 MOSS CREEK PL	INDIANAPOLIS IN
88	FALSE	10228321	19-46-24-V SIMONETTI PAUL & SHARON	8654 LAKEFRONT CT	FORT MYERS FL
89	FALSE	10228322	19-46-24-V WOERNER BRUCE W &	295 OHIO AVE	FORT MYERS FL
90	FALSE	10228323	19-46-24-V DOBBS BRADFELD A +	297 OHIO AV	FORT MYERS FL
91	FALSE	10228324	19-46-24-V YANKE RONALD L	328 BUCKLIN ST	LA SALLE IL

92 FALSE 10550394 19-46-24-V NELSON GARY L + PEG PO BOX 397

BAILEYS HA WI

MailZip	MailCountr	SiteNumbe	SiteStreet	SiteUnit	SiteCity	SiteZip	Legal
33931		292	OHIO AVE		FORT MYEF	33931	GULF BAY VIEW<CR>BLK.E PB 8
33702		200	CAROLINA AVE		FORT MYEF	33931	HILLS T P SUBD PB 3 PG 84<CR>PT
48855		264	CAROLINA AVE		FORT MYEF	33931	HILLS T P SUBD<CR>PB 3 PG 84 PT
45876		210	OSTEGO DR		FORT MYEF	33931	HILLS T P SUBD<CR>PB 3 PG 84 PT
33904		300	OSTEGO DR		FORT MYEF	33931	HILLS T P SUBD<CR>PB 3 PG 84 PT
68523		288	OSTEGO DR		FORT MYEF	33931	HILLS T P SUBD<CR>PB 3 PG 84 PT
60505		280	OSTEGO DR		FORT MYEF	33931	HILLS T P SUBD<CR>PB 3 PG 84 PT
19348		254	OSTEGO DR		FORT MYEF	33931	HILLS TP SUBD<CR>PB 3 PG 84 PT
32765		266	OSTEGO DR		FORT MYEF	33931	HILLS TP SUBD<CR>PB 3 PG 84 PT
33931		230	CAROLINA AVE		FORT MYEF	33931	HILLS TP SUBD<CR>PB 3 PG 84 PT
33931		256	OSTEGO DR		FORT MYEF	33931	HILLS TP SUBD<CR>PB 3 PG 84PT L
33931		270	OSTEGO DR		FORT MYEF	33931	HILLS TP SUBD<CR>PB 3 PG 84 PT
33931		261	OSTEGO DR		FORT MYEF	33931	HILLS TP SUBD<CR>PB 3 PG 84PT L
33931		258	OSTEGO DR		FORT MYEF	33931	HILLS TP SUBD<CR>PB 3 PG 84 PT
45876		220	OSTEGO DR		FORT MYEF	33931	HILLS TP SUBD<CR>PB 3 PG 84 PT
47909		231	OSTEGO DR		FORT MYEF	33931	PARL IN S 1/4 AS DESC IN<CR>OR :
33931		257	OSTEGO DR		FORT MYEF	33931	PARL IN S W 1/4 AS DESC IN<CR>C
33919		253	OSTEGO DR		FORT MYEF	33931	HILLS T P SUBD<CR>PB 3 PG 84 PT
33931		270-294	PEARL ST		FORT MYEF	33931	HILLS T P SUBD<CR>PB 3 PG 84<CF
56360		250	PEARL ST		FORT MYEF	33931	HILLS T.P.SUBD.<CR>PB 3 PG 84<C
54963		260	PEARL ST		FORT MYEF	33931	HILLS T.P.SUBD.<CR>PB 3 PG 84 P1
56281		256	PEARL ST		FORT MYEF	33931	HILLS T P SUBD<CR>PB 3 PG 84 PT
60645		293	PEARL ST		FORT MYEF	33931	HILLS T P SUBD <CR>PB 3 PG 84<C
33931		231	PEARL ST		FORT MYEF	33931	HILLS T.P.SUBD. PB3/84<CR>PT LT
53029		241	PEARL ST		FORT MYEF	33931	HILLS T P SUBD PB3/84<CR>PT LT1
33931		243	PEARL ST		FORT MYEF	33931	HILLS + P SUB<CR> PB 3 PG 84
K1V 9H2	CANADA	247	PEARL ST		FORT MYEF	33931	HILLS T P SUBD PB 3/84<CR>PT LT
33931		249	PEARL ST		FORT MYEF	33931	HILLS T.P.SUBD.<CR>PB 3 PG 84<C
33931		251	PEARL ST		FORT MYEF	33931	HILLS T.P.SUBD.<CR>PB 3 PG 84 P1
33931		275	PEARL ST		FORT MYEF	33931	HILLS T.P.SUBD.<CR>PB 3 PG 84 P1
33931		265	PEARL ST		FORT MYEF	33931	HILLS T.P.SUBD.<CR>PB 3 PG 84 P1
33931		186	MIRAMAR ST		FORT MYEF	33931	MIRAMAR BLK A PB6 PG31<CR>LC
7450		210	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK.A PB 6 PG 3
L6J 3T5	CANADA	216	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK.A PB 6 PG 3
33931		226	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK.A PB 6 PG 3
M4G 1P9	CANADA	238	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK.A PB 6 PG 3
33931		240	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK.A PB 6 PG 3
43031		242	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK A PB 6 PG 31<
54143		244	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK A PB 6 PG 31<
41074		246	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK A PB 6 PG 31<
33931		250	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK A PB 6 PG 31<
33908		260	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK A PB 6 PG 31
33931		270	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK A PB 6 PG 31<
33931		272	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK.A PB 6 PG 31
33931		205	MIRAMAR ST		FORT MYEF	33931	MIRAMAR<CR>BLK.B PB 6 PG 31

40065	207 MIRAMAR ST	FORT MYEF	33931 MIRAMAR<CR>BLK B	PB 6 PG 31
46151	209 MIRAMAR ST	FORT MYEF	33931 MIRAMAR<CR>BLK.B	PB 6 PG 3
33914	217 MIRAMAR ST	FORT MYEF	33931 MIRAMAR<CR>BLK B	PB 6 PG 31
33931	225 MIRAMAR ST	FORT MYEF	33931 MIRAMAR<CR>BLK B	PB 6 PG 31
46952	235 MIRAMAR ST	FORT MYEF	33931 MIRAMAR<CR>BLK B	PB 6 PG 31
33931	241 MIRAMAR ST	FORT MYEF	33931 MIRAMAR BLK B<CR>PB 6 PG 31<C	
47462	243 MIRAMAR ST	FORT MYEF	33931 MIRAMAR SUBD<CR>BLK.B	PB 6
33931	247 MIRAMAR ST	FORT MYEF	33931 MIRAMAR SUBD<CR>PB 06/31 BLI	
46307	251 MIRAMAR ST	FORT MYEF	33931 MIRAMAR<CR>BLK B PB 6 PG 31<C	
33027	255 MIRAMAR ST	FORT MYEF	33931 MIRAMAR<CR>BLK B PB 6 PG 31<C	
33931	275 MIRAMAR ST	FORT MYEF	33931 MIRAMAR<CR>BLK B PB 6 PG 31<C	
80503	240 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.C	PB 8
52246	250 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK C PB 8 P	
44681	260 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK C PB 8 PG	
33931	270 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK C PB 8 PG	
33931	274 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK C PB 8 PG	
34224	280 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.C	PB 8
33932	290 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK C	PB 8
33931	286 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK C	PB 8
33932	291 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK C	PB 8
58425	241 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK D	PB 8
58104	251 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK D PB 8 PC	
33932	261 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK D PB 8 P	
33932	265/267 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK D PB 8 PC	
33932	271/273 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK D PB 8 PC	
33932	275/277 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK D PB 8 PC	
33932	279/281 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK D PB 8 PC	
33931	285 VIRGINIA AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.D	PB 8
33916	256 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.E	PB 8
L5J 1K7 CANADA	262 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK E PB 8 PC	
60654	266 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK E PB 8 P	
33931	270 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK E	PB 8
47150	278 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.E	PB 8
33931	282 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK E PB 8 PC	
33931	284/286 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.E	PB 8
34116	290 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK E PB 8 P	
10980	296 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK E PB 8 PC	
80135	251/253 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.F	PB 8
33931	259 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK F	PB 8
33931	265 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.F	PB 8
33993	275 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK F PB 8 PC	
33931	281 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.F	PB 8
46237	285 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK F PB 8 PC	
33908	291 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.F	PB 8
33931	295 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK F PB 8 PC	
33931	297 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK.F	PB 8
61301	298 OHIO AVE	FORT MYEF	33931 GULF BAY VIEW<CR>BLK F PB 8 PC	

54202

300 OHIO AVE

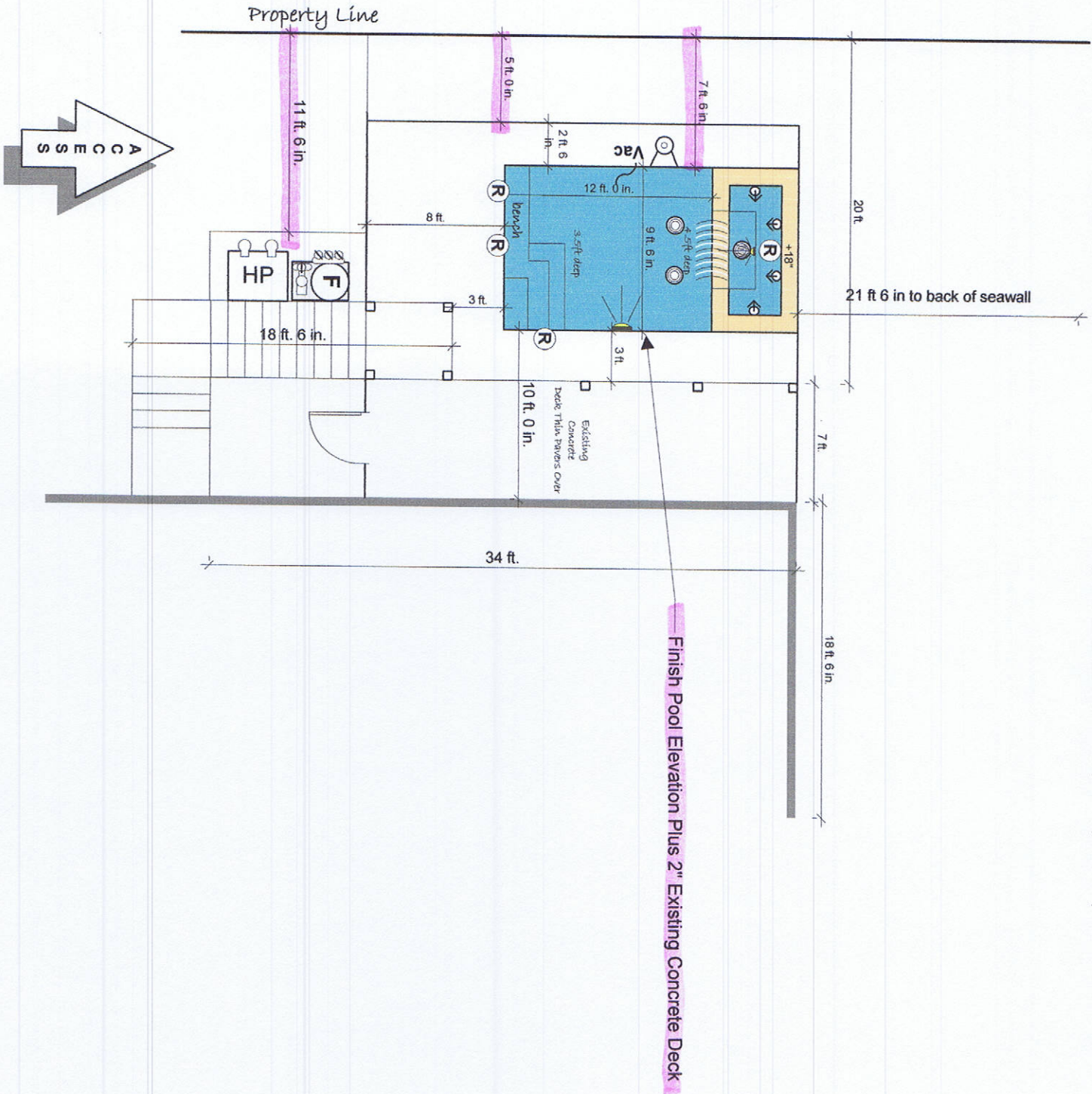
FORT MYER

33931 GULF BAY VIEW<CR>BLK F PB 8 PG

PG 69<CR>N 1/2 LOT 15 S 1/2 LOT 16
 LT 11 N 275 FT OF<CR>OR 1468 PG 1697
 LOT 11<CR>DESC IN OR 1351 PG 1684
 LOT 11<CR>DESC IN OR 1351 PG 1680
 LOT 11<CR>DESC IN OR 1351 PG 1692
 LOT 11<CR>DESC IN OR 1351 PG 1696
 LOT 11<CR>DESC OR 1353 PG 393
 LOT 11<CR>DESC OR 1380 PG 610
 LOT 11<CR>DESC OR 1358 PG 1621
 LOT 11<CR>DESC OR 1365 PG 760
 .OT 11<CR>DESC OR 1354 PG 853
 LOT 11<CR>DESC OR 1358 PG 1617
 .OT 11<CR>DESC 1358 PG 1613
 LOT 11<CR>DESC OR 1357 PG 897
 LOT 11<CR>DESC OR 1362 PG 115
 1361 PG 1551 AKA BLK J<CR>LOT 15 VENETIAN GARDENS
)R 1436 PG 916 AKA BLK J<CR>LOT 17 VENETIAN GARDENS
 LOT 11<CR>DESC OR 1361 PG 1549
 R>PT LOT 19 BEG 1220.2 FT N
 :R>PT LOT 19
 F LT 19<CR>AKA BLK J LT 12
 LT 19<CR>AKA BLK J LOT 11
 R>PT LOT 19 + N 1/2 OF RD R/W DESC IN INST 2005-48084
 19 FR SW COR LT19 TH<CR>N891 TO POB AKA LT7 BLK N
 L9 FR SW COR LOT 19 TH<CR>N941 TO POB AKA LOT 8 BLK N
 4<CR>PT LOT 19 BEG 990.65 FT N
 19-FR SW COR LT 19<CR>RUN N1040.65 TO POB
 :R>PT LOT 19 AKA LT 11<CR>BLK N CL YENTS UNREC
 F LOT 19<CR>AKA LT 12 BLK N CL YENT UR
 F LOT 19<CR>DESC IN INST 2006-111263 PARCEL B
 F LOT 19<CR>OR 1822 PG 2016 + S 1/2 OF RD R/W DESC IN INST 2005-48084 LESS PAR B IN INST 2006-111263
)T 13 + PT OF LOT 14
 1<CR>LOT 15 + POR OF LT 14
 1<CR>LOT 16
 1<CR>LOT 17
 1<CR>LOT 18
 1<CR>LOT 19
 :CR>LOT 20
 CR>LOT 21
 :CR>LOT 22
 CR>LOTS 23 + 24
 L<CR>LOT 25
 CR>LOT 26 + PT LOT 27
 1<CR>LOTS 27 28+29 OR 530 P 769
 L<CR>LOT 13

L<CR>LOT 14
 1<CR>LOT 15
 L<CR>LOT 16
 L<CR>LOT 17
 L<CR>LOTS 18
 CR>LOT 19
 ; PG 31<CR>LOTS 20 21 LESS N10FT 21
 < B<CR>LT22 + N10 FT LT 21
 CR>LOT 23
 CR>LOT 24
 CR>LOTS 25 THRU 29
 PG 69<CR>LOT 13 + N 1/2 LOT 12
 G 69<CR>LOT 14 + S 27 FT OF LT 15
 ; 69<CR>LOT 16 + N 38 FT OF LT 15
 ; 69<CR>LOT 17
 ; 69<CR>LOT 18
 PG 69<CR>LOT 19 + S 1/2 OF 20
 PG 69<CR>LOTS 21 + E 28.48 FT OF
 PG 69<CR>LOTS 20 + 21-PART OF-BEG
 PG 09<CR>LOT 23 + WLY 46.52FT LT 22
 PG 69<CR>LOTS 7 + 8 + N 10 FT LOT 6
 ; 69<CR>LOTS 9 + 10
 G 69<CR>S53FT OF LOT 11
 ; 69 S59.73FT<CR>OF LT 12 + N7FT OF LT 11
 ; 69<CR>LOT 13 + N.27FT OF LT 12
 ; 69<CR>LOT 14 + S7FT OF LT 15
 ; 69<CR>N53FT OF LOT 15
 PG 69<CR>LOT 16
 PG 69<CR>LOT 7
 ; 69<CR>LOT 8
 ; 69<CR>LOT 9
 PG 69<CR>LOT 10
 PG 69<CR>LOT 11
 ; 69<CR>LOT 12
 PG 69<CR>LOTS 13 + PT 14
 G 69<CR>N 45 FT LOT 14 + S 30 FT LOT 15
 ; 69<CR>PORT OF LOT 19 BLK F +<CR>N 1/2 LOT 16
 PG 69<CR>LOT 8
 PG 69<CR>LOT 9
 PG 69<CR>LOT 10
 ; 69<CR>LOTS 11 + 12
 PG 69<CR>LOT 13
 ; 69<CR>LOT 14
 PG 69<CR>LOT 15
 ; 69<CR>LOT 16
 PG 69<CR>LOT 17
 ; 69<CR>PORT OF LOTS 18 + 19<CR>AS DESC IN INST# 2008000153547

ı 69<CR>PORT OF LOT 18 AS <CR>DESC IN INST# 2008000153547



Pacific Pools

Craigspacificpools.com

PAGE 1

Phone 458-8600

Fax 458-8339

Craig Stevens

REV

SCALE 1/8" = 1'

Date 11-29-2021

SHEET 1 OF 1



Pacific Pools
239-458-8600

Standard Pool Specifications

- *Design and Engineering
 - *Obtain Local Permits
 - *Excavation with 6 Yards Gravel
 - *Shotcrete or Gunite Structure
 - *3 Steps in Shallow End
 - *Bench in Deep End
 - *2 Inch Plumbing System
 - *Auto Vacuum Suction Line
 - *Skimmer with Overflow Line
 - *2 Main Drains with Safety Vent
 - *3 Directional Flow Returns
 - *48 Years Hands On Pool Construction Experience
- *Double Bullnose Brick Coping
 - *6 Inch Waterline Tile (\$5 sf Allowance)
 - *Grounding and Bonding Per Code
 - *Concrete Footers Per Code
 - *Paver Decking
 - *Electrical Wiring to Equipment
 - *100 Watt Underwater Light
 - *12 Volt Transformer and J Box
 - *Inline Auto Chlorinator
 - *34 Years Of Service To Cape Coral and Lee County
- *Hayward variable speed pump
 - *Hayward SwimClear filter
 - *White Satin finish w/lifetime warranty
 - *Mansard Screen Enclosure
 - *2 Screen Doors with Pads
 - *SuperCutters with Downspouts
 - *Safety Door Alarms Per Code
 - *30 Day Pool Service
 - *Homeowner Pool School

Standard Pool Design

Max Flo VS 500
100 Swim Clear

Options and Upgrades

- Extended Deck and Screen Enclosure
- Lanai Topping
- Pool Heater
- Salt Generator
- LED Lighting
- Pebble Tec Interior
- Other
- Other
- Other

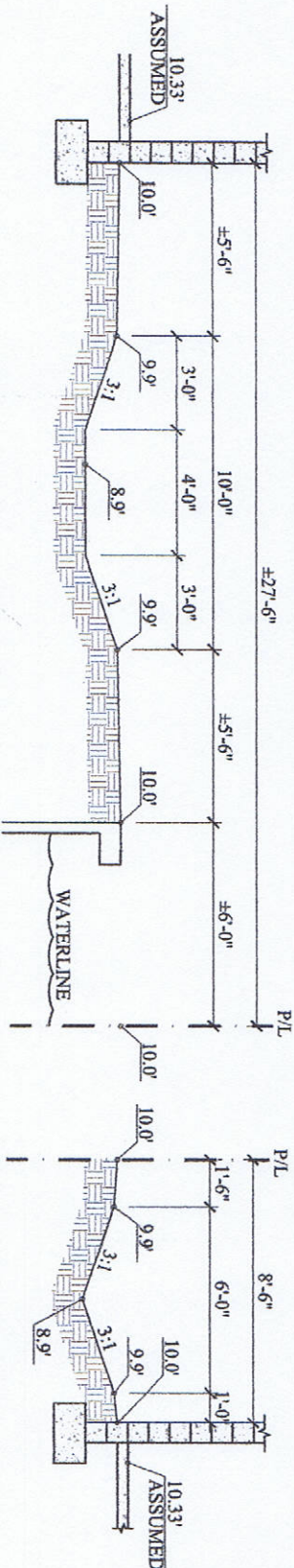
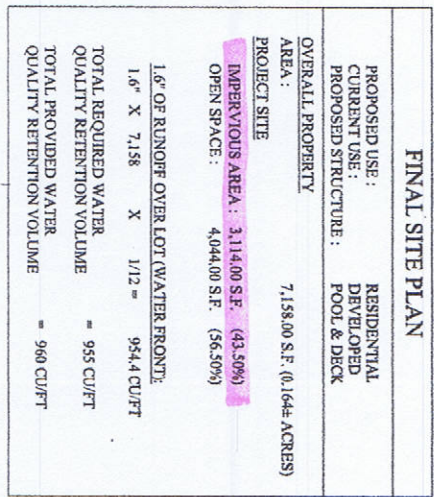
Pool Package Total \$

TERMS
\$500.00 with Contract
30% At Excavation
35% At Gunite
30% At Tile
5% At Water in Pool

State Of Florida
CPC-044088

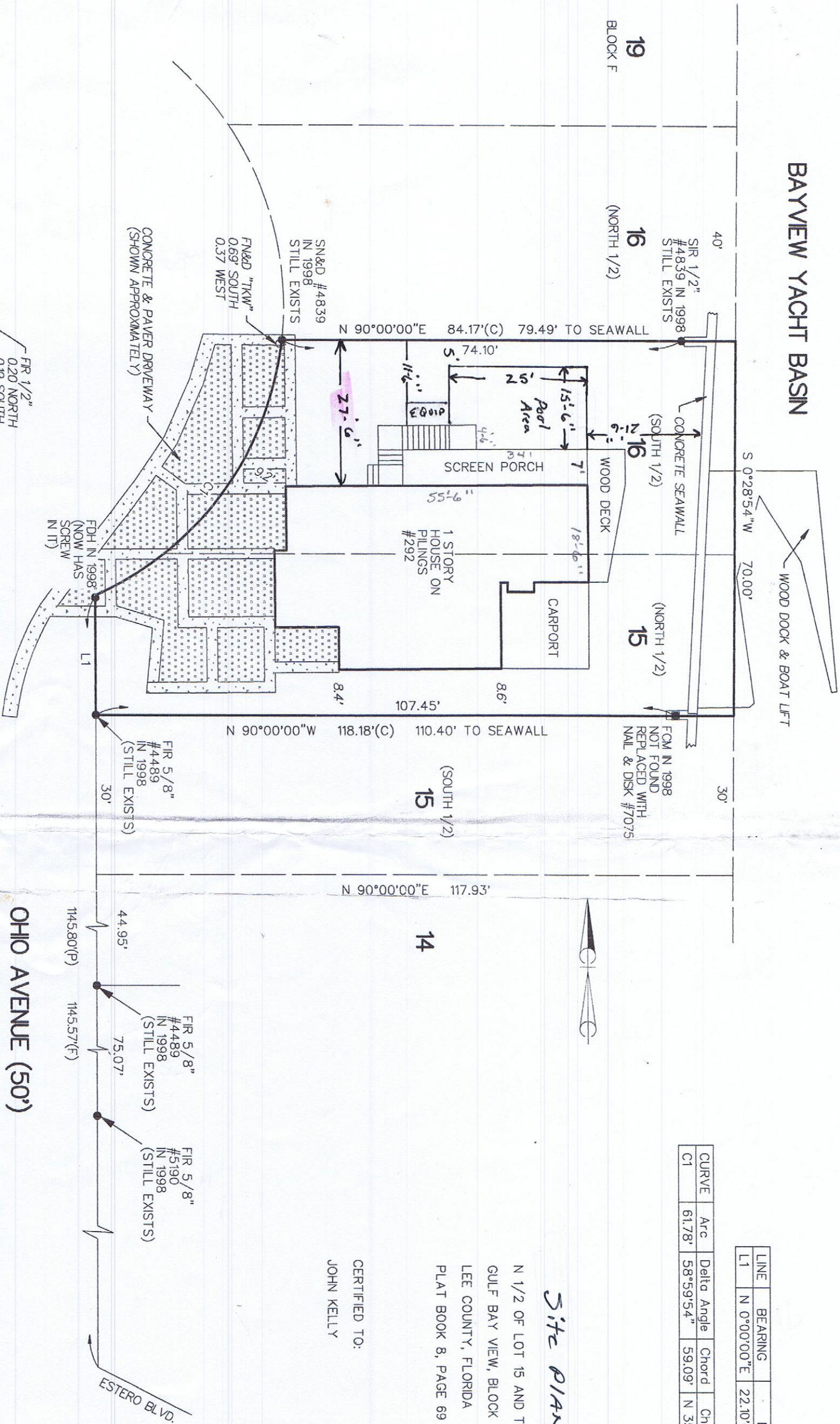
Fully Licensed and
Insured!

Project Name:	Project Address:	Project Contact Number:	Lot Number:	Construction Type:
Jesse Hallman	292 Ohio Ave Ft Myers Beach		Block	



Ellen Hottel, P.E. FL LICENSE NO. 91118	AQUA-TERRA ENGINEERING, INC. CIVIL-AGRICULTURAL ENGINEERING CONSULTATION PROJECT ADMINISTRATION CERTIFICATE OF AUTHORIZATION # 28656 P.O. BOX 152049 CAPE CORRAL, FLORIDA 33915-0249 PHONE: (239) 458-4200 FAX: (866) 773-4968
---	--

BAYVIEW YACHT BASIN



LINE	BEARING	DISTANCE
L1	N 0°00'00"E	22.10'(P) 21.72'(F)

CURVE	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1	61.78'	58°59'54"	59.09'	N 35°50'45"E	60.00'	33.95'

Site Plan

N 1/2 OF LOT 15 AND THE S 1/2 OF LOT 16
GULF BAY VIEW, BLOCK E
LEE COUNTY, FLORIDA
PLAT BOOK 8, PAGE 69

CERTIFIED TO:
JOHN KELLY

OHIO AVENUE (50')

BASIS FOR BEARINGS:		OHIO AVENUE - ASSUMED BEARING		SCALE: 0 20		SURVEY DATE: 5/20/13	
COMMUNITY NUMBER	120673	MAP & PANEL NUMBER	12071C0554	SUFFIX	F	DATE OF FIRM INDEX	8/28/08
LEGEND		+0.0 = EXISTING ELEVATION		FIRM		AE	
FR = FOUND RGN ROD		= UTILITY RISER		AE		ELEVATION	
FDH = FOUND DRILL HOLE		= UTILITY POLE		AE		ELEVATION	
FCM = FOUND CONCRETE MONUMENT		= FIRE HYDRANT		AE		ELEVATION	
SR = SET RGN ROD 1/2" LB#7075		= CATCH BASIN		AE		ELEVATION	
PUE = PUBLIC UTILITY EASEMENT				AE		ELEVATION	
PU & DE = PUBLIC UTILITY & DRAINAGE EASEMENT				AE		ELEVATION	
SN&D = SET NAIL & DISK LB#7075				AE		ELEVATION	
FRM = FOUND RGN ROD				AE		ELEVATION	
FND = FOUND NAIL & DISK				AE		ELEVATION	
POB = POINT OF BEGINNING				AE		ELEVATION	
FCM = FOUND CONCRETE MONUMENT				AE		ELEVATION	
CONC = CONCRETE				AE		ELEVATION	
* = NOT FIELD MEASURED				AE		ELEVATION	
LNE = LONG MAINTENANCE EASEMENT				AE		ELEVATION	
DE = DRAINAGE EASEMENT				AE		ELEVATION	
MA = NORTH AMERICAN VERTICAL DATUM OF 1988				AE		ELEVATION	

DAVIS SURVEYING INC.

4536 SE 16th PLACE SUITE 3
CAPE CORAL, FLORIDA 33904
TEL(239)549-6454
FAX(239)549-2548
CONTACT@DAVISLANDSURVEYS.COM

JOB NUMBER:

13-0566

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number:
Project Name: 242 OHIO AVE FMB
Authorized Applicant: JESSE HAILMAN
LeePA STRAP Number: 19-46-24-W4-0090E.015A

Current Property Status:	
Current Zoning:	
Future Land Use Map (FLUM) Category:	
Comp Plan Density:	Platted Overlay? ☐ Yes ☐ No

Variance is requested from:

LDC Section Number	Title of Section or Subsection
SEC 34-1174(d)(1)(d)	LOCATION AND SETBACKS
SEC 34-638(d)(1)(g)	MINIMUM SETBACKS

Complete the narrative statements below for EACH variance requested.

PART I

Narrative Statements

Request for variance from 34-1174(D)(1)(D) (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:

LOCATION AND SETBACKS GENERALLY WAS CHANGED
AND APPROVED BY COUNCIL ON FEB 7TH 2022

^{SIDE}
The SETBACK WAS CHANGED TO 15% OF THE LOT
WIDTH

Reasons for request

Explain why the variance is needed:

POOL WAS DESIGNED JANUARY 04 2022 AND SUBMITTED
FOR APPROVAL ON MARCH 2ND 2022 TO THE CITY OF
FMB, BUT WAS REJECTED BECAUSE SIDE SETBACK
WAS LESS THAN 10.5 FT. THE POOL WAS DESIGNED
FROM THE OLD ^{SIDE} SETBACK RULING OF 7.5 FT. I
AM SIMPLY ASKING TO ADJUST MY SIDE SETBACK
BACK TO THE ORIGINAL 7.5 FT. PLEASE GRANT
ME THE ADDITIONAL 3 FT OF SIDE SETBACK,
JUST ON ONE SIDE. MOST LOTS ARE 50 FT WIDE
MINE IS 70 FT WHICH EQUATES TO 10.5 FT AS WHERE
OTHER LOTS ARE 7.5 FT LIKE MINE WAS ORIGINALLY BEFORE
THE ORDINANCE CHANGE THAT OCCURRED 1 MONTH AGO

From: DaphnieB@fmbgov.com,
To: jessvh@verizon.net,
Cc: Eli.Lee@fmbgov.com, green@fmbgov.com,
Subject: RE: 220289 / 292 OHIO AVE / install pool and spa with paver deck on grade AND FENCE BY OTHERS
Date: Tue, Mar 8, 2022 10:28 am
Attachments: image002.png (26K),

Mr. Hallman,

The Council approved the ordinance on Feb. 7th. The service we use to codify ordinances occasionally have a back log, but that doesn't mean the ordinance isn't applicable.

If you want a deviation from the setbacks, you must submit an application for a variance. A meeting with us will not change that process.

However, if you feel the need to meet with us, I will schedule a meeting with you—but the need to go through the variance process is required if you want to deviate from the setbacks.



Daphnie Bercher Saunders

Community Services
Administrator

Town of Fort Myers Beach

2525 Estero Boulevard

Fort Myers Beach, FL. 33931

Phone: (239) 765-0202

----- FMBgov.com -----

From: Jesse Hallman <jessvh@verizon.net>
Sent: Monday, March 7, 2022 3:46 PM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Cc: Eli Lee <Eli.Lee@fmbgov.com>; Jason Green <green@fmbgov.com>
Subject: Fwd: 220289 / 292 OHIO AVE / install pool and spa with paver deck on grade AND FENCE BY OTHERS

Hello Daphnie,

My name is Jesse Hallman and I live at 292 Ohio Ave FMB . I have been working with Eli on an ordinance that has not yet been approved which affects me and my building plans immensely.

I have worked with Jason and his team in the last two years involving multiple permits and fees paid to the city along with enormous amount of engineering fees all which involved beautifying my home. Part of the beautification was the addition of a pool in my side yard that have been on my plans for the last two years, subsequently when my pool contractor went to file for permitting we were denied on March 2nd of an ordinance that isn't even recorded as a code yet. We are all confused on this matter and would like to have a meeting with you to discuss our options.

Please schedule something this week so we can meet.

Thank you,

Jesse Hallman

-----Original Message-----

From: BuildingPermits <Buildingpermits@fmbgov.com>
To: Craig <craig@craigspacificpools.com>; Jesse Hallman <jessvh@verizon.net>
Cc: Eli Lee <Eli.Lee@fmbgov.com>
Sent: Wed, Mar 2, 2022 12:56 pm
Subject: 220289 / 292 OHIO AVE / install pool and spa with paver deck on grade AND FENCE BY OTHERS

Explain the possible effect the variance, if granted, would have on surrounding properties:

THERE WOULD BE NO ADVERSE EFFECT TO THE PROPERTY NEXT DOOR, AS IT IS CURRENTLY A NATURAL GREEN FENCE THAT WOULD STAY UNDISTURBED.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

THE PROPERTY IS 70 FT WIDE AND THE NEW ORDINANCE OF 15% OF TOTAL WIDTH AFFECTS HOME OWNERS LIKE MYSELF THE INABILITY TO UTILIZE THEIR PROPERTY TO THE FULLEST. THE SAME PROPERTY OWNER THAT HAS THE COMMON 50 FT LOT IS SUBJECTED TO A 7.5 FT SIDE SETBACK AS WHERE I AM BEING PARALYZED TO A 10.5 FT SIDE SETBACK BECAUSE OF THE WIDTH OF MY PROPERTY.

I ASK THAT I BE GRANTED THE AVERAGE SIDE SETBACK OF 7.5 FT SO I CAN INSTALL A 12 FT POOL, OTHERWISE I AM REDUCED TO A 8 FT " POOL WHICH IS NARROW AND USELESS FOR RECREATION.

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

THE PROPERTY QUALIFIES FOR A VARIANCE DUE TO THE FACT THE NEW ORDINANCE OF SIDE SET BACK WAS CREATED FOR 50 FT LOT OWNERS WHICH IS THE MAJORITY OF LOTS ON FMB.

MY PROPERTY IS 70 FT WIDE WHICH HAS AN ADVERSE EFFECT ON MY SIDE SET BACK ALLOWANCE WHICH IS 10.5 FT AS TO WHERE THE MAJORITY OF PROPERTY OWNERS ENJOY A 7.5 FT SET BACK.

BEFORE THE ORDINANCE WENT INTO EFFECT LESS THAN A MONTH AGO I WAS PLANNING AND DESIGNING MY POOL. IF I SUBMITTED MY POOL APP AT THE BEGINNING OF FEB 2022 THIS ISSUE WOULD BE MOOT AS I WAS SINCE THE TIME OF PURCHASE HAD A 7.5 FT SIDE SET BACK

PART 2

Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - [iworq \(talktomycity.com\)](http://iworq.talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of \$1800.00 (residential)/Additional Variance \$500.00
- Variance (non-residential) \$2800.00/ Additional Variance \$700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

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

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

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

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

"Variance is requested from..." Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

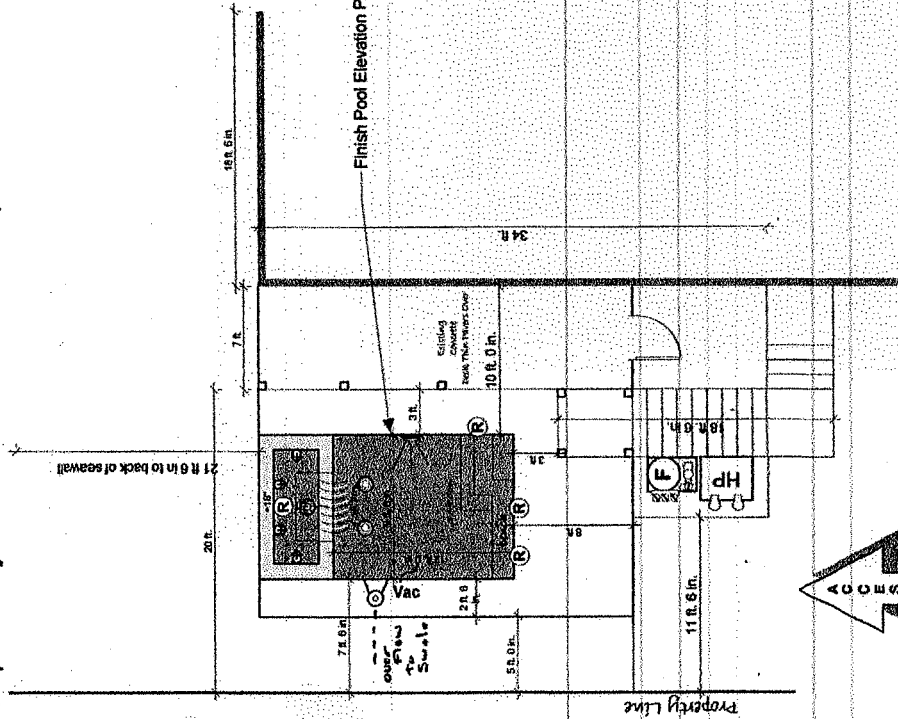
LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Site access provided by homeowner

Sod/sprinkler/landscape repair/replacement not included



Pacific Pools		Craig Stevens	
Craigspacifpools.com		11-29-2021	
PAGE 1	Phone 458-8600 Fax 458-8339	Date	SHEET 1 OF 1
SCALE 1/8" = 1'			



Pacific Pools

239-458-8600

Standard Pool Specifications

- *Design and Engineering
- *Obtain Local Permits
- *Excavation with 6 Yards Gravel
- *Shotcrete or Gunite Structure
- *3 Steps in Shallow End
- *Bench in Deep End
- *Auto Vacuum Suction Line
- *Skimmer with Overflow Line
- *2 Main Drains with Safety Vent
- *3 Directional Flow Returns
- *Double Bullnose Brick Coping
- *6 Inch Waterline Tile (\$5 sf Allowance)
- *Grounding and Bonding Per Code
- *Concrete Footers Per Code
- *Paver Decking
- *Electrical Wiring to Equipment
- *100 Watt Underwater Light
- *12 Volt Transformer and J Box
- *Hayward variable speed pump
- *Hayward SwimClear filter
- *White satin finish w/ lifetime warranty
- *Mansard Screen Enclosure
- *2 Screen Doors with Pads
- *SuperGutters with Downspouts
- *Safety Door Alarms Per Code
- *30 Day Pool Service
- *Homeowner Pool School
- *Inline Auto Chlorinator
- 48 Years Hands On Pool Construction Experience
- 34 Years Of Service To Cape Coral and Lee County

Standard Pool Design

Max Flo VS 500
100 Swim Clear

Options and Upgrades

- Extended Deck and Screen Enclosure
- Lanal Topping
- Pool Heater
- Salt Generator
- LED Lighting
- Pebble Tec Interior
- Other
- Other

Pool Package Total \$

TERMS
\$500.00 with Contract
30% At Excavation
35% At Gunite
30% At Tile
5% At Water-In Pool

State Of Florida
CPC-044088

Fully Licensed and Insured

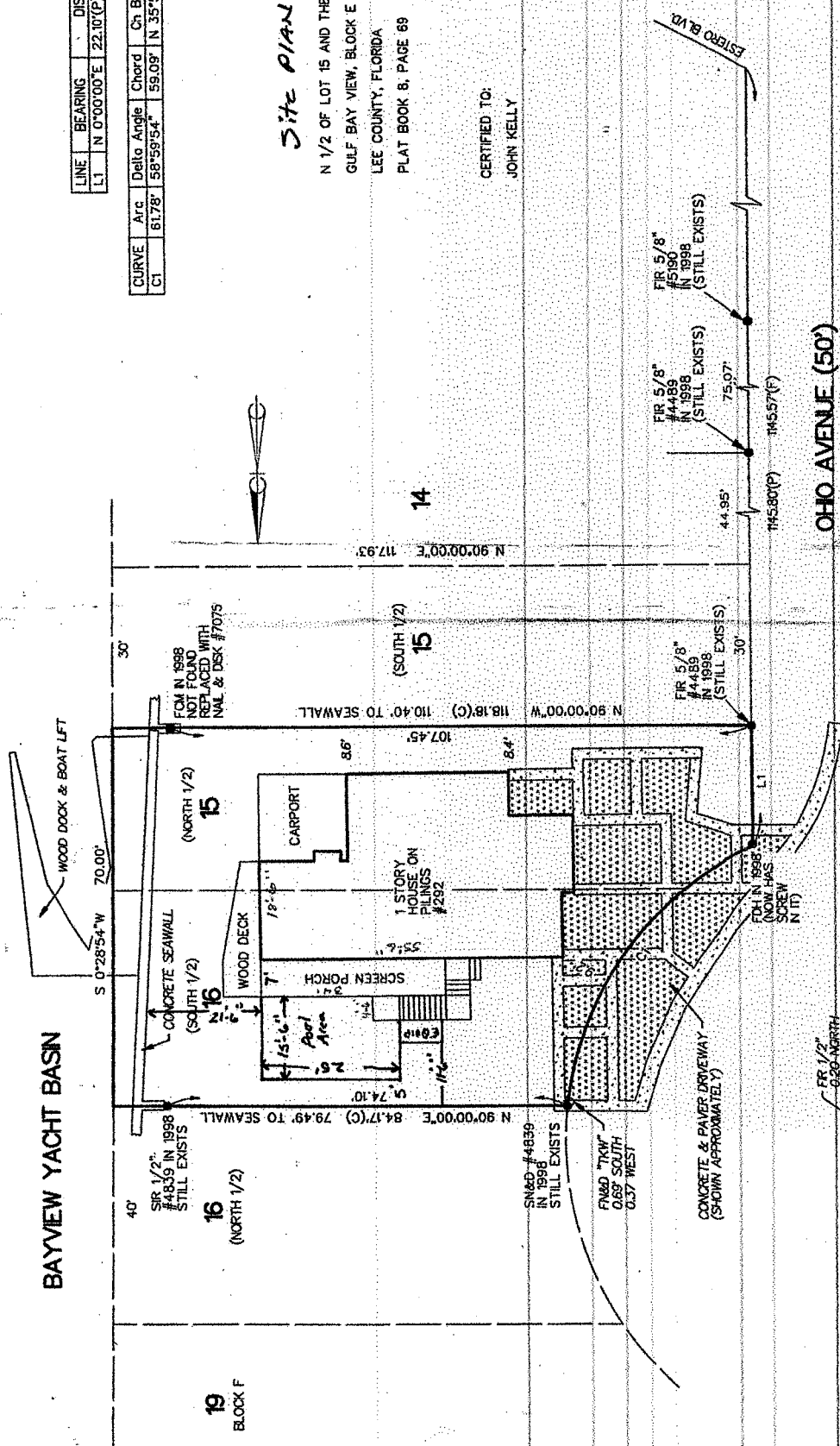
Project Name Jesse Hallway	Project Address 292 Ohio Ave Ft Myers Beach	Project Contact Number	Lot Number Block	Construction Type
-------------------------------	---	------------------------	---------------------	-------------------

CURVE	Arc	Delta Angle	Chord	Cn Bearing	Radius	Tangent
C1	61.78'	58°59'54"	59.09'	N 35°50'45"E	60.00'	33.95'

Site Plan

N 1/2 OF LOT 15 AND THE S 1/2 OF LOT 16
GULF BAY VIEW, BLOCK E
LEE COUNTY, FLORIDA
PLAT BOOK 8, PAGE 69

CERTIFIED TO:
JOHN KELLY

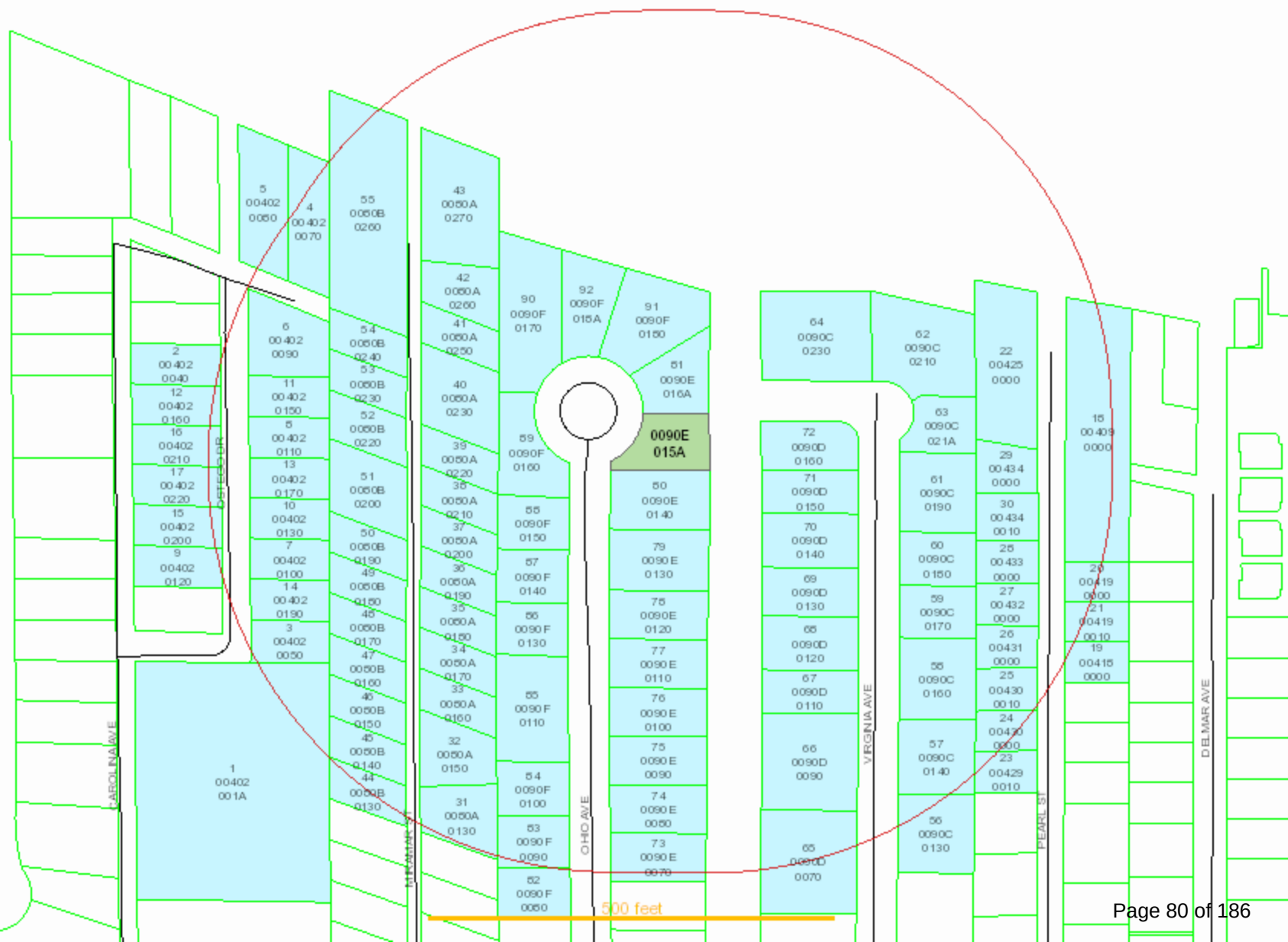


OHIO AVENUE (50')

OHIO AVENUE (50')

BASES FOR BEARINGS:	OHIO AVENUE	-	ASSUMED BEARING	SCALE:	0	SURVEY DATE:	5/20/13
MAP & PANEL:	120672		1207100554	DATE OF SURVEY:	8/28/08	TYPE OF SURVEY:	AE
COMMUNITY	120672			SUFFIX:	F	REASON FOR FLOOD:	10

[illegible]





Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20220021

CASE NAME: 292 Ohio Avenue; to approve a pool closer to a side-yard property line than allowed-for under current LDC requirements.

TOWN COUNCIL HEARING DATE: May 2, 2022

STAFF RECOMMENDATION: Deny pool structure location

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

I. APPLICATION SUMMARY

Applicant/Owner: Jesse Hallman

Request: The applicant is seeking variances from LDC Sec. 34-1174(d)(1)(d), to allow an in-ground pool closer to a side-yard property line than allowed-for under current LDC requirements.

Subject property: See attached site plan

Physical Address: 292 Ohio Avenue

STRAP #: 19-46-24-W4-0090E.015A

FLU: Mixed Residential

Zoning: Residential Conservation (RC)

Adjacent zoning and land uses:

North:	RESIDENTIAL SINGLE-FAMILY (RC) Single-Family Residences
South:	RESIDENTIAL SINGLE-FAMILY (RC) Single-Family Residences
East:	CANAL WATERWAY Open Space
West:	RESIDENTIAL SINGLE-FAMILY (RC) Single-Family Residences

II. BACKGROUND AND ANALYSIS

Background:

Jesse Hallman, the applicant for 292 Ohio Avenue, has requested a variance from the Town's Land Development Code (LDC), Sec. 34-638 (Table 34-3), which requires primary structure setbacks of 15-percent of the calculated width of the lot. Currently the LDC requires setbacks of 11-feet from the side property line, the applicant has provided side-yard setbacks of 6-feet (6) to the proposed pool, a difference of 5-feet (5). Lot widths have been determined based on a provided survey from the applicant and publicly accessible property data, measurements are approximate but within generally established margins-of-error.

The house was built in 1950, with building permits from 1996 and 1998 to construct an addition and do remodeling of the structure. The current owners bought the house in 2020.

Analysis:

The shape of the lot and the minimum setbacks in the LDC make expansion of the existing structure difficult. The placement of the pool on the side of the house is one of the few areas on the lot in which the homeowner could construct a pool of a similar size to the ones observed in the surrounding neighborhood.

The proposed construction of the pool was reviewed for 40-percent lot coverage and impervious maximums and was found to meet the LDC requirements.

Neighborhood Compatibility:

The proposed dimensions of the pool are generally in-line with the wider neighborhood. The proposed plans do not indicate that the homeowner will install any additional sod/ greenspace or plant any additional trees. While these landscape features are not required by code the surrounding neighborhood lots have retained some amount of greenery and plantings that aren't apparent on this lot, aside from

one planting area where 4 palm trees are planted in a landscape area at the front of the property.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. That there are/**are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request **is/is not** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

The applicant has proposed to meet the street setbacks for Ohio Avenue, and water setbacks for a man-made waterbody. While the lot lines do restrict—somewhat—further development of the property, this doesn’t constitute an “exceptional” or “extraordinary” condition of the site.

- b. That the conditions justifying the variance **are/are not** the result of actions of the applicant taken after the adoption of the regulation in question.*

The homeowner could feasibly reduce the width of the proposed pool by approximately 3.5-feet and could meet the more restrictive side-yard setbacks in effect as of this application. The applicant could also feasibly move the pool to the rear of the property and meet current code requirements.

- c. That the variance granted **is/is not** the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

The proposed expansion would constitute the minimum development necessary to meet the wants and needs of the applicant and would not increase building heights and would only minimally obscure neighbors’ views of a waterway.

- d. That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Staff encourages the homeowner to plant additional greenspace and/ or trees.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought are/**are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

This variance request is not uncommon for existing structures designed under previous setback requirements of the LDC, changes to the code made this variance request necessary and further changes to the code would not be warranted to address this particular situation.

III. RECOMMENDATION

Staff has reviewed the request for a variance from LDC Sec. 34-638 (Table 34-3), to allow a pool closer to a side-yard setback on a lot adjacent to a waterbody. The accessory structure is not consistent with the criteria outlined in LDC Sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20220021, to construct a pool closer to a side-yard property line.

IV. LPA DETERMINATION

Committee members discussed whether the placement of the pool and deck in the side-setback area would be the most reasonable location, rather than in the rear of the property where a smaller pool might meet the current rear-yard setbacks.

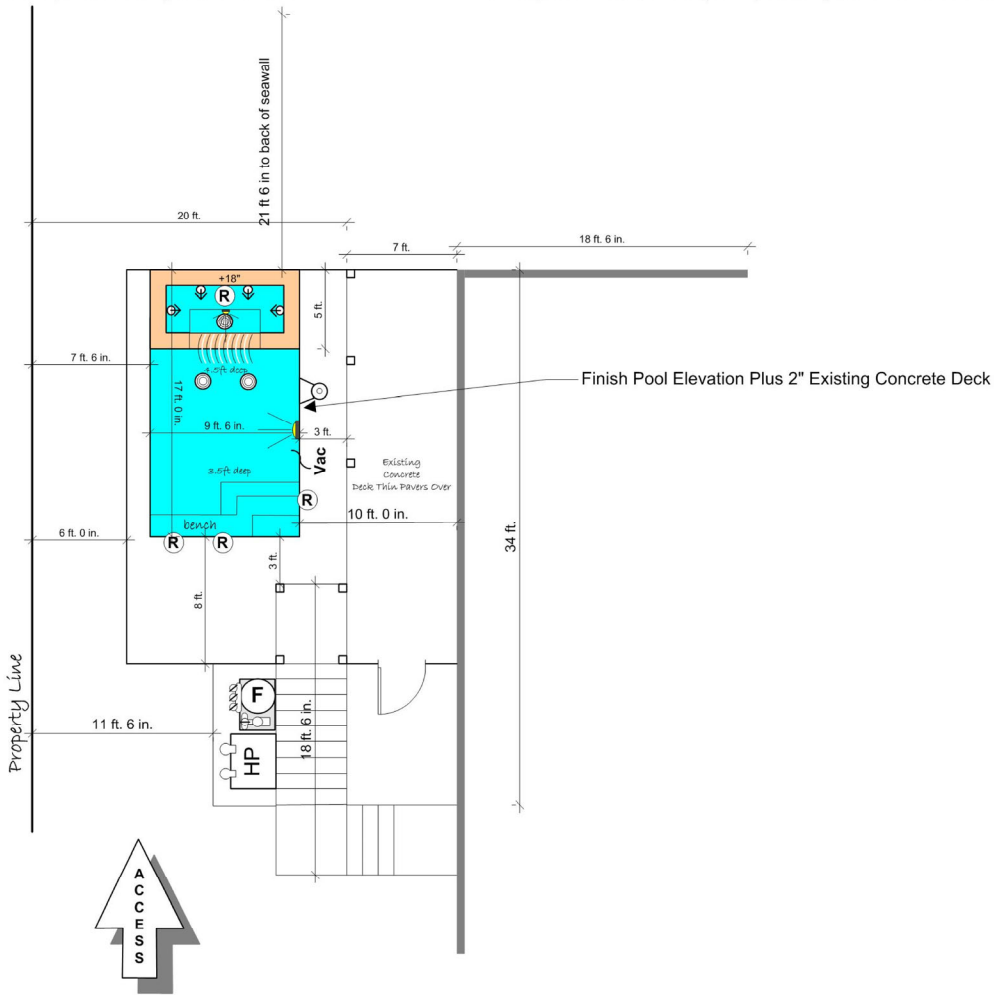
Members also discussed whether the proposed structure—the width of the proposed pool in particular—is the minimum variance needed to relive the applicant of an “unreasonable burden.”

The LPA recommended approval of an approximately five-foot (5) variance to the required eleven-foot (11) side-yard setback by a vote of 5-0.

V. CONDITIONS OF APPROVAL

1. N/A

Site access provided by homeowner Sod/sprinkler/landscape repair/replacement not included



Pacific Pools			
Craigspacificpools.com			
PAGE 1	Phone 458-8600 Fax 458-8339	Craig Stevens	REV
SCALE 1/8" = 1'	Date 11-29-2021	SHEET 1 OF 1	



Pacific Pools
239-458-8600

Standard Pool Specifications

- | | | |
|---------------------------------|---|---|
| *Design and Engineering | *Double Bullnose Brick Coping | *Hayward variable speed pump |
| *Obtain Local Permits | *6 Inch Waterline Tile (\$5 sf Allowance) | *Hayward SwimClear filter |
| *Excavation with 6 Yards Gravel | *Grounding and Bonding Per Code | *White Satin finish w/lifetime warranty |
| *Shotcrete or Gunite Structure | *Concrete Footers Per Code | *Mansard Screen Enclosure |
| *3 Steps in Shallow End | Paver Decking | *2 Screen Doors with Pads |
| *Bench in Deep End | *Electrical Wiring to Equipment | *SuperGutters with Downspouts |
| *2 Inch Plumbing System | *100 Watt Underwater Light | |
| *Auto Vacuum Suction Line | *12 Volt Transformer and J Box | |
| *Skimmer with Overflow Line | | |
| *2 Main Drains with Safety Vent | | |
| *3 Directional Flow Returns | *Inline Auto Chlorinator | |

48 Years Hands On Pool Construction Experience 34 Years Of Service To Cape Coral and Lee County

Standard Pool Design

Max Flo VS 500
100 Swim Clear

Options and Upgrades

Extended Deck and Screen Enclosure	_____	_____
Lanai Topping	_____	_____
Pool Heater	_____	_____
Salt Generator	_____	_____
LED Lighting	_____	_____
Pebble Tec Interior	_____	_____
Other	_____	_____
Other	_____	_____
Other	_____	_____

Pool Package Total \$ _____

State Of Florida
CPC-044088

TERMS
\$500.00 with Contract
30% At Excavation
35% At Gunite
30% At Tile
5% At Water in Pool

Fully Licensed and
Insured!

Project Name: Jesse Hallman	Project Address: 292 Ohio Ave Ft Myers Beach	Project Contact Number:	Lot Number: Block	Construction Type:
--------------------------------	--	-------------------------	----------------------	--------------------

1. Requested Motion:

Meeting Date: May 2, 2022

Select the recipient of the 2022 Mayor John Mulholland Stewardship Award. The MRTF, at their April 13, 2022 meeting, recommended Cindy Johnson for the 2022 Mulholland award by a vote of 5-0 with one member recused. If awarded, the recipient will be recognized at the June 6th Town Council meeting.

Why the action is necessary:

What the action accomplishes:

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

Other

4. Submitter of Information:

5. Background:

The Mayor John Mulholland Stewardship Award is an annual award which recognizes individuals, businesses or organizations which promote awareness, education and preservation of our community's natural resources.

Attachments:

1. johnson mulholland

Financial Impact:

6. Alternative Action

7. Management Recommendations:

8. Recommended Approval:

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/26/2022
Approved - 4/27/2022
Approved - 4/27/2022
Final Approval - 4/27/2022

TOWN OF FORT MYERS BEACH

Mayor John Mulholland
Stewardship Award Nomination

Application Deadline:
March 31*



Stewardship is the voluntary conservation of natural habitat and wildlife by concerned citizens. The Marine Resources Task Force, an advisory board to the Fort Myers Beach Town Council regarding awareness, education and preservation of the community's natural resources, is pleased to announce its annual request for nomination for this award.

Practicing good natural resources stewardship means:

- ⇒ Using your property carefully
- ⇒ Reporting hazards or violations
- ⇒ Recognizing your relationship and responsibilities to protecting natural resources

Do you know of any individual, business or organization which promotes awareness, education and preservation of our community's natural resources? Then please fill out this nomination form to acknowledge those individuals who continue to make a difference.

Award Categories are:
☒ Individual
☐ Business
☐ Non Profit / Organization

My Nomination is:

Name Cindy Johnson

Address _____

City, State, Zip Fort Myers Beach, FL

Phone 614 581-6773

Email address Kokomuncie@msn.com

Nominated by: B. H. Beach

Phone: 302 286 4687

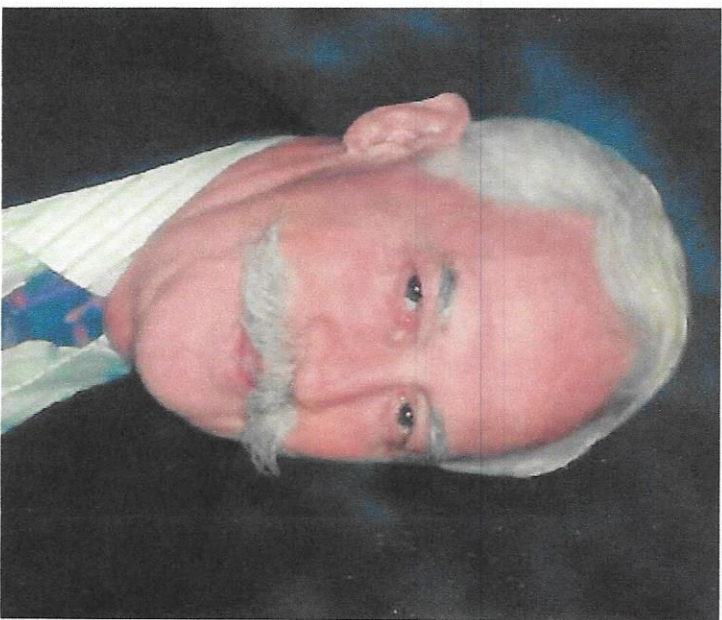
Email address: BillyBeach@gmail.com

Please fill out the additional information on the next page.

Cindy has volunteered for 700+ hours for years, is listed on their Permit, and helps with the MRTF pop up events. But, more importantly, she is ~~with~~ ~~taking~~ the takes the time to research, talk to experts, and becomes extremely knowledgeable on the subjects she speaks about. And she is also determined and vocal advocate for the island's environment.

For further information call Town Hall: 239-765-0202

MAKING A DIFFERENCE
Mayor John Mulholland
Stewardship Award



Town of Fort Myers Beach
Marine Resources Task Force

1. Requested Motion:

Meeting Date: May 2, 2022

Authorize the award of a contract to Page Mechanical Group, LLC to install a new AC unit for Bay Oaks Recreation Center, as the low, responsive and responsible bidder, in response to ITB-22-13-PR "Air Conditioner Replacement at Bay Oaks Recreational Campus" in the amount of \$43,900.00; authorizing the Town Manager to execute the contract documents and expend FY22 budgeted Capital funds on behalf of the Town, and to waive the DBE participation form which is not required for this project.

Why the action is necessary:

To enter into a contract with Page Mechanical Group, LLC to get AC replaced at the Recreation Center.

What the action accomplishes:

Approves and authorizes the Town Manager to execute contract documents.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

ITB-2222-13-PR was issued and properly advertised on March 16, 2022 for the Air Conditioner Replacement at Bay Oaks Recreational Campus. The bid's due date was extended to April 22, 2022. The bid resulted in 2 submittals ranging in costs from \$46,068.00 to \$43,900.00 for Air Conditioner Replacement at Bay Oaks Recreational Campus. The bids resulted in two submittals with costs of \$46,068.00 and \$43,900.00. Bidders were Air Mechanical & Service Corp. and Page Mechanical Group, LLC.

4. Submitter of Information:

5. Background:

Approval is required due to the amount being over \$25,000.

Attachments:

1. Page Mechanical Group- ITB-22-13-PR (002)
2. Bid Tabulation ITB-22-13-PR
3. ITB-22-13-PR BORC AC Replacement Contract

Financial Impact:

Capital FY22 Funds

6. Alternative Action

7. **Management Recommendations:**

Approve and authorize the Town Manager to execute the contract documents.

8. **Recommended Approval:**

Alison Giesen, Director of Cultural, Parks & Recreation

Alison Giesen, Director of Cultural, Parks & Recreation

John R Herin Jr, Town Attorney

Amy Baker, Town Clerk

Roger Hernstadt, Town Manager

Created/Initiated - 4/26/2022

Approved - 4/26/2022

Approved - 4/27/2022

Approved - 4/27/2022

Final Approval - 4/27/2022



TOWN of FORT MYERS BEACH

BID NO. ITB-22-13-PR

PART D
FMB:003 - OFFICIAL BID FORM
(1 of 5 Pages)

FOR

AIR CONDITIONER REPLACEMENT AT BAY OAKS RECREATIONAL
CAMPUS
ITB-22-13-PR

Bids are to be submitted by

APRIL 15, 2022 @ 2:00 P.M. EST,

to:

**TOWN OF FORT MYERS BEACH
TOWN HALL
2525 ESTERO BOULEVARD
FORT MYERS BEACH, FL 33931**

BID OPENING:

LOCATION: Council Chambers
2525 Estero Boulevard
Fort Myers Beach, FL. 33931

Friday, APRIL 15, 2022 @ 2:15 P.M. EST

**TOWN COUNCIL FORT MYERS BEACH
LEE COUNTY, FLORIDA**

BIDDER: Page Mechanical Group LLC
(Individual or Firm Name)



TOWN of FORT MYERS BEACH

BID NO. ITB-22-13-PR

PART D
FMB:003 - OFFICIAL BID FORM
(2 of 5 Pages)

Friday, APRIL 15, 2022
(DATE)

2:00 P.M. EST
(TIME)

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

1. ATTENTION: BIDS WILL ONLY BE CONSIDERED FROM THOSE BIDDERS WHO HAVE OBTAINED THESE CONTRACT DOCUMENTS DIRECTLY FROM THE TOWN
2. The Undersigned, hereinafter called "BIDDER", having visited the site of the proposed project and having become familiar with the local conditions, nature and extent of the work, and having examined carefully the Agreement Form, General Conditions, Supplementary Conditions, Plans and Specifications and other Contract Documents, and having fulfilled their requirements as well as the Bonding requirements herein, proposes to furnish all labor, materials, equipment and other items, facilities and services for the proper execution and completion of the:

AIR CONDITIONER REPLACEMENT AT BAY OAKS RECREATIONAL CAMPUS
ITB-22-13-PR

in full accordance with the drawings and specifications prepared in accordance with the Town's Advertisement for Bids, Instruction to Bidders, Construction Contract and all other documents related thereto on file with Town of Fort Myers Beach, and if awarded the contract, to complete the said work within the time limits specified for the following bid price:



SCHEDULE OF VALUES
TOWN OF FORT MYERS BEACH
AIR CONDITIONER REPLACEMENT AT BAY OAKS RECREATIONAL CAMPUS

ITEMS	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	Cost
1	Full Air Conditioner Replacement: including all provisions listed in scope, permitting, installation, and materials.	1	LS		
		Total			

Total Bid Amount (Written): \$43,900.00

3. The BIDDER hereby agrees that:

- (a) The above proposal shall remain in full force and effect for a period of 90 calendar days after the time of the opening of this proposal and it shall not be revoked, withdrawn or canceled within that time frame, except that the TOWN may in its sole discretion, release any Bid and return the Bid security prior to that date. Once the bidder has been notified that its bid has been awarded by the Town of Fort Myers Beach, within the above time frame the price proposed as submitted shall constitute the contract price and a formal contract for that amount shall be executed within the time frames established by these documents.
- (b) In the event the award is made to this BIDDER, the BIDDER will enter into a formal written agreement with the TOWN in accordance with the accepted bid, will execute the contract contained within these documents, and provide a Public Construction Bond from a Surety in good standing with the Florida Department of State who is licensed to do business in Florida and acceptable to the OWNER. The Public Construction Bond shall be in the amount of one hundred percent (100%) of the accepted bid amount. The BIDDER shall, at the time the Contract is executed, submit the required Certificates of Insurance. The BIDDER further agrees that in the event of the BIDDER'S default of breach of any of the agreements of this proposal, the bid security shall be forfeited.



TOWN of FORT MYERS BEACH
PART D
FMB:003 - OFFICIAL BID FORM
(4 of 5 Pages)

BID NO. ITB-22-13-PR

4. Acknowledgment is hereby made of receipt of the following Addenda issued during the bidding period.

Addendum No. 1 Dated: 3/30/2022 Addendum No. 3 Dated 4/12/2022

Addendum No. 2 Dated: 4/12/2022 Addendum No. _____ Dated _____

5. If awarded this construction contract, the BIDDER agrees to complete the work covered by this contract as follows:

- (a) Substantially complete in 8 weeks consecutive calendar days from date of Official Notice to Proceed. (Equip. 4-6 weeks)
- (b) Final completion in 4 days consecutive calendar days from the date of Official Notice to Proceed.

6. Neither the undersigned nor any other person, firm or corporation named herein, nor anyone else to the knowledge of the undersigned, have themselves solicited or employed anyone else to solicit favorable action for this proposal by the TOWN, also that no head of any department or employee therein, or any officer of Fort Myers Beach, Florida is directly interested therein.

This proposal is genuine and not collusive or a sham; the person, firm or corporation named herein has not colluded, conspired, connived or agreed directly or indirectly with any bidder or person, firm or corporation, to put in a sham proposal, or that such other person, firm or corporation, shall refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person, firm or corporation, to fix the unit prices of said proposal or proposals of any other bidder, or to secure any advantage against the TOWN or any person, firm or corporation interested in the proposed contract; all statements contained in the proposal or proposals described above are true; and further, neither the undersigned, nor the person, firm or corporation named herein, has directly or indirectly submitted said proposal or the contents thereto, to any association or to any member or agent thereof.



PART D
FMB:003 - OFFICIAL BID FORM
(5 of 5 Pages)

7. The below signed BIDDER agrees to comply with all applicable provisions as set forth in the Anti-Discrimination requirements included as part of the General Conditions of this document. The BIDDER further agrees to hold harmless, defend and indemnify the TOWN and its agents for any losses, including attorney's fees, incurred as a result of its failure to abide by the applicable Anti-Discrimination laws.

Page Mechanical Group LLC
(Name of License Holder)

(State)

607181-9-1 Lee County

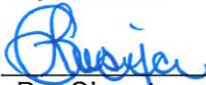
Business Tax Receipt No. (Specify jurisdiction)

(State)

In witness whereof, the BIDDER has hereunto set its signature and affixed its seal this
20th day of April, 2022.

Lusy Garcia

By: Printed



By: Signature

TITLE: CFO

Page Mechanical Group LLC

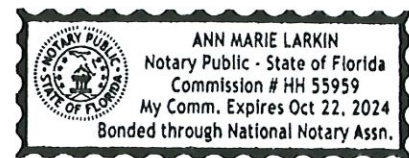
Company Name

4611 Cummins Court

Mailing Address

Fort Myers, FL 33905

City, State, and Zip





Randy Grimmer

Contact Person

Randy.Grimmer@pagemech.com

E-mail / Contact Person

239-275-4406

Telephone Number

239-275-6635

Fax Number

ATTEST:

(Seal)

Secretary



PART D
FMB:001 - BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we
Page Mechanical Group LLC _____ as Principal, and
(BIDDER'S Name)

RLI Insurance Company _____ a Corporation licensed to do
(Surety's Name)

business under the laws of the State of Florida as a Surety, are held and firmly bound unto TOWN OF FORT MYERS BEACH TOWN COUNCIL, LEE COUNTY, FLORIDA, a Political Subdivision of the State of Florida,
in the SUM OF \$ Five Percent of Accompanying Bid (5% of Bid)
for the payment whereof, well and truly to be made, we bind ourselves, our heirs, successors, personal representatives and assigns, jointly and severally, firmly, by these presents.

SIGNED AND SEALED this 15th day of April, 2022

WHEREAS, said Principal is herewith submitting a Bid Proposal for the construction of:

AIR CONDITIONER REPLACEMENT AT BAY OAKS RECREATIONAL CAMPUS
ITB-22-13-PR

NOW, THEREFORE, the condition of the above obligation is such that if said Principal shall be awarded the Contract upon said Proposal within the specified time and shall enter into a written Contract, satisfactory in form, provide an acceptable Public Construction Bond from a Surety acceptable to the TOWN and provide other Insurance as may be required to the TOWN within such time period as the TOWN may allow, then this obligation shall be null and void; otherwise said Principal and Surety shall pay to said TOWN in money the difference between the amount of the Bid of said Principal and the amount for which said TOWN may legally contract with another party to perform said work, if the latter amount be in excess of the former, together with any expenses and reasonable attorney's fees incurred by said TOWN if suit be brought hereon, but in no event shall said Surety's liability exceed the penal sum hereof plus such expenses and attorney's fees. The liability of the Surety shall not exceed the penal sum of the bid bond.

Witness as to Principal

Therese D Ambrosia
By: Witness Signature Therese D Ambrosia

Witness as to Surety

Sherry Bacskai
By: Witness Signature
Sherry Bacskai

Page Mechanical Group LLC (SEAL)

Principal

[Signature]

(SEAL)

RLI Insurance Company

Surety's Name

James I. Moore
By: As-Attorney-in-Fact, Surety
James I. Moore

Affix Corporate Seals and attach proper Power of Attorney for Surety.

State of IL

County of DuPage

SURETY ACKNOWLEDGEMENT (ATTORNEY-IN-FACT)

I, Graciela Casaus Notary Public of DuPage County, in the State of IL,

do hereby certify that James I. Moore Attorney-in-Fact, of the RLI Insurance Company

who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered said instrument, for and on behalf of the RLI Insurance Company for the uses and purposes therein set forth.

Given under my hand and notarial seal at my office in the City of Downers Grove in said County, this 15th day of April, 2022.




Notary Public Graciela Casaus
My Commission expires: May 5, 2023



RLI Surety
9025 N. Lindbergh Dr. | Peoria, IL 61615
Phone: (800)645-2402 | Fax: (309)689-2036
www.rlicorp.com

POWER OF ATTORNEY

RLI Insurance Company

Know All Men by These Presents:

That this Power of Attorney is not valid or in effect unless attached to the bond which it authorizes executed, but may be detached by the approving officer if desired.

That **RLI Insurance Company**, an Illinois corporation, does hereby make, constitute and appoint:

Dawn L. Morgan, Kelly A. Gardner, Elaine Marcus, James I. Moore, Stephen T. Kazmer, Melissa Schmidt, Tariese M. Pisciotto, Jennifer J. McComb, Stasha Knechtel, Diane M. Rubright, jointly or severally

in the City of Downers Grove, State of Illinois its true and lawful Agent and Attorney in Fact, with full power and authority hereby conferred, to sign, execute, acknowledge and deliver for and on its behalf as Surety, the following described bond.

Any and all bonds provided the bond penalty does not exceed Twenty Five Million Dollars (\$25,000,000.00).

The acknowledgment and execution of such bond by the said Attorney in Fact shall be as binding upon this Company as if such bond had been executed and acknowledged by the regularly elected officers of this Company.

The **RLI Insurance Company** further certifies that the following is a true and exact copy of the Resolution adopted by the Board of Directors of **RLI Insurance Company**, and now in force to-wit:

"All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

IN WITNESS WHEREOF, the **RLI Insurance Company** has caused these presents to be executed by its Vice President with its corporate seal affixed this 1st day of June, 2017.



RLI Insurance Company

By: B. W. Davis Vice President

State of Illinois }
County of Peoria } SS

CERTIFICATE

On this 1st day of June, 2017, before me, a Notary Public, personally appeared Barton W. Davis, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of the **RLI Insurance Company** and acknowledged said instrument to be the voluntary act and deed of said corporation.

I, the undersigned officer of **RLI Insurance Company**, a stock corporation of the State of Illinois, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable; and furthermore, that the Resolution of the Company as set forth in the Power of Attorney, is now in force. In testimony whereof, I have hereunto set my hand and the seal of the **RLI Insurance Company** this 15th day of April, 2022.

By: Gretchen L. Johnnigk Notary Public



RLI Insurance Company

By: B. W. Davis Vice President

1233288020212

A0058514



TOWN of FORT MYERS BEACH
PART D

BID NO. ITB-22-13-PR

FMB:004 - CONTRACTOR QUALIFICATION QUESTIONNAIRE
(1 of 7 Pages)

THIS FORM MUST BE ON FILE WITH TOWN OF FORT MYERS BEACH, 2525 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA 33931, AND BE CURRENT WITHIN TWELVE (12) CALENDAR MONTHS OR COMPLETED AND SUBMITTED WITH THIS BID PACKAGE. ANY CHANGES WHICH AFFECT THE ORGANIZATIONAL STRUCTURE, QUALIFICATIONS OR LICENSES SHALL BE REPORTED IMMEDIATELY TO THE TOWN. FAILURE TO UPDATE CHANGES WHICH MAY AFFECT THE CONTRACTOR RESPONSIBILITY MAY BE GROUNDS FOR THE CONTRACTOR TO BE DECLARED NOT A RESPONSIBLE CONTRACTOR FOR THIS BID OR FUTURE BIDS WITH TOWN OF FORT MYERS BEACH.

Submitted By: Page Mechanical Group LLC

☒ CORPORATION - Date of Incorporation: 07/27/2021 State of Incorporation: DE

If Out of State Corporation, currently authorized to do business in Florida, give date of such authorization: 9/16/2021

☐ PARTNERSHIP - Date of Organization: _____ Nature of Partnership: General ☐
Limited ☐
Association ☐

☐ INDIVIDUAL - Name and Address of Owner _____

☐ JOINT VENTURE - .Between _____
Name Title
.And _____
Name Title
.Date of Agreement _____

☐ OTHER - .Explain _____

Parent Company Office Address (if any): Reedy Industries Inc.
10 Parkway N., Suite 100, Deerfield, IL 60015

Principal Office Address: _____

Name of Project (if applicable): _____

Person to Contact: Joseph Kirmser

Title: CEO Telephone No.: 847-729-9450



PART D
FMB:004 - CONTRACTOR QUALIFICATION QUESTIONNAIRE
(2 of 7 Pages)

Type of Work (file separate form FMB:004 for each classification of work):

The signee of this questionnaire guarantee, as evidenced by the sworn affidavit required herein, the truth and accuracy of all statements and of all answers to interrogatories hereinafter made.

The undersigned hereby authorizes and requests any public official, engineer, architect, surety company, bank depository, material or equipment manufacturer or distributor or any person, firm or corporation to furnish any pertinent information requested by the Town of Fort Myers Beach deemed necessary by the Town to verify the statements made in this application or regarding the standing and general reputation of the Bidder.

HVAC, Electrical & Plumbing

1. How many years has your organization been in business as a _____ Contractor under your present name?

20 Years

2. Under what other or former names has your organization operated?

Page Mechanical Group Inc.

3. List below your organizations Officers, Owners or Partners:

NAME	TITLE	ADDRESS	DATE ASSUMING POSITION
Joseph Kirmser	CEO	10 Parkway N., Ste. 100, Deerfield, IL 60015	9/16/2021
David Collins	President	4611 Cummins Ct., Fort Myers, FL 33905	9/16/2021
Lusy Garcia	CFO	4611 Cummins Ct., Fort Myers, FL 33905	9/16/2021



PART D
FMB:004 - CONTRACTOR QUALIFICATION QUESTIONNAIRE
(3 of 7 Pages)

4. List jurisdictions and trade categories in which your organization is legally qualified to do business and indicate registration or license numbers, if applicable:

JURISDICTION	TRADE	STATE CERT. NO.	TOWN'S COMP. NO.	STATE REG. NO.	TOWN'S OCC. LIC. NO.	STATE PERMIT	EXPIRE DATE
Lee County	Electrical, Plumbing, HVAC	EC13007264 CFC1426163 CMC056850	Bus. Tax I.D. 607181-9-2				9/30/22
Palm Beach County	Electrical, Plumbing, HVAC	EC13007264 CFC1426163	Bus. Tax I.D. 104541				9/30/22
Pinellas County	Electrical, Plumbing, HVAC	CMC056850 EC13007264 CFC1426163 CMC056850	Same as State Cert No.				9/30/22

5. List jurisdictions in which your organization's partnership or trade name is filed:

Lee County, Palm Beach County, Pinellas County

6. If the answer to any of the questions below is YES, please attach details. Reference sheets to question number.

6.1 Has your organization ever failed to complete any work awarded to it?

YES ☐ NO ☒

See Sheet No. _____

6.2 Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your organization or its officers?

YES ☐ NO ☒

See Sheet No. _____

6.3 Has your organization filed any law suits or requested arbitration with regard to construction contracts within the last five (5) years?

YES ☐ NO ☒

See Sheet No. _____

7. Has any Officer or Partner of your organization ever failed to complete a construction contract handled in his own name or as a qualifier for another?

YES ☐ NO ☒

If so, state the name of the individual, name of owner, when, where, and the reason therefore:

8. Has any Officer or Partner of your organization ever been as Officer or Partner of some other organization that failed to complete a construction project?

YES ☐ NO ☒

If so, state the name of the individual, other organization, when, where and the reason therefore:



PART D
FMB:004 - CONTRACTOR QUALIFICATION QUESTIONNAIRE
(4 of 7 Pages)

9. Has your organization ever been refused registration by a Federal, State or Municipal Agency as a Pre-qualified Bidder or Qualified Bidder for construction contracts? YES ☐ NO ☒
- If so, for what type of work? _____
- Give details and reason: _____
10. Give below any information which would indicate the size and capacity of your organization, including the number of permanent employees engaged in estimating, purchasing, expediting, detailing and engineering, field supervision, field engineering and layout:
- 140 Total Employees - Estimating 8, Purchasing 5, Supervision 4, Field 100, Office 23
(use extension sheet if necessary and reference sheet number herein: _____)
11. Attach resumes of key personnel, including superintendents for field management. The resumes shall include the following information:
- 11.1 Name and present position or capacity
 - 11.2 Years of construction experience, type of work, position or capacity and cost range
 - 11.3 Years of related construction experience, type of work, position or capacity and cost range
 - 11.4 Brief education and professional registrations
12. List of type of work normally provided by your own work forces:
- _____
13. Indicate type of contracting undertaken by your organization and number of years experience:
- | | | | | | |
|-----------------------|------------|-------|-----------|------|-------|
| As General Contractor | <u>N/A</u> | Years | _____ | Type | _____ |
| As Sub-Contractor | <u>X</u> | Years | <u>25</u> | Type | HVAC |
14. Attach the prime construction contracts your organization has underway on this date _____.
The list shall include the following information: (reference sheet numbers herein: PMG-1)
PMG-2
- 14.1 Project Title and Location
 - 14.2 Contractor or Sub-Contractor
 - 14.3 Contract Amount and Date of Contract
 - 14.4 Percent of Project Constructed by Sub-Contractors
 - 14.5 Percent Complete
 - 14.5 Project Manager or Superintendent
 - 14.6 Required Completion Date
 - 14.7 Name, Address and Telephone Number of Owner
 - 14.8 Designing Architect/Engineer and Address



PART D
FMB:004 - CONTRACTOR QUALIFICATION QUESTIONNAIRE
(5 of 7 Pages)

15. Attach a list of the no fewer than five (5) prime construction contracts involving marine construction, including seawall construction and dune walkover/handicap accessible ramps, completed in the past five (5) years by your organization.

The list shall include the following information: (reference sheet numbers herein: N/A)

15.1 Project Title, Location, and Brief Description of Work Performed

15.2 Contractor or Sub-Contractor

15.3 Contract Amount and Date of Contract

15.4 Percent of Project Constructed by Sub-Contractors

15.5 Date Complete

15.6 Project Manager or Superintendent

15.7 Required Completion Date

15.8 **Name, Address and Telephone Number of Owner**

15.9 Designing Architect/Engineer and Address

16. Attach any construction contracts your organization has contracted with Town of Fort Myers Beach that are either underway or completed.

The list shall include the following information: (reference sheet numbers herein: N/A)

16.1 Project Title and Location

16.2 Contractor or Sub-Contractor

16.3 Original Contract Amount and Date

16.4 Final Contract Amount

16.5 Percent of Project Constructed by Sub-Contractors

16.6 Project Manager or Superintendent

16.7 Required Completion Date

16.8 **Name, Address and Telephone Number of Owner**

16.9 Town Sponsoring Department



PART D
FMB:004 - CONTRACTOR QUALIFICATION QUESTIONNAIRE
(6 of 7 Pages)

17. If General Contractor, list one or more of the following subcontractors who have been associated with you on any of the projects listed above:

SUB-CONTRACTOR (Name and Address)

17.1 Carpentry

N/A

17.2 Structural

17.3 Hardware

17.4 Three (3) other major subcontractors:

18. List below the name of the bonding companies you use for construction project and the name, address and telephone number of your agent:
RLI Surety, 9025 N. Lindbergh Dr., Peoria, IL 61615 800-645-2402

19. List no less than three (3) and preferably five (5) financial references:
HUB International Midwest
Thermostat Intermediate Holdings
Fort Myers School Board
Collier County School District
Lumen/Century Link



PART D
FMB:004 - CONTRACTOR QUALIFICATION QUESTIONNAIRE
 (7 of 7 Pages)

20. What is the largest contract (dollar cost) ever performed by your organization?
10 Million

21. What is the dollar value of the largest project you consider your organization is qualified to undertake?
10-15 Million

Dated at 20th this 20th day of April 2022
Lee, FL

Page Mechanical Group LLC
 Name of Organization

BY: 

Lusy Garcia, CFO

Title of Person Signing

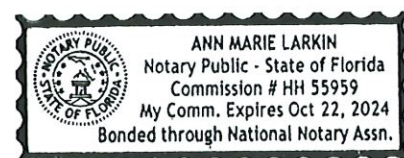
(if Corporation Affix Corporate Seal)

STATE OF FLORIDA)
 COUNTY OF LEE)

SWORN TO AND SUBSCRIBED BEFORE ME, on this 20th day of April,
 2022, by means of ☒ physical presence or () online notarization, personally appeared _____
Lusy Garcia as CFO of Page Mechanical Group
☒ who personally known to me of () who has produced _____ as identification.


 NOTARY PUBLIC – State of Florida

My commission expires: 10/22/2024





PMG-1

Page Mechanical Group, LLC

Serving the South Florida Area since 1985

CMC056850

CFC1426163

EC13007264

EXPERIENCE

Project, Owner, and Location of Current Projects as Prime Contractor	Contract Amount as Prime Contractor	Amount Subcontractor to Others
Lumen Technologies, Leesburg	\$560,000.00	\$60,000.00
Palermo Cooling Tower, Bonita Springs	\$459,195.00	\$10,000.00
Nova University, Fort Myers	\$165,737.00	\$0.00
Veronawalk, Naples	\$107,723.00	\$0.00
The Savoy - Naples	\$1,200,367.00	\$12,500.00
Dunbar Middle School - Fort Myers	\$629,338.00	\$8,627.00
Artis of Naples	\$242,128.00	\$0.00
Varsity Lakes - Lee County school Board	\$972,875.00	
Lehigh Senior HS Addition & Remodel	\$1,220,000.00	Christel Construction 901 Gunnery Rd, Lehigh Acres FL 44971
Charlotte County Sheriff Office w/ Evidence Compound	\$1,112,535.00	Wharton Smith 3100 Loveland Blvd, Port Charlotte FL 33980
Pinellas County Jail	\$13,509,211.00	Moss CM 14400 49th St N, Clearwater FL 33762

**Page Mechanical Group, LLC**

Serving the South Florida Area since 1985

CMC056850

CFC1426163

EC13007264

REFERENCES

Company	Address	Contact	Phone Number	Email
Seasons @ Naples Cay	81 Seagate Dr, Naples FL 34103	Keith Thompson	239-649-0980	keith@seasonsnaples.com
Lumen / Century Link	1520 Lee St, Fort Myers FL 33901	Stacy Walker	239-822-9677	stacy.walker@lumen.com
Lee County Schools	3308 Canal St, Fort Myers FL 33916	Bryan Heggemeier Sr.	239-479-4200	bryanjh@leeschool.net
Lee County Detention	2501 Ortiz Ave, Fort Myers FL 33905	Jesus Caride	239-707-5649	jcaride@leegov.com
Collier County School District	5702 Cougar Ln, Naples FL	Scott Galloway	239-377-0636	gallosl@collierschools.com
The Pearl	2110 N Ola Ave, Tampa 33602	Jessica Malone	813-533-6525	thepearlgr@greystar.com



Page Mechanical Group, LLC

Serving the South Florida Area since 1985

CMC056850 CFC1426163 EC13007264

Fort Myers Beach Bay Oaks Recreational Campus HVAC Replacement ITB-22-13-PR Proposal

4/18/2022

The Town of Fort Myers Beach

2525 Estero Blvd.

Fort Myers Beach, FL 33931

Project: Fort Myers Beach Bay Oaks Recreational Campus HVAC Replacement ITB-22-13-PR Proposal

Page Mechanical Group, Inc. is pleased to submit a HVAC Proposal for the above referenced project:

Scope of Work Included:

- 1) Shut down system to make safe for work. Perform lock-out/tag-out.
- 2) Remove and dispose of (1) York 25-ton package unit.
- 3) Supply and install (1) York 25-ton package unit 15,000-hour complete unit salt spray.

York Unit - ZF300C00R4A1AAA1A2 25 Ton, York Large Sunline Single Packaged R-410A Air Conditioner, Two Stage Cooling, 10.0 EER, 460-3-60, Single Wall Construction:

- Intelli-Speed control of the VFD based on stages of cooling.
Provides Single Zone VAV Fan Operation as defined by ASHRAE 90.1 section 6.4.3.10.
 - Includes fresh air hood with baffle that can be set for 10, 15, or 25% outside air.
 - 15 HP High Static Belt Drive Blower
 - 2" Throwaway Filters
 - Smart Equipment Controller including Discharge Air, Return Air, and Outdoor Air Temperature Sensors.
 - Standard Condenser Coil
 - Standard Evaporator Coil
 - Standard Access Doors
 - Galvanized Steel Drain Pan
- 4) Reconnect existing electrical line voltage power and bring up to code (existing PVC plumbing couplings used for electrical is against code).
 - 5) Reconnect existing low voltage wire to a separate low voltage control point (current low voltage wiring is inside the existing line voltage disconnect which is against code).
 - 6) Reconnect condensate drain line.
 - 7) Reconnect to existing supply and return ductwork.
 - 8) Provide and install new 7-day programmable thermostats in the existing locked box and reconnect all existing controls.
 - 9) Remove "Lock-out/tag out".
 - 10) Start system and check for proper operation.
 - 11) Clean all generated trash/debris and remove from work area
 - 12) 1-year parts and labor warranty included.
 - 13) Crane included.

Fort Myers
4611 Cummins Ct,
Fort Myers 33905
239-275-4406

Tampa
12423 62nd St N
Largo FL 33753
727-507-0990

West Palm Beach
801 Northpoint Parkway
West Palm Beach FL 33407
561-672-1100

14) Permit included.

15) Current lead time (in stock as of 4/18/2022)

16) P&P bond included.

17) PMG provided (non-certified Test and Balancing included.

18) BAS controls excluded.

Exclusions and Clarifications:

- 1) Excluded the following: plumbing, fire protection, smoke detectors, fire alarm wiring, painting (regardless of where specified), roofing, cutting, patching, asphalt, concrete, landscaping, asbestos abatement and removal, parking fees and dumpsters.
- 2) Proposal is based on industry standard construction sequences.
- 3) Any additional work not mentioned in the above scope will be billed at an additional rate and will be preapproved in writing.
- 4) Work to be completed during normal working hours of M-F 7:30am to 4:00pm.
- 5) Page Mechanical Group, Inc. will not be held responsible for delays due to Acts of God, weather and/or safety conditions beyond what is deemed reasonable by Page Mechanical Group, Inc.
- 6) Add 1.5% to our price if bond is required by this contractor.
- 7) Engineered drawings and coordination drawings excluded unless stated in the scope of work.
- 8) Ductwork and ductwork insulation (existing to remain, duct connections included).
- 9) Certified test and balancing excluded. (PMG non-certified included).

"Page Mechanical will do everything possible to honor the pricing contained in this Proposal as quoted however, due to the COVID-19 Pandemic, Page Mechanical reserves its rights to negotiate contract terms, adjust pricing, modify schedules/delivery dates, or withdraw Proposals completely".

*"The above pricing is subject to price adjustments, which reflect the prices in effect at the time of delivery. If the contract is not executed within 30 days of our proposal, the project will remain subject to a price adjustment to reflect any increases assumed on your behalf. In the event of any specific requirements (including without limitation any design, specifications, ordered quantity, extended warranties or shipment charges) representing a price increase, Buyer will be notified accordingly. We reserve the right to pass on supplier and subcontractor price adjustments **from the time of contract execution date until the material release date with these entities**. Seller reserves the right to make any corrections to prices quoted due to information provided at the time the contract was prepared."*

Total HVAC Price:

\$ 43,900.00

****Prices are subject to change due to Commodity fluctuation**

We trust that our proposal is complete. Should you have any questions or concerns, please do not hesitate to contact our office. This proposal is valid for 30 days.

Proposal Acceptance

Sign

Date

Print Name

Respectfully,

Randy Grimmer

Special Projects Estimator

Page Mechanical Group, LLC.

239-275-4406 office

239-302-9332 cell

239-275-6635 fax

randy.grimmer@PageMech.com



PART D
FMB:019 – PUBLIC ENTITIES CRIME FORM
(1 of 2 Pages)

SWORN STATEMENT PURSUANT TO SECTION 287.133(3) (a), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to Town of Fort Myers Beach
(Print name of public entity)
by Lusy Garcia, CFO
(Print individual's name and title)
for Page Mechanical Group LLC
(Print name of entity submitting sworn statement)
whose business address is 4611 Cummins Court
Fort Myers, FL 33905

and (if applicable) its Federal Employer Identification Number (FEIN) is 87 - 1847784
(If the entity has no FEIN, include the Social Security Number of individual signing this sworn statement:
____ - ____ - ____.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133 (1) (b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133 (1) (a), Florida Statutes, means:
- A. A predecessor or successor of a person convicted of a public entity crime; or
- An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person.



TOWN of FORT MYERS BEACH
PART D
FMB:019 – PUBLIC ENTITIES CRIME FORM
(2 of 2 Pages)

BID NO. ITB-22-13-PR

- B. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133 (1) (e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement. (Indicate which statement applies.)

Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

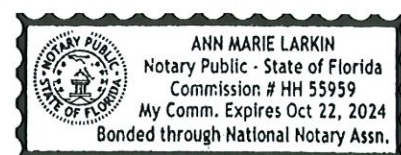
Lusy Garcia, CFO
(Signature)

STATE OF FLORIDA)
COUNTY OF LEE)

SWORN TO AND SUBSCRIBED BEFORE ME, on this 20th day of April, 2022, by means of ☒ physical presence or () online notarization, personally appeared Lusy Garcia as CFO of Page Mechanical Group, ☒ who personally known to me of () who has produced _____ as identification.

Ann Marie Larkin
NOTARY PUBLIC – State of Florida

My commission expires: 10/28/2024





PART D
FMB:021 – NON-COLLUSION AFFIDAVIT

State of Florida)County of Lee)

_____ being first duly sworn, deposes and says that:

- 1) He/she is the CFO, (Owner, Partner, Officer, Representative or Agent) of Page Mechanical Group LLC, the Bidder that has submitted the attached Bid;
- 2) He/she is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- 3) Such Bid is genuine and is not a collusive or sham Bid;
- 4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Responder, firm, or person to submit a collusive or sham Bid in connection with the Work for which the attached Bid has been submitted; or to refrain from Responding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Responder, firm, or person to fix the price or prices in the attached Bid or of any other Responder, or to fix any overhead, profit, or cost elements of the Bid price or the Bid price of any other Responder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;
- 5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Responder or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:

By: _____

Lusy Garcia, CFO
 (Printed Name)

ACKNOWLEDGEMENT

STATE OF FLORIDA)

COUNTY OF LEE)

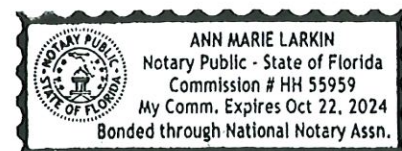
SWORN TO AND SUBSCRIBED BEFORE ME, on this 20th day of April, 2022, by means

of ☒ physical presence or () online notarization, personally appeared Lusy Garcia as
CFO of Page Mechanical Group.

☒ who personally known to me of () who has produced _____ as identification.

 NOTARY PUBLIC – State of Florida

My commission expires:

10/22/2024



PART D
FMB:023 – MATERIALS MANUFACTURERS LIST

The Bidder is required to state below, material manufacturers it proposes to utilize on this project. No change will be allowed after submittal of Bid. If substitute material proposed and listed below is not approved by TOWN, Bidder shall furnish the manufacturer named in the TOWN'S specification. Acceptance of this Bid does not constitute acceptance of material proposed on this list.

THIS LIST MUST BE COMPLETED OR BID MAY BE DEEMED NON-RESPONSIVE. (Attach additional sheets as needed).

BIDDER'S STATEMENT OF PROPOSED MANUFACTURER FOR

The bidder lists the following manufacturers of the major equipment (LIST)

<u>MATERIAL</u>	<u>MANUFACTURER</u>
1. 25 Ton Package Unit	York
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____

Signed

Name of Bidder

Lusy Garcia, CFO, Page Mechanical Group LLC



PART D
FMB:024 - LIST OF SUB-CONTRACTORS

The undersigned states that the following is a full and complete list of the proposed subcontractors on this Project and the class of work to be performed by each, and that such list will not be added to nor altered without written consent of the TOWN. The undersigned further acknowledges its responsibility for ensuring that the subcontractors listed herein meet all legal requirements applicable to and necessitated by this Agreement, including, but not limited to proper licenses, qualifications, certifications, registrations and insurance coverage. The TOWN reserves the right to disqualify any bidder who includes non-compliant or non-qualified subcontractors in his/her bid offer. Further, the TOWN may direct the bidder/contractor to remove/replace any subcontractor that is found to be non-compliant with this requirement subsequent to award of the contract at no additional cost to the TOWN. THIS LIST MUST BE COMPLETED OR BID WILL BE DEEMED NON-RESPONSIVE. (Attach additional sheets as needed).

BIDDER'S STATEMENT OF PROPOSED SUBCONTRACTOR FOR:

The bidder identifies the following firm as the proposed installation subcontractor of the:
Page Mechanical Group LLC

Name of Firm: Professional Air Balancing, Inc.

Address and Phone: 3350 Ullmerton Road, Suite 21, Clearwater, FL 33760 727-592-9666

Contact Person: Jason Saul

<u>Other Subcontractor and Address</u>	<u>Specialty</u>
1. _____ _____	_____
2. _____ _____	_____
3. _____ _____	_____

Signed

Name of Bidder

Lusy Garcia - Page Mechanical Group - CFO



TOWN of FORT MYERS BEACH

BID NO. ITB-22-13-PR

PART D
FMB:100 – CERTIFICATION IMMIGRATION LAWS AFFIDAVIT

BID NO: ITB-22-13-PR

PROJECT NAME: AIR CONDITIONER REPLACEMENT AT BAY OAKS RECREATIONAL CAMPUS

TOWN OF FORT MYERS BEACH WILL NOT INTENTIONALLY AWARD TOWN CONTRACTS TO ANY CONTRACTOR 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").

TOWN OF FORT MYERS BEACH SHALL CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR 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 CONTRACT BY TOWN OF FORT MYERS BEACH.**

BIDDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name: Page Mechanical Group LLC


(Signature)

CFO

(Title)

4/20/22
(Date)

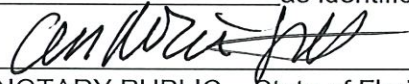
STATE OF FLORIDA)
COUNTY OF LEE)

22 SWORN TO AND SUBSCRIBED BEFORE ME, on this 20th day of April, 2022, by means

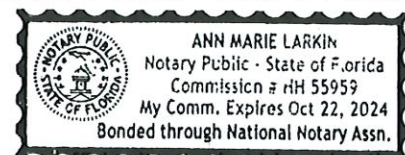
of ☒ physical presence or () online notarization, personally appeared Lusy Garcia as

CFO of Page Mechanical Group

☒ who personally known to me of () who has produced _____ as identification.


NOTARY PUBLIC – State of Florida

My commission expires: 10/22/2024



The signee of this Affidavit guarantee, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made. **TOWN OF FORT MYERS BEACH RESERVES THE RIGHT TO REQUEST SUPPORTING DOCUMENTATION, AS EVIDENCE OF SERVICES PROVIDED, AT ANY TIME**

TOWN OF FORT MYERS BEACH
AIR CONDITIONER REPLACEMENT AT BAY OAKS RECREATIONAL CAMPUS
TOWN BID TABULATION

ITB-22-13-PR

Proposing Firm	Total Base Bid Amount	Official Bid Form, pg. D-2, insert firm name at the bottom of the page	Signed copy of each addendum, if any. (2)	Official Bid Form, pg. D-3 through D-8	Official Bid Forms	Bid Bond / Cashier's Check/Certified Check	Contractor's Qualification Questionnaire	DBE Participation Form	Public Entities Crime Form	Non- Collusion Affidavit	Material Manufacturer List	List of Sub Contractors	Immigration Laws Affidavit	All required documents submitted (1 original and 1 PDF on disc or flashdrive)	Bid properly sealed in an envelope and marked "Sealed Bid", bidders name; project name; solicitation number; date and time of opening
Page Mechanical Group, LLC	\$43,900	Page Mechanical Group, LLC	No	Yes	Complete	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Air Mechanical & Service Corp.	\$46,068	Air Mechanical & Service Corp.	Yes	Yes	Complete	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Staff Present:

Yadzia Roa, Contracts Manager

Jason Freeman, Public Work Manager

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

(1 of 9 Pages)

CONSTRUCTION CONTRACT AGREEMENT

Contract No. _____

Council Award Date: _____

AGREEMENT

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

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

ARTICLE 1. WORK

The CONTRACTOR shall commence and complete all work for PROJECT TITLE ITB-22-13-PR in accordance with the Contract Documents. CONTRACTOR shall furnish all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the project described in the Contract Documents. A Scope of Services is attached marked Exhibit "A".

ARTICLE 2. CONTRACT SUM

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

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

ARTICLE 3. PROGRESS PAYMENTS

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

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

- 3.1.1 At the discretion of the Project Manager and final authorization by the Public Works Director, once the project reaches 50% completion, the retainage shall be reduced to five percent (5%) of the total contract amount, provided the project is on schedule. At any time the project falls behind schedule, the TOWN retains the exclusive right to revert back to the original contract terms by withholding 10% retainage until the project is back on schedule or the project is completed.
- 3.2. Upon final completion of the work and acceptance of the project, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Price, less such amounts as the TOWN shall determine for all incomplete work, unsettled claims or unused units as provided in the Contract Documents.

ARTICLE 4. CONTRACT DOCUMENTS

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

ARTICLE 5. TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

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

Liquidated Damages:

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

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

request as well as retainage.

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

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

ARTICLE 6. CONTRACTOR'S REPRESENTATIONS.

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

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

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

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

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

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

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

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

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

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

ARTICLE 8. TERMINATION FOR CONVENIENCE

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

ARTICLE 9. PROJECT RECORDS

The following provisions are required by §119.0701, Fla. Stat., and may not be amended. Contractor shall keep and maintain public records required by the Town to perform the services required under this Contract. Upon request from Town's custodian of public records, Contractor shall provide Town with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract's term and following completion of the Contract if Contractor does not transfer the public records to Town. Upon completion of the Contract, Contractor may transfer, at no cost, to Town all public records in possession of Contractor or keep and maintain public records required by Town to perform the services required under the Contract.

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

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

ARTICLE 10. MISCELLANEOUS PROVISIONS

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

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

ARTICLE 11. E-VERIFICATION

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

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

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

ARTICLE 12. PROHIBITION AGAINST CONTRACTING WITH SCRUTINIZED COMPANIES

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



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

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

Signed, sealed, and delivered in the presence of:

(Secretary)

(Correct Name of Business)

(Corporate Seal)

BY: _____
(Title)

Date: _____

TOWN OF FORT MYERS BEACH COUNCIL
FORT MYERS BEACH, FLORIDA

ATTEST:

BY: _____
Town Clerk

BY: _____
Town Manager

Date: _____

Date: _____

APPROVED AS TO FORM

BY: _____
Town Attorney



EXHIBIT "A"

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

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

AIR CONDITIONER REPLACEMENT AT BAY OAKS RECREATIONAL CAMPUS

1. Requested Motion:

Meeting Date: May 2, 2022

Adopt Resolution 22-18; Approving a Maintenance Agreement with FDOT for dinghy dock and features within the leased area under the Matanzas Pass Bridge and allowing for all associated documents to be executed by the Town Mayor and/or Town Manager or his designee.

Why the action is necessary:

To approve the maintenance upkeep agreement between FDOT and the Town of Fort Myers Beach.

What the action accomplishes:

Allows staff to perform maintenance to dinghy dock and associated features within the Town's leased area under Matanzas Pass Bridge.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

Resolution

4. Submitter of Information:

Chelsea O'Riley, Public Works
Director

5. Background:

The maintenance agreement with FDOT will include maintenance of the following within the leased area within FDOT right-of-way under Matanzas Pass Bridge: parking lot, sidewalk, parking signs and curb stops, wash downs/water hose bibs, sign board, doggie bags, posts, guard rails, two ladders into water, bike racks, trash cans, landscaping, dinghy dock, and the bridge leading to dinghy dock. It does not include seawall, fixtures and the seawall or stormwater management.

The original lease agreement for the area under Matanzas Pass Bridge began in 1988. There have been multiple addendums, the most recent in 2007 to include the construction of the dinghy dock. The current lease agreement expires in August 2025. Prior to construction of the dinghy dock, the Town had contracted Coastal Engineering Consultants to complete the permitting which included a Submerged Land Lease (SLL) with FDEP. In conjunction with the SLL, the Town amended the agreement with FDOT to include the SLL area for the dinghy dock.

As the Town was pursuing the permitting from FDEP for the Mooring Field Expansion, the Attorney for FDEP disagreed with how the dinghy dock was permitted in 2007. When Matanzas Pass Bridge was constructed, FDEP gave FDOT upland interest for the area under Matanzas Pass Bridge. In FDEP's eyes, FDOT holds the upland interest and therefore FDEP will not be renewing the SLL for the dinghy dock in November. In order to operate a Mooring Field, FDEP requires upland amenities including a dinghy dock (access to land). This agreement between FDOT and the Town will meet the requirements from FDEP and FDOT.

Attachments:

1. 22-18; FDOT Maintenance Agreement
2. Matanzas Bridge Dingy Docks Maintenance Agreement

Financial Impact:

6. **Alternative Action**

Do not approve.

7. **Management Recommendations:**

8. **Recommended Approval:**

Randy Paniagua, Administrative Officer
Chelsea O'Riley, Public Works Director
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/27/2022
Approved - 4/27/2022
Approved - 4/27/2022
Approved - 4/27/2022
Final Approval - 4/27/2022

RESOLUTION NUMBER 22-18

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN MAINTENANCE AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE TOWN FOR THE MAINTENANCE OF THE LEASED AREA UNDERNEATH MATANZAS PASS BRIDGE, INCLUDING DINGHY DOCK AND AUTHORIZING THE MAYOR OR TOWN MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, the Town has the authority to enter into an Agreement with the State of Florida Department of Transportation (“FDOT”) obligating the Town to perform maintenance services of the leased area underneath Matanzas Pass Bridge, including the appurtenant dinghy dock (“Maintenance Agreement”); and

WHEREAS, the Town Council deems it to be in the best interests of the business owners, residents, and visitors of the Town to enter into the Maintenance Agreement with FDOT.

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

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

Section 2. The Maintenance Agreement between the Town and FDOT, a copy of which is attached as Exhibit “A” is approved. The Mayor is authorized to execute the Maintenance Agreement on behalf of the Town, and the City Manager is authorized to expend budgeted funds on behalf of the Town to implement the Maintenance Agreement.

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

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

Raymond P. Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Dan Allers, Council Member	_____
Jim Atterholt, Council Member	_____
Bill Veach, Council Member	_____

ADOPTED this 2nd day of May 2022, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

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

John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of May 2022.

**MAINTENANCE AGREEMENT
BETWEEN
FLORIDA DEPARTMENT OF TRANSPORTATION
AND
TOWN OF FORT MYERS BEACH**

This Maintenance Agreement, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter, the "DEPARTMENT") and the Town of Fort Myers Beach (hereinafter, "LOCAL AGENCY") for the maintenance of Dinghy floating docks and other items under the Matanzas Pass Bridge as outlined below (hereinafter "AGREEMENT").

W I T N E S S E T H :

1. WHEREAS, the LOCAL AGENCY owns one Dinghy Dock and one stationary wooden dock that provides access to the Dinghy Dock located under SR 865 (San Carlos Parkway) Matanzas Pass Bridge in Section 12004-000 within the DEPARTMENT'S right of way; and
2. WHEREAS, the LOCAL AGENCY owns other items listed in **Exhibit A** and made a part hereof, and
3. WHEREAS, the LOCAL AGENCY wishes to retain ownership of the docks and other items listed in Exhibit A, agrees to maintain said docks and other items, and
4. WHEREAS, the docks and other items benefit the LOCAL AGENCY; and
5. WHEREAS, in accordance with §335.055 Florida Statutes, there must be a contract with the LOCAL AGENCY to maintain the docks and other items; and
6. WHEREAS, the LOCAL AGENCY by Resolution No. _____, dated ___April 2022, a copy of which is attached hereto as **Exhibit B** and made a part hereof, has consented to and approved this AGREEMENT and has authorized its Chairperson or designee to execute said AGREEMENT.

NOW, THEREFORE, in consideration of the premises and other good and valid consideration, the parties agree as follows:

1. The LOCAL AGENCY, at the LOCAL AGENCY'S sole cost and expense, will maintain the docks and other items including but not limited to routine maintenance of decks, handrails, floating apparatus, and all other components of the docks.
2. The LOCAL AGENCY may utilize its employees or third parties to accomplish its obligations under this AGREEMENT. However, the LOCAL AGENCY remains responsible for proper performance under this AGREEMENT and shall take all steps necessary to ensure that its employees or third parties perform as required under this AGREEMENT.

3. It is understood between the parties hereto that the docks and other items covered by this AGREEMENT may be requested to be removed, relocated, or adjusted by the LOCAL AGENCY at any time in the future as determined to be necessary at the sole discretion of the DEPARTMENT for bridge repair, construction projects, emergency department repairs or to widen, alter or otherwise change the DEPARTMENT'S right-of-way. The DEPARTMENT shall give the LOCAL AGENCY reasonable notice regarding such removal, relocation, or adjustment. Said removal, adjustment, or relocation may be temporary or permanent at the discretion of the DEPARTMENT and the LOCAL AGENCY will be solely responsible for all expenses and costs for the removal, relocation, or adjustment.
4. The DEPARTMENT may inspect or evaluate the facility at any time to ascertain compliance with the maintenance standards. If it is found the facility is not maintained pursuant to the terms of this AGREEMENT, the DEPARTMENT may issue written notice to the LOCAL AGENCY of the deficiencies that need to be addressed. Upon receipt of the notice, the LOCAL AGENCY shall have a period of thirty (30) calendar days to correct the cited deficiencies, unless the deficiencies are of such a nature that they are deemed an emergency by the DEPARTMENT, in which case the deficiencies will need to be immediately corrected by the LOCAL AGENCY within a time frame to be issued by the DEPARTMENT unless the DEPARTMENT deems the emergency to be severe so that the docks and other items will be required to be immediately removed by the LOCAL AGENCY. If said deficiencies are not corrected within the time periods above, the DEPARTMENT may at its option, terminate this AGREEMENT and proceed as follows:
 - a. Correct the deficiencies itself and invoice the LOCAL AGENCY for costs and expenses incurred to be immediately reimbursed by the LOCAL AGENCY;
 - b. Remove the dock(s) and other items and invoice the LOCAL AGENCY for costs and expenses, including those connected with disposal.
5. The LOCAL AGENCY shall carry and keep in force during the period of the Agreement, a general liability insurance policy with a company authorized to do business in Florida, affording public liability insurance including workers compensation and with combined bodily injury limits of at least \$5,000,000.00 general aggregate and \$1,000,000.00 per occurrence. The DEPARTMENT shall be named co-insured for the services to be rendered in accordance with this AGREEMENT and an Acord document with endorsements shall be presented to the DEPARTMENT with proof of same. In the alternative, the LOCAL AGENCY may satisfy the requirements of this paragraph by providing to the DEPARTMENT written evidence of the LOCAL AGENCY'S self-insurance program.
6. To the express limits of Section 769.28, Florida Statutes, the LOCAL AGENCY shall indemnify, defend, and hold harmless DEPARTMENT against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of the

LOCAL AGENCY, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with this AGREEMENT'S obligations and rights granted to or exercised by the LOCAL AGENCY. The foregoing indemnification shall not constitute a waiver of sovereign immunity by the LOCAL AGENCY beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by the LOCAL AGENCY to indemnify DEPARTMENT for the negligent acts or omissions of DEPARTMENT. Nothing herein shall be construed as consent by the LOCAL AGENCY to be sued by third parties in any manner arising out of this AGREEMENT. The indemnities assumed by the LOCAL AGENCY shall survive termination of this AGREEMENT.

7. The document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understanding concerning the subject matter of this AGREEMENT that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.
8. This Agreement shall be governed, interpreted, and construed according to the laws of the State of Florida.
9. This Agreement shall become effective on: _____, 2022.

IN WITNESS WHEREOF, the TOWN OF FORT MYERS BEACH has caused this Agreement to be executed on its behalf through its Mayor or designee, and THE FLORIDA DEPARTMENT OF TRANSPORTATION has caused this Agreement to be executed in its behalf through its District Secretary for District One, as indicated below.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

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

John R. Herin, Jr., Town Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

BY: _____
DISTRICT ONE SECRETARY OR DESIGNEE PRINT NAME

TITLE

ATTEST:

BY: _____

PRINT NAME

TITLE

FLORIDA DEPARTMENT OF TRANSPORTATION LEGAL REVIEW:

BY: _____

EXHIBIT A

Items to be included in the attached maintenance agreement for the Town of Fort Myers Beach lease of space under Mantanzas Pass Bridge in section 12004-000 and within the Departments Right of Way:

1. Parking Lot Asphalt



2. Sidewalk



3. Parking Signs and Curb Stops



4. Wash downs/Water hose bibs



5. Sign Board



6. Clean Up After Your Doggie Bag Holders and Posts and Guard Rail



7. Two Sets of Stairs Out of Water







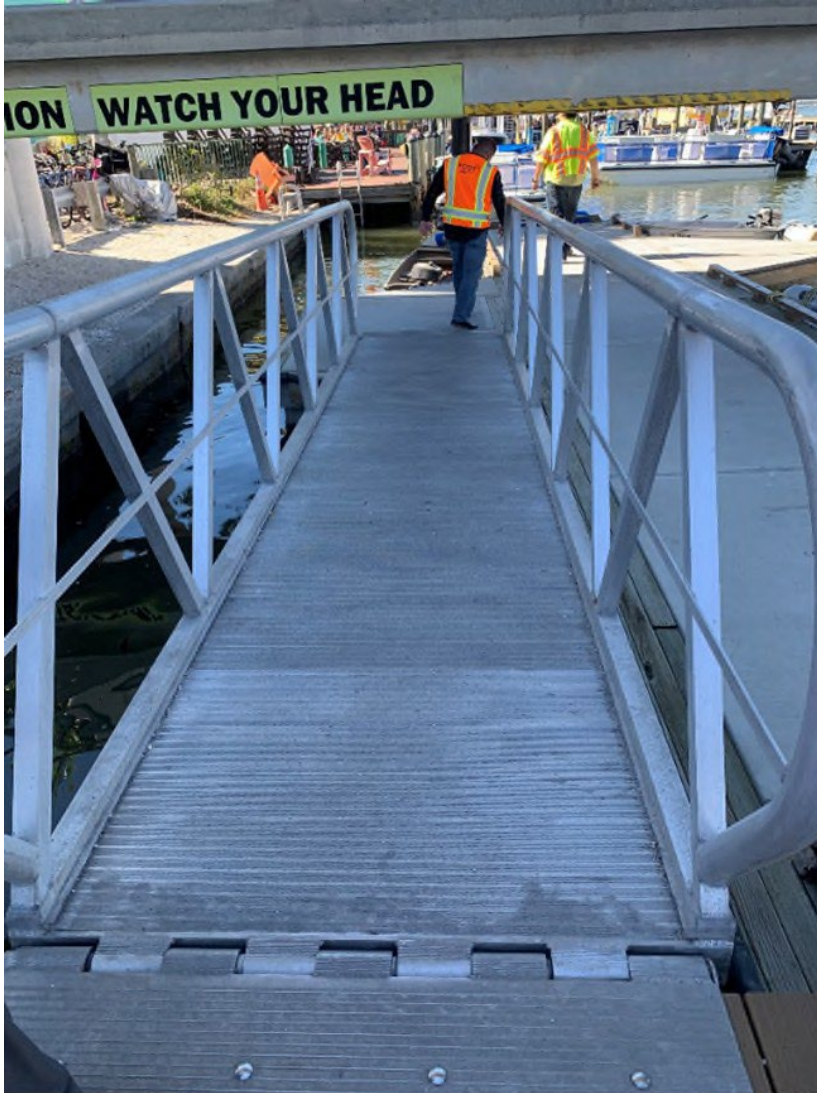
10. Landscaping



11. Dinghy Dock



12. Dock leading to Dinghy Dock



1. **Requested Motion:**

Meeting Date: May 2, 2022

Sierra Club is requesting permission to hold an event in Times Square and on the Beach - Hands Across the Sand. Requesting waiver of the permit fee.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Requesting use of Times Square to set up tables, chairs, a tent, and a podium. Yoga on the beach. The event is to be from 9 am until noon. Set up will begin at 8 am and breakdown is from noon to 12:45 pm. All the information turned in is attached. Requesting waiver of the permit fee.

Attachments:

1. Hands Across the Sand Application

Financial Impact:

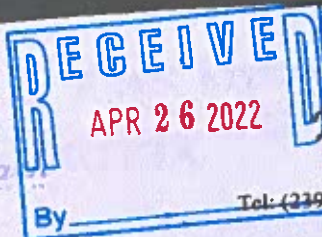
6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Patty Prevost, Code Supervisor/STR Coordinator
Daphnie Bercher, Community Services Administrator
Jason Green, Community Development Services
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/26/2022
Approved - 4/26/2022
Approved - 4/26/2022
Approved - 4/27/2022
Approved - 4/27/2022
Final Approval - 4/27/2022



Town of Fort Myers Beach

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

Name of event Hands Across The Sand - Fort Myers
Attach separate sheet of paper with detailed description of event
Date(s) and times of event 5/21/22 9:00 AM - 12:45 PM
Address of event 1035 Estero Blvd, Fort Myers Beach, FL 33931
Expected # of participants/attendees 100
Sponsoring Organization Sierra Club
Organization address 2022 Mendry Street, Suite 250 Fort Myers, FL 33901
Contact Person/Phone# Michael McGrath 386-341-0708
E-mail michael.mcgrath@sierraclub.org
Amplified Music Y ☐ N ☒ 500 Ft Notifications N/A Copy of Letter N/A
Renting Town Property Y ☐ N ☒ Renting Parking Spaces Y ☐ N ☒
How many Spaces? N/A How many hours N/A
Extension of Premises? Y ☐ N ☒ ABT Form N/A How many days? (Over 3 days needs to go to Council)
Letters of Permission to use Property N/A
Letters of Permission to use Parking N/A Parking Plan N/A - see Event description & site plan
Site Plan ☒ Insurance ☒ (Naming Town of FMB as Certificate Holder)
Requesting Water Y ☐ N ☒ Electric Y ☐ N ☒
Requires Council Approval:
Waiver of open container Y ☐ N ☐ Waiver of Town parking fees Y ☐ N ☐
Waiver of Noise Ordinance Y ☐ N ☐ Recurring Event Y ☐ N ☐
Applicant Signature Sierra Club, By Direction Shelly Campbell
Printed Name Shelly Campbell

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

September 27, 2021

Hands Across the Sand Fort Myers Beach 2022

Date: May 21, 2022

Time: 9:00 AM - 12:00 PM

Location: Times Square Park and Beach in front of Lynn Hall Beach Park
1035 Estero Blvd, Fort Myers Beach, FL 33931

The sponsor group for this event is Siera Club. Other organizations participating and that will be present will include the FMB Marine Resource Task Force, Keep Lee County Beautiful, and Citizens Climate Lobby FL.

The event is a peaceful rally for clean water and renewable energy in Southwest Florida. We will be making a clear ask to elected officials and government agencies to permanently protect our coasts from offshore drilling. In general, this event (Hands Across the Sand) will be held at multiple locations worldwide on this day. More information about this organization can be found at <https://handsacrossthesand.org/>.

This event will be free for the public to attend. There will be no trash generated, except for the trash collected during the beach clean up portion, which will be disposed of at Lynn Hall Beach park. No food or beverages will be sold on site.

Parking Plan:

We will direct people to various nearby public and paid parking locations.

Schedule of the event and timeline:

08:00-09:00: Organizations arrive. Tent and table set up at Times Square Park.

09:00 - 09:30: Yoga on the beach

09:30-10:30: Tabling and interacting with public to educate. This will continue for the remainder of the event

10:30-11: Main speakers

11:00-12:00: Beach clean up and hand holding at shoreline

12:00-12:45: Table cleanup and event breakdown

Site Plan

Times Square:

There will be various organizations (maximum of 5) set up with tables under tents in Times Square. There will be a podium set up for our guest speaker to talk at. There will be a battery operated amplification system that will be at a modest volume. This system will be used for the speaker only, no music will be played during the duration of the event. Our target audience for this portion of the event will be beachgoers that are passing through the area. We anticipate 50 - 100 people at a time in this area.



Event Description:

On Saturday, May 26th, millions will join hands on beaches across Florida and the nation for "Hands Across the Sand", a nationwide day of action opposing new offshore drilling while promoting safe and renewable alternatives. Join the Sierra Club, Keep Lee County Beautiful, Fort Myers Beach Marie Resources Task Force in Fort Myers Beach just North of the Pier in front of Times Square Park. We will be drawing a literal and figurative line in the sand to tell our elected officials that our coastline is not for sale!

The event is a peaceful rally for clean water and renewable energy in Southwest Florida. We will be making a clear ask to elected officials and government agencies to permanently protect our coasts from offshore drilling. This event will be free for the public to attend. There will be a beach cleanup after we are finished holding hands.

More information about this organization and other joint events can be found at <https://handsacrossthesand.org/>.



SIERCLU-01

STOSA1

CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
4/25/2022

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

PRODUCER License # 0H81923
G2 Insurance Services, LLC
601 California Street, Suite 700
San Francisco, CA 94108

CONTACT NAME:
PHONE (A/C, No, Ext): (415) 426-6600 **FAX** (A/C, No): (415) 426-6601
E-MAIL ADDRESS:

INSURED

Sierra Club
2101 Webster St, Suite 1300
Oakland, CA 94612

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: National Fire & Marine Insurance Company	20079
INSURER B: Hartford Accident and Indemnity Company	22357
INSURER C: Liberty Mutual Fire Insurance Company	23035
INSURER D:	
INSURER E:	
INSURER F:	

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☒ LOC OTHER:	X		42GLO10016209	4/1/2022	4/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 0 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ EACH OCCURRENCE \$ AGGREGATE \$
B	AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$			57UECFM4077	4/1/2022	4/1/2023	EACH OCCURRENCE \$ AGGREGATE \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC2Z91437543012	4/1/2022	4/1/2023	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

RE: Hands Across the Sand - 5/21/2022

As per written contract or agreement on file with the insured: Certificate holder is named as additional insured

CERTIFICATE HOLDER**CANCELLATION**

Town of Fort Myers Beach
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

[Signature]

1. **Requested Motion:**

Meeting Date: May 2, 2022

Review the Marine Resources Task Force (MRTF) recommendations and discuss modifying: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEA TURTLE CONSERVATION" ESTABLISHING AN IMPLEMENTATION SCHEDULE FOR THE FIFTEEN PERCENT (15%) TINTED GLASS LIGHT TRANSMITTANCE VALUE; PROVIDING FOR CODIFICATION; CONFLICTS OF LAW; SCRIVENER'S ERRORS; SEVERABILITY; AND AN EFFECTIVE DATE.

Why the action is necessary:

Establishment of an implementation schedule for the tinted glass requirement in the existing regulations provides additional time for condos and homeowners to repair and replace windows with the fifteen (15%) light transmittance requirement.

What the action accomplishes:

Delays the implementation of the fifteen (15%) light transmittance requirement

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Ordinance Amendment

4. **Submitter of Information:**

5. **Background:**

- 2019 – Staff directed to update the sea turtle conservation ordinance based on the State's Model Ordinance.
- January 2020 – FWC provided "FINAL Draft Model Lighting Ordinance for Sea Turtle Protection" which included the following language:
 1. All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction shall utilize glass with an inside to outside light transmittance value of 15% or less.
- January 2020 – 1st Reading of 20-04 Sea turtle Conservation Ordinance.
- February 2020 - FDEP provided a revised draft of the Model Lighting Ordinance with the following language:
 1. All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction shall use tinted glass with an inside to outside light transmittance value of ___ percent or less. (N.B. the value was left blank with guidance below)

Guidance: Florida Fish and Wildlife Conservation Commission biologists have determined that glass tints/film with light transmittance values of 15 percent or less are required to prevent unshielded interior lights from being visible from the beach without the installation of additional darkening window treatments such as shades, blinds or curtains. Coastal Construction Control Line Rule 62B-33.0155 (1)(m), F.A.C. and General Permit Rule 62B-34.070(4)(a), F.A.C., specify a 45 percent or less light transmittance value.
- February 2020 – 2nd Reading & adoption of 20-04 Sea Turtle Conservation Ordinance
- 2020 Sea Turtle Season – Staff noted interior lighting to be a significant cause of light pollution on the beach and multiple disorientations of hatchlings. Issues with enforcement language prompted staff to suggest minor amendments.
- December 2020 – The State adopted the Model Sea Turtle Lighting Ordinance with the following language and additional guidance:
 1. All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides

of any new construction shall use tinted glass with an inside to outside light transmittance value of 45 percent or less.

Guidance: Local governments may apply special considerations to control interior lighting from being directly visible from the beach.

- March & April of 2021 – Town adoption of 21-03 Sea Turtle Conservation Ordinance

Attachments:

1. 21-03, Amend Chapter 32 Sea Turtle Conservation 2nd Reading-C1 FINAL
2. 2021 Disorientation reports source of light
3. randys quote
4. windowguys quote
5. Witherington Bjorndal Copeia 1991

Financial Impact:

None

6. Alternative Action

Condominium associations proposed a 5 year moratorium on the 15% light transmittance requirement for new and replacement windows.

MRTF passed a motion to put a moratorium on the current sea turtle ordinance for 15% for one year and one-year periods after that to allow technology to catch up and allow 45% with the caveat that they enforce the lighting ordinance and write citations to those who were not compliant with the sea turtle ordinance.

7. Management Recommendations:

Glass tints/film with light transmittance values of 15 percent or less are required to prevent unshielded interior lights from being visible from the beach without the installation of additional darkening window treatments such as shades, blinds or curtains.

The 45% light transmittance windows do not adequately mitigate light pollution onto the beach, causing disorientation of nesting sea turtles and hatchlings. Additional window treatments (shades, blinds or curtains) will be needed.

Town Council may vote to remove the 15% light transmittance requirement. If so, then property owners should be held to account to self-regulate to mitigate light pollution to prevent impacts to sea turtle nesting. The onus should be placed on the Condominium Associations and their property owners to develop and implement a Light Pollution Management Plan to prevent lighting violations and disorientation of nesting turtles and hatchlings. Such management plans should be a precursory condition and submitted to the Town for review and approval.

Approve a moratorium on the 15% light transmittance requirement until the State changes the model ordinance from 45% to 15% transmittance. Beachfront properties must develop and implement a light pollution mitigation plan to self regulate owners and guests to prevent violations and disorientation of nesting sea turtles and hatchlings.

8. Recommended Approval:

Chadd Chustz, Environmental Services
Daphnie Bercher, Community Services Administrator
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk

Created/Initiated - 4/26/2022
Approved - 4/27/2022
Approved - 4/27/2022
Approved - 4/28/2022

ORDINANCE NO. 21-03

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED “SEA TURTLE CONSERVATION”, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER’S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

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

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

WHEREAS, the Town of Fort Myers Beach, Florida (“Town”) recognizes that artificial lighting and other human activities on the beach and upland areas have a detrimental effect on the life-cycle and nesting activities of sea turtles, which are an endangered species protected by federal and state law, and therefore subject to reasonable regulations as proposed herein; and

WHEREAS, the Town also recognizes that both its economy and the quality of life of its residents are enriched by a healthy sea turtle population; and

WHEREAS, the Town desires to minimize the detrimental impact on nesting sea turtle populations, and other listed sensitive wildlife by implementing a system of rules and regulations that reduces the amount of artificial light intentionally or unintentionally visible from beaches; and

WHEREAS, on March 15, 2021 the Town Council held a first reading of this proposed Ordinance; and

WHEREAS, on April 5, 2021 the Town Council held a second reading of this proposed Ordinance.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA:¹

¹/ Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as strikethrough.

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

Section 2. Article V of Chapter 32 of the Code of Ordinances of the Town of Fort Myers Beach entitled "Sea Turtle Conservation" is hereby amended to read as follows:

CHAPTER 32 – WATERWAYS AND BEACHES

ARTICLE V. – SEA TURTLE CONSERVATION

Sec. 32-101. - Article purpose and objectives.

The purpose of this article is to protect nesting and hatchling sea turtles on the beaches in the Town of Fort Myers Beach ("town") by ensuring that their nesting habitat is not degraded by artificial light. The objective of the article is to ensure artificial light does not interfere with sea turtle nesting and hatching events through the appropriate design and implementation of coastal lighting systems. In order to further the objective of full implementation, this article also includes provisions designed to educate residents and beach users in the town on the benefits of appropriate coastal lighting and provides for weekly inspections to ensure compliance with the acceptable lighting standards.

Sec. 32-102. - Applicability.

The provision of this article shall apply to all properties within the town that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach, regardless of whether those properties are beachfront properties; and to all buildings and related infrastructure, including landscaping, as well as all other activities that may adversely impact sea turtles.

Sec. 32-103. - Definitions.

For the purposes of this article, the following words and phrases will have the meanings respectively ascribed to them by this section unless the context clearly indicates otherwise:

Artificial light means the light emanating from any human-made device.

Beach means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.

Cumulatively visible means light from numerous artificial light sources on a single property that as a group are directly or indirectly visible to an observer standing anywhere on the beach.

Directly visible means visibility of the glowing elements, lamps, globes, or reflectors of an artificial light source by an observer standing anywhere on the beach.

Disorientation means an event caused by direct, indirect, or cumulative artificial lighting on sea turtle nesting habitat resulting in the disruption in the ability of nesting sea turtle females and sea turtle hatchlings to find the sea from the beach.

Footcandle means the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot; equals to 10.76 lux.

Frontal dune means the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

Full cutoff means a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90 degrees as determined by photometric test or certified by the manufacturer.

Fully shielded means a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach. Any structural part of the light fixture providing this shielding must be permanently affixed.

Indirectly visible means visibility of reflected light as a result of glowing elements, lamps, globes, or reflectors of an artificial light source which is visible to an observer standing anywhere on the beach without the light source being directly visible.

Lighting plan means plan view and cross section drawings describing location, number, wattage, wavelength, elevation, orientation, fixture cut sheets, and all types of proposed exterior artificial light sources, including, but not limited to, artificial lighting affixed to permanent structures, outdoor lighting, pool lighting, and internally or externally lighted signs.

Long wavelength means a luminaire emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers. Lamps that

meet the definition of long wavelength through the use of filters, gels, or lenses are not permitted.

New Construction means all new construction of or additions and alterations to buildings, pools, pavement, other structures, landscape areas or lighting systems, including the change or resumption of land use.

Nesting season means the nesting period for sea turtles is from May 1 through October 31 of each year. Nesting season may be extended before or after these dates on an annual basis based on nesting activity observed in the Town of Fort Myers Beach.

Nighttime means the locally effective time period between sunset and sunrise.

Non-egress lighting means lighting that is not being used to light a distinct path or meet minimum requirements for emergency egress, including but not limited to, decorative lights (e.g., Christmas lights, strobe lights, string lights, etc.), balcony lights, ceiling fan lights, landscape lights, and uplights.

Outdoor area means any portion of a property that could have an artificial light source not attached to a permanent structure, including but not limited to, pathway lighting, landscape lighting, pool lighting, etc.

Sea turtle means any turtle, including all life stages from egg to adult, of these species: Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*), Loggerhead (*Caretta caretta*), Hawksbill (*Eretmochelys imbricata*), and Kemp's Ridley (*Lepidochelys kemp*i). For the purposes of this article, the term sea turtle is synonymous with marine turtle.

Sea turtle nesting habitat means all sandy beaches adjoining the waters of the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties and all inlet shorelines of those beaches. Nesting habitat includes all sandy beach and unvegetated or vegetated dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.

Take means an act that actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

Temporary lighting means any non-permanent light source that may be hand-held or portable including, but not limited to, tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, etc.

Tinted glass means glass modified via tinting, film or other material to reduce the inside to outside light transmittance value to 15 percent.

Sec. 32-104. - Annual public notice.

At least 30 days prior to the commencement of every sea turtle nesting season, the town shall provide written notice summarizing the provisions contained in this article.

Sec. 32-105. - Exterior and interior lighting affixed to new structures, new construction and improvements to existing structures.

- (a) All artificial lighting affixed to the exterior of new permanent structures, construction or additions shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required footcandles.
- (b) As an exception to (a) above, all non-egress lighting may be affixed to the landward exterior of permanent structures provided that the fixtures are fitted with a long wavelength source and are shall not be directly, indirectly, or cumulatively visible from any portion of the beach.
- (c) Lighting at egress points shall be limited to the minimum number of fixtures and footcandles necessary to meet federal, state, and local safety requirements.
- (d) Locations including, but not limited to, stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Window film, tinting, light screens, shades or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visibility of lights from the nesting beach.
- (e) All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides ~~of~~ included in any new construction, alteration, or window replacement shall utilize glass with an inside to outside light transmittance value of 15 percent or less.
- (f) Emergency lights shall be on a separate circuit and activated only during power outages or other situations in which emergency lighting is necessary for public safety.

- (g) Prior to issuance of a development order and/or building permit for all new structures, new construction and improvements to existing structures seaward of the Coastal Construction Control Line as defined by F.S. § 161.053, a town approved lighting plan meeting the provisions of this article and Chapter 34, Article IV, Division 20. – Lighting Standards is required.
- (h) Prior to issuance of a development order and/or building permit for all multifamily, commercial and industrial new structures, new construction and improvements to existing structures landward of the Coastal Construction Control Line as defined by F.S. § 161.053, a town approved lighting plan meeting the provisions of this article and Chapter 34, Article IV, Division 20. – Lighting Standards is required.
- (i) Prior to the issuance of a certificate of occupancy (CO) or a certificate of completion (CC), the exterior and interior lighting of new development shall be inspected after dark by the town, with all exterior and interior lighting turned on, to determine compliance with the approved lighting plan and this article. In addition, all manufacturer specification stickers shall remain affixed to all glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction to determine compliance with the approved window and door specifications and plan.

Sec. 32-106. - Existing exterior and interior lighting.

- (a) Existing artificial lighting affixed to the exterior of permanent structures shall not be directly, indirectly, or cumulatively visible from any portion of the beach during sea turtle nesting season.
- (b) Appropriate techniques for existing exterior lighting to achieve compliance with the provisions of this article include, but are not limited to:
 - (1) Reposition, modify or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly, indirectly or cumulatively visible from the beach;
 - (2) Replace fixtures having an exposed light source with fully shielded fixtures;
 - (3) Replace any light source, light bulb or lamp that is not long wavelength (e.g., incandescent, fluorescent, or high

intensity lighting) with the lowest wattage long wavelength (e.g., LED or low pressure sodium) light source or lamp available for the specific application;

- (4) Replace non-directional fixtures with directional fixtures that point down and away from the beach;
 - (5) Provide shields for fixtures visible from the beach and not practical to immediately be replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;
 - (6) Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;
 - (7) Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;
 - (8) Construct a ground level barrier to shield light sources from the beach. Ground-level barriers must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long-term damage to the beach and dune system;
 - (9) Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards;
 - (10) Televisions shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.
- (c) Interior lighting shall not be directly, indirectly, or cumulatively visible from any portion of the beach during sea turtle nesting season.
- (d) Appropriate techniques to achieve compliance for interior lighting with the provisions of this article include, but are not limited to: The following measures can reduce or eliminate the negative effects of interior light emanating from doors and windows within line-of-sight of the beach:
- (1) Apply window tint or film that meets the light transmittance standards for tinted glass;

- (2) Rearrange lamps and other moveable fixtures away from windows;
- (3) Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.
- (4) A combination of the above techniques may be required to achieve compliance with this article.

Sec. 32-107. - Outdoor areas.

- (a) All lighting of outdoor areas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required footcandles.
- (b) All pathway lighting shall utilize low-level fixtures that do not exceed 42 inches in height. Fixtures shall be downward directed and utilize long wavelength lamps and beachside shields.
- (c) All non-egress outdoor lighting shall not be directly, indirectly, or cumulatively visible from any portion of the beach.
- (d) Internally or externally lighted signs shall not be located on the seaward and shore-perpendicular sides of any structures, and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
- (e) Ponds and fountains on the seaward and shore-perpendicular sides of any structures shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
- (f) Fire, including cooking fires, bonfires and fire pits, if permitted by the town, shall be shielded with an opaque structure or partition, and positioned such that the flame is not directly, indirectly, or cumulatively visible from any portion of the beach.
- (g) Televisions shall be located landward of the dune and shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible from the beach.
- (h) Handheld and other portable temporary lighting shall not be directed toward or used in a manner that disturbs sea turtles or other coastal wildlife.

Sec. 32-108. - Parking areas.

- (a) All lighting of parking areas shall be long wavelength, downward directed, full cutoff, fully shielded, and mounted to the minimum level required to maintain compliance with federal, state and local law.
- (b) Parking area lighting shall be shielded from the beach via vegetation, natural features, or artificial structures rising from the ground. These shall prevent artificial light sources, including but not limited to, vehicular headlights, from producing light that is directly, indirectly, or cumulatively visible from any portion of the beach.
- (c) Lighting of parking areas shall produce no more lighting than the minimum requirement as outlined by federal, state and local law.
- (d) Lighting of parking areas shall consist of either:
 - (1) Ground-level, downward-directed fixtures, equipped with interior dark non-reflective baffles or louvers, mounted either with a wall mount, on walls or piles, facing away from the beach, or
 - (2) Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded 180 degrees on the side facing the beach, or
 - (3) Pole-mounted lights, if required, which shall:
 - a. Only be used in parking areas when mounting the lights at lower elevations cannot practicably comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.
 - b. Located on the landward sides of buildings and shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach.
 - c. Mounted at the minimum height necessary to meet the minimum light level requirement.

- d. Downward-directed onto non-reflective surfaces.
- (4) Equipment yards, storage yards, and temporary security lights shall also adhere to the lighting restrictions contained herein.

Sec. 32-109. - Pool areas.

- (a) Lighting of pool decks, pool facilities, swimming pools, and spas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required footcandles.
- (b) Lighting of the pool water surfaces and the pool wet deck surfaces shall comply with the minimum light levels set forth in applicable federal and state laws designed to protect public safety.
- (c) Above-water lighting of pool decks, pool facilities, swimming pools, and spas shall otherwise adhere to the applicable requirements for acceptable light fixtures set forth herein.
- (d) Underwater lighting of pools or spa light shall:
 - (1) Be mounted horizontally in the wall,
 - (2) Not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach, and
 - (3) Shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Sec. 32-110. - Pier structures.

- (a) Lighting of pier structures projecting over the beach or over water shall be long wavelength, downward directed, and fully shielded.
- (b) Lighting of pier structures projecting over the beach, or over water, shall be mounted no higher than 42 inches above the deck surface. These shall be directed onto the deck surface only, preventing light pollution or light spillage beyond the walking surface.
- (c) Lighting of pier structures projecting over the beach or over water shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety.

Sec. 32-111. - Dune walkovers and beach access points.

- (a) Lighting of beach access points shall be restricted to that portion of the structure landward of the dune. All lighting of beach access points shall be long wavelength, downward directed, full cutoff and fully shielded and shall not be directly, indirectly, or cumulatively visible from the beach.
- (b) Lights are allowable on dune walkovers or elevated boardwalks only as required for building code purposes and may only be installed landward of the frontal dune. Walkover lighting shall not be directly, indirectly or cumulatively visible from the beach.

Sec. 32-112. - Special events, vehicles, raking and temporary lighting.

- (a) All special events or construction taking place on or adjacent to the beach require a permit from the town, and may require a permit from the Florida Department of Environmental Protection.
- (b) Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach shall not be authorized at nighttime during sea turtle nesting season.
- (c) The operation of all vehicles, except emergency and law enforcement vehicles or those permitted on the beach for sea turtle conservation in accordance with F.S. § 379.2431(1), or other research and conservation, shall be prohibited on the beach at nighttime during sea turtle nesting season. Excepted, non-emergency vehicles shall affix red filter to their headlights when operating on sea turtle nesting habitat at nighttime.
- (d) Beach raking activities during sea turtle nesting season, if permitted by the town, shall not:
 - (1) Operate at nighttime;
 - (2) Begin before 9:00 a.m. or before the completion of daily monitoring for turtle nesting activity by the Florida Fish and Wildlife Conservation Commission (FWC) authorized marine turtle permit holder, whichever occurs first;
 - (3) Occur within ten feet of any marked sea turtle nest.
- (e) Within sea turtle nesting season, temporary work zone lighting for roadway construction and during declared emergencies shall be directed away from the beach to avoid illumination of or direct

visibility from the beach. Work zone luminaires shall be shielded to avoid lighting areas outside of the immediate construction area.

- (f) All other temporary construction lighting shall be:
 - (1) Inclusive of all the standards herein, including utilizing fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, and
 - (2) Turned off during nighttime in sea turtle nesting season, or if temporary lighting is deemed necessary during sea turtle nesting season it shall only be allowed from 6:00 a.m. to 9:00 p.m., must be restricted to the minimal amount necessary, and shall incorporate all the standards herein, and
 - (3) Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture, and
 - (4) Restricted to the minimal number of footcandles necessary to conform to the applicable construction safety regulations.

Sec. 32-113. - Beach furniture and obstructions.

- (a) Man-made objects shall not obstruct sea turtle nesting habitat during nesting season during nighttime. All obstructions, including, but not limited to, beach furniture, cabanas, umbrellas, tents, personal watercraft, bikes, vehicles, and boats, shall be removed from sea turtle nesting habitat between the hours of 9:00 p.m. and 7:00 a.m. during sea turtle nesting season.
- (b) During sea turtle nesting season, permitted beach furniture vendors shall not place beach furniture onto sea turtle nesting habitat before 9:00 a.m., or prior to the completion of daily monitoring for sea turtle nesting activity by the FWC authorized marine turtle permit holder, whichever comes first.
- (c) No beach furniture or other man-made object shall be placed within ten feet of a marked sea turtle nest.

Sec. 32-114. - Take and disorientation.

- (a) A person, firm, or corporation shall not cause a disorientation of nesting sea turtles or sea turtle hatchlings.

- (b) A person, firm, or corporation shall not take, disturb, mutilate, destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass any sea turtle species or hatchling, or parts thereof, or the eggs or nest of any sea turtle species.

Sec. 32-115. - Penalties.

- (a) Any violation of this article may be prosecuted in accordance with the provisions set out in section 1-5 and chapter 2, article V of the Land Development Code.
- (b) This article may be enforced by any duly authorized law enforcement officer, town code enforcement officer or town designee.
- (c) The law enforcement officer, town code enforcement officer or town designee is authorized and empowered to make inspections at reasonable hours of all activities regulated by this article in order to ensure compliance with the provisions of this article. Any person who violates any provision of this chapter, or of any regulation or guideline that implements this chapter, shall be ordered immediately to stop all work.
- (d) Any person who takes any action or omission in violation of any provision of this article and fails to cure such violation after proper notice is provided, shall be subject to a fine of up to \$250.00 per day per violation for initial violations, and \$500.00 per day per violation for repeat violations. All penalties incurred as a result of violation of this article shall continue to accrue until such violations are cured.
- (e) Nothing contained herein will 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. Such other lawful action will include, but will not be limited to, an equitable action for injunctive relief or an action at law for damages.

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

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

Section 5. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid,

such decision will not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

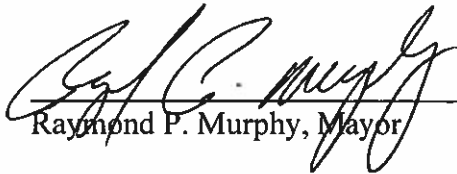
Section 6. This ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Councilmember Veach and seconded by Vice Mayor Hosafros, and upon being put to a roll call vote, the result was as follows:

Raymond P. Murphy, Mayor	aye
Rexann Hosafros, Vice Mayor	aye
Dan Allers, Council Member	aye
Jim Atterholt, Council Member	aye
Bill Veach, Council Member	aye

ADOPTED this 5th day of April, 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH



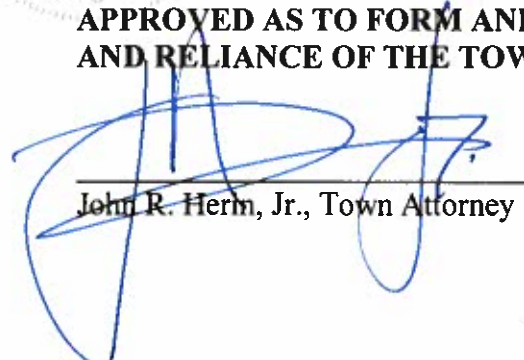
Raymond P. Murphy, Mayor

ATTEST:



Amy Baker, Town Clerk

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



John R. Herm, Jr., Town Attorney

2021 Disorientation Events: 2175 Total

Contributing Light Source Types



Data as of 11/30/2021



Chadd Chustz

From: RANDY'S ISLAND GLASS <sharylrandysislandglass@comcast.net>
Sent: Tuesday, April 26, 2022 11:34 AM
To: Chadd Chustz
Subject: RE: Window Quote Needed

Sorry Computer issues

approximately 15 weeks for either

Thank you

Sharyl

If you have any questions or concerns please call or email

please send delivery confirmation upon receipt

We are now accepting all major credit cards

Sharyl

Office Manager

Randy's Island Glass

17691 Summerlin Road

Fort Myers, FL 33908

239-454-0050

239-454-1003

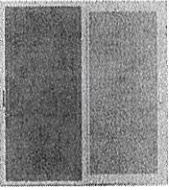
On 04/26/2022 11:21 AM Chadd Chustz <chadd@fmbgov.com> wrote:

Thank s Ms Sharyl :)

Is there much difference in expected shipping times b/w 15 and 45 percent?

Chadd Chustz

Line # Item Description Quantity
0001 SGD770 SLIDING GLASS DOOR 770 Ordered: 1.00
Configuration: 72.X80.,6068,BYPASS,2P2T,XX,STD,3.25,NARROW,W,1 TLIG,CLEAR,SC,NO GRID,BS,1814K,ALL



Send Unit: COMPLETE
NOA Selection: 20-0429.09
Pnl/Trk: 2 Panel / 2 Track
Panel Stack: STD
Size Code: 6068.0000
Calc Track Length: 72.0000
Glass Makeup: LIT306SS7
Glass Family: LI - Laminated Insulating
Glass Color: CL - CLEAR
Argon Gas: NONE
Interlayer Type: PVB090
Add HD Stile for DP Upgrade: N
Sill Riser Height: 3.2500
Screen Panel Type: BOX
Screen Rail Qty: 1-BOX
Handle Type: MIXEDHANDLES
Lock/Handle Location: STD
Key Lock: N
Panel Opr Rlr: STSTEELTM Stainless Steel
Tandem
Anchor Group: C.SG6.7
Pnl 1 Handle Type: RAISED/RAISED
CAR#: 20-0429.09
TC3: ordinance for
PositiveDesignPressure: 60.0000
PANumber: FL251
CondensationResistance: 17.0000
SolarHeatGainCoeff: 0.2000
VTCOG: 0.3800

Certification Type: MIAMI
Door Configuration: BYPASS
Panel Configuration: XX
Size Selection: NOMINAL
Actual Size: 72 X 80
Frame Color: W - White
Glass: 1" LIG (3/16 Tmp - 3/8 AIR - 7/16 HS/HS
Does unit need to meet Turtle Code: YES
Low E: SOLAR CONTROLLWE2
Privacy Glass: NONE - NONE
Grid Type: NONE - NO Grid
Stile: STD/STD
Sill Riser Type: NARROW
Screen Type: 1814K - 1814 Charcoal
Screen Rail Integrated: Y
Handle Color: W - White
Secondary Lock Type: NONE
Keyed Alike: N
Screen Rlr: STSTEEL Stainless Steel
Boxing Options: N - None
Pnl 2 Handle Type: RAISED/FLUSH
TC1: Meets the requirements
TC4: marine turtle protection
NegativeDesignPressure: 60.0000
EnergyStar: NONE
UF: 0.7000
VT: 0.2700

5426.29

Location: Notes:

0002 SH7700A SINGLE HUNG SERIES 7700A Ordered: 1.00
Configuration: 24.X48.X.,STD,1/2" FL,W,EQUAL,13/16 LIG,CL,SC,NO GRID,SS PACKAGE,SGL,SWEEP,1816K-BOXED,LSILL



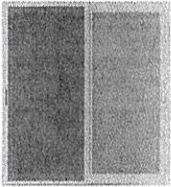
Certification Type: MIAMI
Frame Type: .5FLANGE
Window Style: STD
Size Ref: TTT
Height: 48.0000
Rough Masonry: 24 3/4 X 48
Egress Opening: 18 15/16 X 17 13/16 (2.3298 SQFT)
Glass Family: LI - Laminated Insulating
Glass Makeup: LIA206AA5
Does unit need to meet Turtle Code: YES
Low E: SOLAR CONTROLLWE2
Privacy Glass: NONE - NONE
Screen Type: 1816K - 1816 Charcoal
WOCD: N
Lmtd Sash Stop: N
Lock Type: SWEEP - Sweep Latch
Boxing Options: BS - Box Screen
CAR#: 20-0401.11
TC3: ordinance for
PositiveDesignPressure: 65.0000
PANumber: FL-239
CondensationResistance: 17.0000
SolarHeatGainCoeff: 0.2200
VTCOG: 0.3900

NOA Selection: 20-0401.11
Vent Configuration: EQUAL
Size Selection: CUSTOM
Width: 24.0000
Actual Size: 24 X 48
Wood Frame Opening: 23 1/4 X 47 1/4
Frame Color: W - White
Interlayer Type: PVB090
Glass: 13/16" LIG (1/8AN - 3/8 AIR -5/16 AN/AN
Glass Color: CL - CLEAR
Argon Gas: NONE
Grid Type: NONE - NO Grid
Vent Latch: N
Hi-Rise Sill: N
Stainless Steel Package: Y
Lock Quantity: 1.0000
Vent Ht: 24.4640
TC1: Meets the requirements
TC4: marine turtle protection
NegativeDesignPressure: 80.0000
EnergyStar: NONE
UF: 0.5700
VT: 0.3100

806.92

Line #	Description	Quantity
0001 (1.00)	SGD770 SLIDING GLASS DOOR 770	Ordered: 1.00

Configuration: 72.X80.,6068,BYPASS,2P2T,XX,STD,3.25,NARROW,W,1 TLIG,GRAYLITE II,NO GRID,BS,1814K,ALL



Send Unit: COMPLETE
 NOA Selection: 20-0429.09
 Pnl/Trk: 2 Panel / 2 Track
 Panel Stack: STD
 Size Code: 6068.0000
 Calc Track Length: 72.0000
 Glass Makeup: LIT306SS7
 Glass Family: LI - Laminated Insulating
 Glass Color: G2 - GRAYLITE II
 Argon Gas: NONE
 Interlayer Type: PVB090
 Add HD Stile for DP Upgrade: N
 Sill Riser Height: 3.2500
 Screen Panel Type: BOX
 Screen Rail Qty: 1-BOX
 Handle Type: MIXEDHANDLES
 Lock/Handle Location: STD
 Key Lock: N
 Panel Opr Rlr: STSTEELTM Stainless Steel Tandem
 Anchor Group: C.SG6.7
 Pnl 1 Handle Type: RAISED/RAISED
 CAR#: 20-0429.09
 TC3: ordinance for
 PositiveDesignPressure: 60.0000
 PANumber: FL251
 CondensationResistance: 17.0000
 SolarHeatGainCoeff: 0.1900
 VTCOG: 0.1200

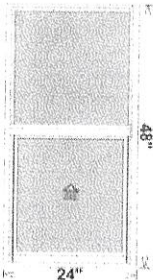
Certification Type: MIAMI
 Door Configuration: BYPASS
 Panel Configuration: XX
 Size Selection: NOMINAL
 Actual Size: 72 X 80
 Frame Color: W - White
 Glass: 1" LIG (3/16 Tmp - 3/8 AIR - 7/16 HS/HS
 Does unit need to meet Turtle Code: YES
 Low E: NONE
 Privacy Glass: NONE - NONE
 Grid Type: NONE - NO Grid
 Stile: STD/STD
 Sill Riser Type: NARROW
 Screen Type: 1814K - 1814 Charcoal
 Screen Rail Integrated: Y
 Handle Color: W - White
 Secondary Lock Type: NONE
 Keyed Alike: N
 Screen Rlr: STSTEEL Stainless Steel
 Boxing Options: N - None
 Pnl 2 Handle Type: RAISED/FLUSH
 TC1: Meets the requirements
 TC4: marine turtle protection
 NegativeDesignPressure: 60.0000
 EnergyStar: NONE
 UF: 0.8000
 VT: 0.0800

5589.77

Location: Notes:

0002 (2.00)	SH7700A SINGLE HUNG SERIES 7700A	Ordered: 1.00
----------------	----------------------------------	------------------

Configuration: 24.X48.X.,STD,1/2" FL,W,EQUAL,13/16 LIG,G2,NO GRID,SS PACKAGE,SGL,SWEEP,1816K-BOXED,LSILL



Certification Type: MIAMI
 Frame Type: .5FLANGE
 Window Style: STD
 Size Ref: TTT
 Height: 48.0000
 Rough Masonry: 24 3/4 X 48
 Egress Opening: 18 15/16 X 17 13/16 (2.3298 SQFT)
 Glass Family: LI - Laminated Insulating
 Glass Makeup: LIA305AA5
 Does unit need to meet Turtle Code: YES
 Low E: NONE
 Privacy Glass: NONE - NONE
 Screen Type: 1816K - 1816 Charcoal
 WOCD: N
 Lmted Sash Stop: N
 Lock Type: SWEEP - Sweep Latch
 Boxing Options: BS - Box Screen
 CAR#: 20-0401.11
 TC3: ordinance for
 PositiveDesignPressure: 65.0000
 PANumber: FL-239
 CondensationResistance: 17.0000
 SolarHeatGainCoeff: 0.2100
 VTCOG: 0.1200

NOA Selection: 20-0401.11
 Vent Configuration: EQUAL
 Size Selection: CUSTOM
 Width: 24.0000
 Actual Size: 24 X 48
 Wood Frame Opening: 23 1/4 X 47 1/4
 Frame Color: W - White
 Interlayer Type: PVB090
 Glass: 13/16" LIG (3/16 AN -5/16 AIR5/16 AN/AN
 Glass Color: G2 - GRAYLITE II
 Argon Gas: NONE
 Grid Type: NONE - NO Grid
 Vent Latch: N
 Hi-Rise Sill: N
 Stainless Steel Package: Y
 Lock Quantity: 1.0000
 Vent Ht: 24.4640
 TC1: Meets the requirements
 TC4: marine turtle protection
 NegativeDesignPressure: 80.0000
 EnergyStar: NONE
 UF: 0.7000
 VT: 0.1000

880.95

Chadd Chustz

From: Ivan Torres <ltorres@windowguysflorida.com>
Sent: Thursday, March 24, 2022 2:09 PM
To: Chadd Chustz
Subject: RE: Material Comparison-Energy Efficiency Comparison

Good Afternoon Chadd,

There is no difference in lead time. Even going with a non-energy efficient widow they are still within the same time frame from the manufacturer. Please let me know if this helps or if there is anything else you may need. Thank you for your time and consideration.

Respectfully,

Ivan Torres

Estimator



Impact Windows Wholesale
The Window Guys of Florida
11300 Fortune Circle #4
Wellington, FL 33414
Office: 561.598.6295
Fax: 561.598.6296
ltorres@windowguysflorida.com

www.windowguysflorida.com

From: Chadd Chustz <Chadd@fmbgov.com>
Sent: Thursday, March 24, 2022 1:58 PM
To: Ivan Torres <ltorres@windowguysflorida.com>
Subject: Re: Material Comparison-Energy Efficiency Comparison

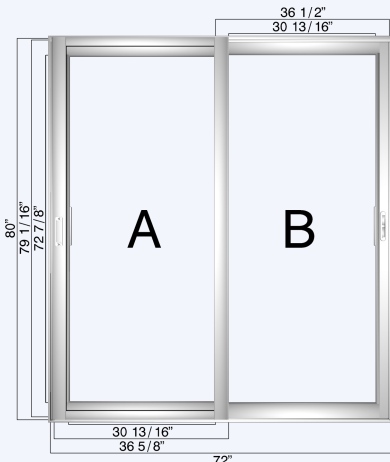
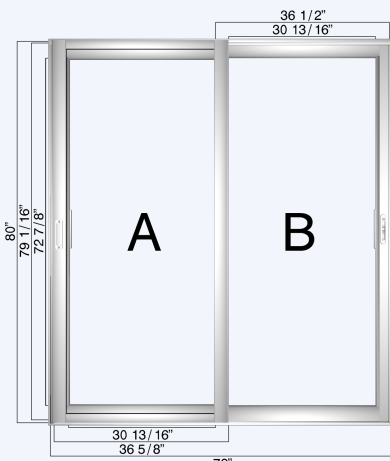
Thanks Ivan!

What is the difference in delivery time between the 15% and 45%?

Chadd Chustz
Environmental Project Manager
Town of Fort Myers Beach

PROPOSAL NUMBER
255946
PROPOSAL NAME
CHADD GOV
EXTERNAL PURCHASE ORDER ID

QUOTE ITEMS

LINE	LINE NAME	ASSEMBLY SYSTEM	ASSEMBLY	UNIT PRICE	TOTAL QUANTITY	TOTAL PRICE								
NUM														
1	A- 101 SGD SB70 45%	ES-EL400 - SLIDING GLASS DOOR	XX	\$2,446.05	1	\$2,446.05								
 SIZE 72" X 80" AREA 40.00 FT² FINISH AAMA 2604 WHITE GLASS 3/16" CLEAR HS SB70 + 0.09 PVB CLEAR + 3/16" CLEAR HS KEYED NO SCREEN YES MUNTINS NO JAMB TYPE STANDARD SILL TYPE STANDARD SILL COLOR CLEAR ANOD HANDLE TYPE CREST SLIDE HANDLE HEIGHT STANDARD REINFORCEMENT ALUMINUM EXTERIOR HANDLE FLAT PROTECTIVE FILM BOTH SILL RISER TYPE 3 5/8 (12PSF) PRE-GLAZED? YES FBC CERTIFICATION <table><tr><td>INTERNAL PSF</td><td>EXTERNAL PSF</td></tr><tr><td>80.00</td><td>80.00</td></tr></table> CODE FL #22645.1 NOA CERTIFICATION <table><tr><td>INTERNAL PSF</td><td>EXTERNAL PSF</td></tr><tr><td>80.00</td><td>80.00</td></tr></table> CODE 21-0728.02							INTERNAL PSF	EXTERNAL PSF	80.00	80.00	INTERNAL PSF	EXTERNAL PSF	80.00	80.00
INTERNAL PSF	EXTERNAL PSF													
80.00	80.00													
INTERNAL PSF	EXTERNAL PSF													
80.00	80.00													
2	B- 102 SGD 15%	ES-EL400 - SLIDING GLASS DOOR	XX	\$2,318.01	1	\$2,318.01								
 SIZE 72" X 80" AREA 40.00 FT² FINISH AAMA 2604 WHITE GLASS 3/16" CLEAR HS N70/38 + 0.09 PVB CLEAR + 3/16" CLEAR HS KEYED NO SCREEN YES MUNTINS NO JAMB TYPE STANDARD SILL TYPE STANDARD SILL COLOR CLEAR ANOD HANDLE TYPE CREST SLIDE HANDLE HEIGHT STANDARD REINFORCEMENT NO EXTERIOR HANDLE FLAT PROTECTIVE FILM BOTH SILL RISER TYPE 3 5/8 (12PSF) PRE-GLAZED? YES FBC CERTIFICATION <table><tr><td>INTERNAL PSF</td><td>EXTERNAL PSF</td></tr><tr><td>60.00</td><td>60.00</td></tr></table> CODE FL #22645.1 NOA CERTIFICATION <table><tr><td>INTERNAL PSF</td><td>EXTERNAL PSF</td></tr><tr><td>60.00</td><td>60.00</td></tr></table> CODE 21-0728.02							INTERNAL PSF	EXTERNAL PSF	60.00	60.00	INTERNAL PSF	EXTERNAL PSF	60.00	60.00
INTERNAL PSF	EXTERNAL PSF													
60.00	60.00													
INTERNAL PSF	EXTERNAL PSF													
60.00	60.00													

3	C- 103 SH SB70 45%	ES-EL100 - SINGLE HUNG	OX	\$378.49	1	\$378.49
		SIZE	24" X 48"	FBC CERTIFICATION		
		AREA	8.00 FT ²	INTERNAL PSF EXTERNAL PSF		
		FINISH	AAMA 2604 WHITE	80.00 60.00		
		GLASS	1/8" CLEAR HS SB70 + 0.09 PVB CLEAR + 1/8" CLEAR HS	CODE FL22250.1		
		SCREEN	YES	NOA CERTIFICATION		
		MUNTINS	NO	INTERNAL PSF EXTERNAL PSF		
		SILL TYPE	STANDARD	80.00 60.00		
		FRAME TYPE	FLANGE	CODE 21-0526.02		
		PANEL TYPE	EQUAL	NFRC CERTIFICATION		
		LIMIT		U FACTOR SHGC		
		DEVICE		1.07 0.28		
		MEETING RAIL	STANDARD			
		PROTECTIVE FILM	NO			
		LOCKING MECHANISM	SWEEP LOCK ELITE STANDARD (3032A)			
		PRE-GLAZED?	YES			

4	D- 104 SH SB60 15%	ES-EL100 - SINGLE HUNG	OX	\$369.11	1	\$369.11
		SIZE	24" X 48"	FBC CERTIFICATION		
		AREA	8.00 FT ²	INTERNAL PSF EXTERNAL PSF		
		FINISH	AAMA 2604 WHITE	80.00 60.00		
		GLASS	1/8" CLEAR HS N70/38 + 0.09 PVB CLEAR + 1/8" CLEAR HS	CODE FL22250.1		
		SCREEN	YES	NOA CERTIFICATION		
		MUNTINS	NO	INTERNAL PSF EXTERNAL PSF		
		SILL TYPE	STANDARD	80.00 60.00		
		FRAME TYPE	FLANGE	CODE 21-0526.02		
		PANEL TYPE	EQUAL			
		LIMIT				
		DEVICE				
		MEETING RAIL	STANDARD			
		PROTECTIVE FILM	NO			
		LOCKING MECHANISM	SWEEP LOCK ELITE STANDARD (3032A)			
		PRE-GLAZED?	YES			

PRODUCT TOTALS	
PRODUCT TOTAL	\$5,511.67
TAX RATE	
TAX AMOUNT	\$0.00
TERMS AND SERVICES	
INSTALLATION PRICE	\$0.00
PERMIT PRICE	\$0.00
MISCELLANEOUS	\$0.00
TOTALS	
TOTAL	\$5,511.67

QUOTE SUMMARY

ASSEMBLY SYSTEM

TOTAL QUANTITY

TOTAL AREA (SQ FT)

ES-EL100 - SINGLE HUNG

2

16.00

ES-EL400 - SLIDING GLASS
DOOR

2

80.00

TOTAL

4

96.0

SHIPPING TERMS

- Shipping Costs Included
- Updating shipping address may result in additional shipping fees

DOCUMENT GENERATED THU 24 MAR 2022 5:25

Influences of Wavelength and Intensity on Hatchling Sea Turtle Phototaxis: Implications for Sea-Finding Behavior

BLAIR E. WITHERINGTON AND KAREN A. BJORNDAAL

Visual cues are important to sea turtle hatchlings in determining seaward direction upon emerging from the nest. In this study, we examined the roles that color and intensity play in the sea-finding mechanisms employed by loggerhead (*Caretta caretta*) and green turtle (*Chelonia mydas*) hatchlings. We tested hatchling preference for a standard source of constant intensity and color (1.26×10^{15} photons $s^{-1} m^{-2}$ at 520 nm), versus an adjustable light source (one of five monochromatic colors at each of seven photon intensities), using a two-choice apparatus. Both species oriented toward near-ultraviolet (360 nm), violet (400 nm), and blue-green (500 nm) light but chose the standard light source over yellow-orange (600 nm) and red (700 nm) light. There was a positive relationship between intensity and preference with 360, 400, and 500 nm light. We also examined hatchling choice of either a darkened window or a window lighted by one of eight monochromatic colors at each of two intensities. In these experiments, loggerheads oriented toward 360, 400, and 500 nm light but away from light in the green-yellow to yellow-orange range (560, 580, and 600 nm). Loggerheads oriented toward 700 nm light only at high intensity. Green turtles responded insignificantly to 600 or 700 nm light at either intensity. The contrast of green turtle behavioral responses with published electrophysiological data and the aversion to yellow light observed in loggerheads suggest some level of spectral quality assessment in sea finding for both species.

HATCHLING sea turtles emerge from sub-surface nests on oceanic beaches, primarily at night, and immediately move toward the sea. Hatchlings not entering the ocean expeditiously suffer high mortality from predation, exhaustion, and desiccation. The sea-finding behavior of neonate hatchlings occurs to the exclusion of other predator avoidance behaviors. The robust nature of the sea-finding response in sea turtles makes it an excellent model for the study of animal orientation. A detailed description of hatchling sea-finding behavior in the green turtle (*Chelonia mydas*) is given by Carr and Ogren (1960).

Bilaterally blindfolded green turtle (Carr and Ogren, 1960) and loggerhead (*Caretta caretta*; Daniel and Smith, 1947) hatchlings are unable to orient directly toward the sea, providing the best evidence that hatchling sea finding is dependent on visual cues. Green turtle hatchlings also are attracted to artificial light sources (Mrosovsky and Shettleworth, 1968) and lightly tinted objects (Carr and Ogren, 1960) and will move in those directions irrespective of beach slope. The use of vision by sea-finding hatchlings may include an assessment of any combination of the many properties of light detectable by the eye.

Properties of light studied with respect to hatchling orientation include intensity, color, direction, and shape.

Two models predict that sea-finding hatchlings will move in the brightest direction. Brightness in this sense is a measure of intensity having both the directional and spectral sensitivity properties of the hatchling in question. Models describing the mechanism by which hatchlings orient in the brightest direction involve either phototropotaxis (Mrosovsky and Kingsmill, 1985) or a direction system (Verheijen and Wildschut, 1973; van Rhijn, 1979). A third model involves shape as a visual cue (Parker, 1922; Limpus, 1971; van Rhijn, 1979). This model implies form vision and the ability to recognize differences of pattern in the silhouettes of duneward and seaward horizons. Experiments conducted by van Rhijn and van Gorkom (1983) suggest this system may be distinct from, but complementary to, either of the two previous systems.

Spectral quality assessment, or the use of color as a seaward orientation cue also has been suggested (Hooker, 1911; Mrosovsky, 1972). Differential responses to colors may be because of color discrimination as well as a spectral bias

resulting from physiological spectral sensitivity range. Both light intensity and spectral properties play important roles in each of the visual sea-finding mechanisms above. Previous attempts to elucidate the roles of color and intensity in sea turtle hatchling orientation have been limited (Mrosovsky and Carr, 1967; Mrosovsky and Shettleworth, 1968). Primary limitations have been an inability to isolate narrow bandwidths of spectral light and to measure light intensity (e.g., irradiance) at specific wavelengths. Broad-band filters used in earlier studies allow the transmission of many wavelengths and make the assignment of hatchling response to specific colors questionable.

In this paper, we assess preferences for light intensities and narrow bandwidth color sources in loggerhead and green turtle hatchlings during their sea-finding behavior. We evaluate the spectral quality assessment model for hatchling sea finding and suggest a reassessment of models that predict "brightest direction" orientation.

METHODS

Hatchlings.—Loggerhead and green turtle hatchlings for the experiments were taken from clutches transferred into a secured hatchery near Melbourne Beach, Florida, during the summer nesting season, 1988. We examined hatchery nests for signs of hatchling emergence activity at dusk beginning 50 d into incubation (incubation period approximately 50–57 d). Hatchlings typically lie just beneath the surface of the sand until decreasing nighttime temperatures prompt their emergence en masse (Mrosovsky, 1968). We collected hatchlings just after dusk, when they were ready to emerge, and transported them in darkened buckets to an indoor laboratory within 200 m of the hatchery. We kept hatchlings in the dark to ensure that they remained dark adapted and photically naive for experimental trials. Hatchlings were collected and used in experiments during a time when hatchlings are normally emerging and moving to the sea (2100–0200 h, Witherington et al., 1990). Each hatchling was used for a single trial and released the same night on the beach.

Experimental apparatus.—We used a modified T-maze (V-maze) to determine hatchling preference with respect to photic cues (Fig. 1). This apparatus was a V-shaped wooden box, with each identical arm 78 cm in length. Openings

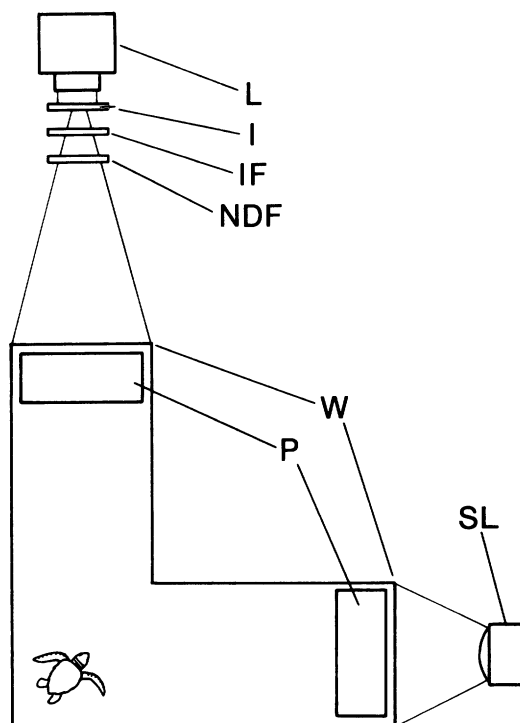


Fig. 1. Schematic diagram of a V-maze used in two-choice, color preference experiments with loggerhead and green turtle hatchlings. L = lamp; I = iris; IF = interference filter; NDF = neutral density filter; W = window; P = pitfall; SL = standard lamp.

at either end of the V-maze were 32×32 cm and covered with windows of diffusing acrylic. Black, flocked paper lined the inside of the box. Hatchlings were introduced into the V-maze through a 32×32 cm opening in the top of the box near the vertex, which was covered with a black cloth curtain. Hatchlings were covered with an opaque cup that was raised after approximately 20 s to release the hatchling for each trial. We placed hatchlings within the cup so that they pointed toward the midpoint between the two windows, although hatchlings often altered their orientation during the time preceding release. Hatchlings walking from the vertex down either alley of the V-maze would fall into a cloth pitfall pocket at the base of either window.

We positioned two light sources so they shone through each of the two windows of the V-maze (Fig. 1). One of the light sources—hereafter termed standard source—emitted light of constant color (peak emission 520 nm) and intensity

(1.26×10^{15} photons $\text{s}^{-1} \text{m}^{-2}$ at 520 nm). This source was a conventional tungsten lamp powered with a 3.0 V DC source and fitted with a blue gel filter. We used the blue filter to reduce intensity of the standard source and to make the color of the source more easily reproduced. This standard source attracted all hatchlings ($n = 20$) of each species to a lighted V-maze window when no other light was presented in pretrials. A second source—hereafter termed adjustable source—could be varied in color and intensity. Light for this source originated from a 3200 K (manufacturer's specification) tungsten lamp operated at 115 V AC. We regulated spectral emission of the source with narrow band interference filters (Melles Griot, half bandwidth = 10 nm; transmission outside 20 nm bandpass <0.001%). The angle of the light source beam with the filters was 90° for all trials. We regulated intensity by use of an iris aperture and combinations of neutral density filters (Melles Griot, 3.0, 2.0, 1.0, 0.5, 0.3, 0.1, and 0.04 OD). Intensity was measured as photon flux at the hatchling release point with a LICOR LI-1800 spectroradiometer.

We conducted experiments in a room completely darkened except for the standard and adjustable sources. A series of light baffles prevented light of either source from affecting the other window. Line voltage for the sources was monitored and did not vary more than 1% during experiments.

Treatments.—To determine whether hatchling orientation might be biased toward one of the two windows, we released 42 hatchling loggerheads and 23 hatchling green turtles within the V-maze when both light sources were off. The distribution of loggerhead and green turtle hatchlings falling into pitfalls at either window of the V-maze with both light sources off could not be distinguished from random ($\alpha = 0.05$, binomial probability test, $Z = 0.179$ and $Z = 0.133$, respectively).

To determine the relative preference of hatchlings for light of specific color and intensity, we released hatchlings within the V-maze while respective windows were illuminated with the adjustable source and standard source. In these trials—identified as adjustable source versus standard source—the adjustable source varied among five monochromatic colors and six intensities. Treatment colors were 360 nm (near-ultraviolet), 400 nm (violet), 500 nm (blue-green), 600 nm (yellow-orange), and 700 nm

(deep red) peak transmission. We measured treatment intensities as photon flux and assigned values to a logarithmic scale. Intensities were (log values shown parenthetically) 2.50×10^{14} (0.7), 1.27×10^{15} (1.4), 6.31×10^{15} (2.1), 3.17×10^{16} (2.8), 1.58×10^{17} (3.5), and 1.44×10^{19} (5.5) photons $\text{s}^{-1} \text{m}^{-2}$ at respective peak wavelengths. Log intensity 0.7 at 500 nm approximated the illuminance level measured for a moonlit night. Higher light levels are comparable to those at dawn or dusk, times at which hatchlings also must locate the sea. Because of the emission spectrum of the incandescent source, the highest log intensity (5.5) could only be reached at the longest wavelengths (600 and 700 nm). We ran one set of trials for each species with the adjustable source off (intensity = 0.0). Combinations of wavelengths and intensities constituted 28 experimental treatments. Thirty loggerhead hatchlings, each from a different clutch, were used individually for each treatment. Ten green turtle hatchlings were used in each treatment and originated from three separate clutches.

To determine the polarity of hatchling response (attraction or avoidance) to light of specific color and intensity, we released hatchlings within the V-maze with one window illuminated by the adjustable source only. In these trials—identified as adjustable source versus darkened window—the standard source window remained dark. We used eight monochromatic colors for the adjustable source in these treatments: 360, 400, 500, 540 (yellow-green), 560 (green-yellow), 580 (yellow), 600, and 700 nm peak transmission. Adjustable source intensity for one set of eight experimental treatments was 3.5 on the log scale. In a second set of eight treatments, we used maximum source intensity, and log intensity of the source varied according to the maximum emission of the incandescent lamp at each wavelength. Maximum intensity of the source at each wavelength was 3.5 (360 nm), 4.0 (400 nm), 4.8 (500 nm), 5.0 (540 nm), 5.2 (560 nm), 5.3 (560 nm), 5.5 (580 nm), 5.5 (600 nm), and 5.7 (700 nm) log units. We ran additional treatments with the adjustable source off for 17 treatments total. Thirty loggerhead hatchlings, three from each of 10 clutches, were run individually per treatment. We used 20 green turtle hatchlings from a single clutch for only the 600 and 700 nm treatments at maximum intensity.

In all trials, we excluded from the analysis hatchlings not falling into either pitfall within

2 min following their release. Less than 10% of the 1523 loggerhead and 384 green turtle hatchlings were excluded. In one to five trials conducted for each treatment, we observed the behavior of hatchlings within the V-maze through the opening at the top of the box. In treatments with both sources darkened, hatchlings were observed through active system night vision goggles using an infrared source mounted above the opening. Data from these trials were not included in the analysis of source preference. Statistical tests for nominal data were used with a null hypothesis rejection criterion of $\alpha = 0.05$.

RESULTS

Hatchling behavior.—In trials resulting in a hatchling choosing one of the two windows of the V-maze, hatchlings exhibited a head-up posture prior to and during movement. Whereas loggerhead hatchlings typically paused prior to moving, green turtle hatchlings were more active, in some cases appearing to move in whatever direction they initially faced. Loggerhead hatchlings moving toward lighted sources typically made direct movements without circling (27 of 29). In trials with both sources off, hatchlings often circled (6 of 10) and made their way to either pitfall by walking along the walls of the box.

Loggerhead hatchlings that fell into the darkened window pitfall in trials with 600 nm light at the adjustable source window did not travel directly to the darkened window. In all of 35 trials observed, hatchlings appeared to turn away from the 600 nm lighted window and walk against the opposite wall, attempting to climb, until they fell into the dark window pitfall. In 30 additional trials, we placed loggerhead hatchlings halfway from the maze vertex to the 600 nm source window (log intensity 3.5) facing the 600 nm source. All of these hatchlings turned away from the lighted window and moved directly to the opposite wall.

Adjustable source versus standard source.—We found a positive relationship between log intensity and the number of loggerhead hatchlings preferring the adjustable source in the shorter wavelength treatments: 360, 400, and 500 nm (Fig. 2). This relationship did not differ among these three treatments (chi-square = 1.86, df = 8). At longer wavelengths, 600 and 700 nm, the number of hatchlings choosing the adjustable source was not statistically different from zero

(binomial probability test) at all intensity levels. With the adjustable source at log intensity 0, all loggerhead hatchlings chose the standard source.

The behavioral response of green turtle hatchlings to spectral light (Fig. 3) was similar to that of loggerhead hatchlings (Fig. 2). Sample sizes do not allow chi-square comparisons between green turtle and loggerhead distributions. Green turtle hatchlings showed little preference for 600 and 700 nm light at any intensity and increasing preference for 360, 400, and 500 nm light with increasing log intensity (Fig. 3).

Adjustable source versus darkened window.—Loggerhead hatchlings chose the window lighted with 360 nm (binomial probability test, $Z = 6.25$), 400 nm ($Z = 6.25$), or 500 nm ($Z = 5.43$) light at log intensity 3.5 significantly more often than the darkened window (Fig. 4a). Conversely, loggerheads presented 560 nm ($Z = -5.07$), 580 nm ($Z = -5.43$), or 600 nm ($Z = -6.25$) light at 3.5 intensity versus a dark window predominantly chose the dark window (binomial probability test). In the 540 nm ($Z = -1.02$) and 700 nm ($Z = 1.30$) trials, loggerhead hatchling preference for the adjustable source window or dark window could not be distinguished from random (binomial probability test). Loggerhead preference for the two windows, with the adjustable source at maximum intensity, was significantly different from random in all treatments (360 nm, $Z = 6.25$; 400 nm, $Z = 6.25$; 500 nm, $Z = 5.43$; 540 nm, $Z = 3.01$; 700 nm, $Z = 4.56$) except for the 560 nm ($Z = 0.08$) and 580 nm ($Z = 1.35$) trials (Fig. 4b, binomial probability test). In trials with 360, 400, 500, 540, or 700 nm light, the lighted window was significantly preferred, but in 600 nm trials ($Z = -6.25$), all loggerhead hatchlings chose the dark window over the lighted window (binomial probability test).

In the only trials of this type run with green turtles, more hatchlings chose the lighted window when presented 600 nm ($n = 14$ of 20) and 700 nm ($n = 11$ of 20) light at maximum intensity, but the distributions cannot be distinguished from random ($Z = 1.52$ and $Z = 0.471$, binomial probability test). Loggerhead and green turtle preference for either window of the V-maze in trials with both windows darkened was not different from random (loggerheads, $n = 30$, $Z = 0.520$; green turtles, $n = 30$, $Z = 0.252$; binomial probability test).

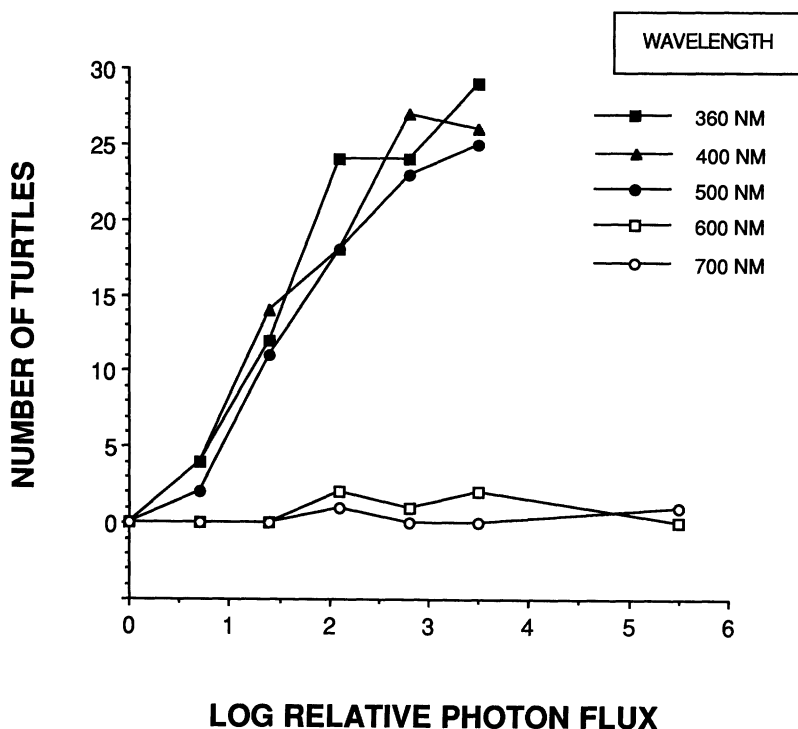


Fig. 2. The number of loggerhead hatchlings out of 30 choosing a light source varying among the wavelengths and intensities specified, over a source of constant color and intensity. All represented hatchlings chose one of the two sources. Colors are near-ultraviolet (360 nm), violet (400 nm), blue-green (500 nm), green (540 nm), green-yellow (560 nm), yellow (580 nm), yellow-orange (600 nm), and deep red (700 nm).

DISCUSSION

Range of spectral sensitivity.—This study gives an indication of a minimal spectral sensitivity range for loggerheads and green turtles. Detailed information on the spectral sensitivity of sea turtles exists only for the green turtle (Ehrenfeld, 1968; Granda and Dvorak, 1977). The action spectrum based on electrophysiological data provided by Granda and O'Shea (1972) shows a greater spectral sensitivity in the shorter wavelengths but does not extend to wavelengths shorter than 400 nm. Work by Ehrenfeld (1968) with green turtles demonstrates that adult females can locate the sea after nesting when fitted with goggles transmitting primarily near-ultraviolet light (300–400 nm). The goggles in these experiments did, however, transmit approximately 1% of the light in the 400 to 700 nm range, a substantial amount for the daytime trials conducted. Because of the narrow spectral bandwidths transmitted by the interference filters we used and the minimal leakage outside

the specified spectral bands, we can assign minimal spectral limits ± 10 nm to green turtle and loggerhead vision. We have shown that green turtle vision extends at least from the near-ultraviolet (360 nm) to green (500 nm). Vision in loggerhead turtles extends minimally from the near-ultraviolet (360 nm) to the red (700 nm).

One cannot quantify physiological spectral sensitivities using our preference data because of possible behavioral bias in the way the turtles react to spectral light. A naive analysis of the first series of treatments (Fig. 2), for instance, may discount the ability of loggerheads to see longer wavelengths (600 and 700 nm), an ability demonstrated by the nonrandom choice of the dark window in trials with 600 nm light (Fig. 4a–b) and the lighted window in trials with 700 nm light (Fig. 4b). The nonrandom response of loggerhead hatchlings to 700 nm light only at log intensity 5.7 may indicate that this wavelength borders the spectral sensitivity range of this animal. It is also possible that hatchlings responded to light of other wavelengths trans-

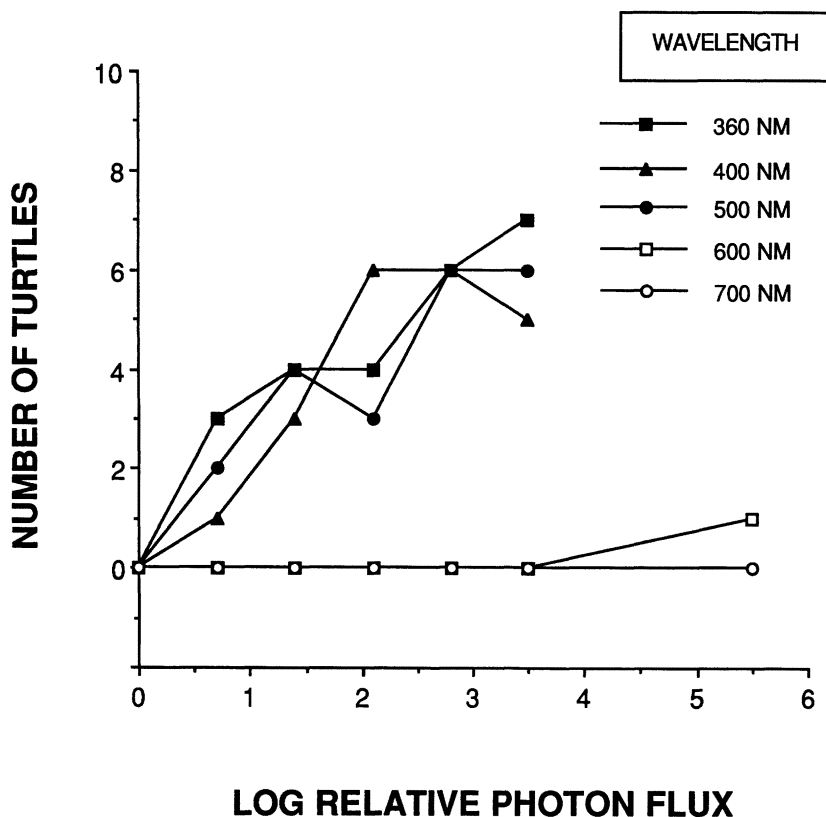


Fig. 3. The number of green turtle hatchlings out of 30 choosing a light source varying among the wavelengths and intensities specified, over a source of constant color and intensity. All represented hatchlings chose one of the two sources.

mitted by the 700 nm filter, although this light would have been more than four orders of magnitude less intense than the 700 nm light.

In comparison with the pond slider *Trachemys scripta*, vision in sea turtles extends farther into the shorter wavelengths (near-ultraviolet) and, at least in the case of the green turtle, diminishes more abruptly in the longer wavelengths (Granda and Dvorak, 1977). Heightened sensitivity in the near-ultraviolet and other short wavelengths might be characterized as an adaptation for vision in seawater where longer wavelength light attenuates more abruptly with depth (Loew and Lythgoe, 1985).

Spectral light and sea-finding.—A comparison of the green turtle action response measured by Granda and O'Shea (1972) with our measurements of behavioral response to spectral light (Fig. 5) reveals a behavioral bias against longer wavelength light. Care should be taken in draw-

ing conclusions from the comparison in Figure 5. The electroretinogram (ERG) and behavioral data were taken in different ways, although each constitutes a spectral sensitivity of sorts. The ERG curves are adapted from work by Granda and O'Shea (1972) and illustrate light intensities at each color necessary to evoke respective high and low criterion voltage responses at the dark-adapted green turtle eye. The behavioral curve is from the present study and illustrates the number of dark-adapted green turtle hatchlings choosing each color at a single intensity over a light source of standard intensity and color. The behavioral curve is from the data of Figure 3 for log intensity 3.5. The trend shown in Figure 5 is similar for all light intensities in the green turtle behavioral experiments we conducted (Fig. 3). That is, whereas both ERG curves show a peak sensitivity surrounding 600 nm, light in the 600 nm range is relatively unattractive to orienting green turtle hatchlings

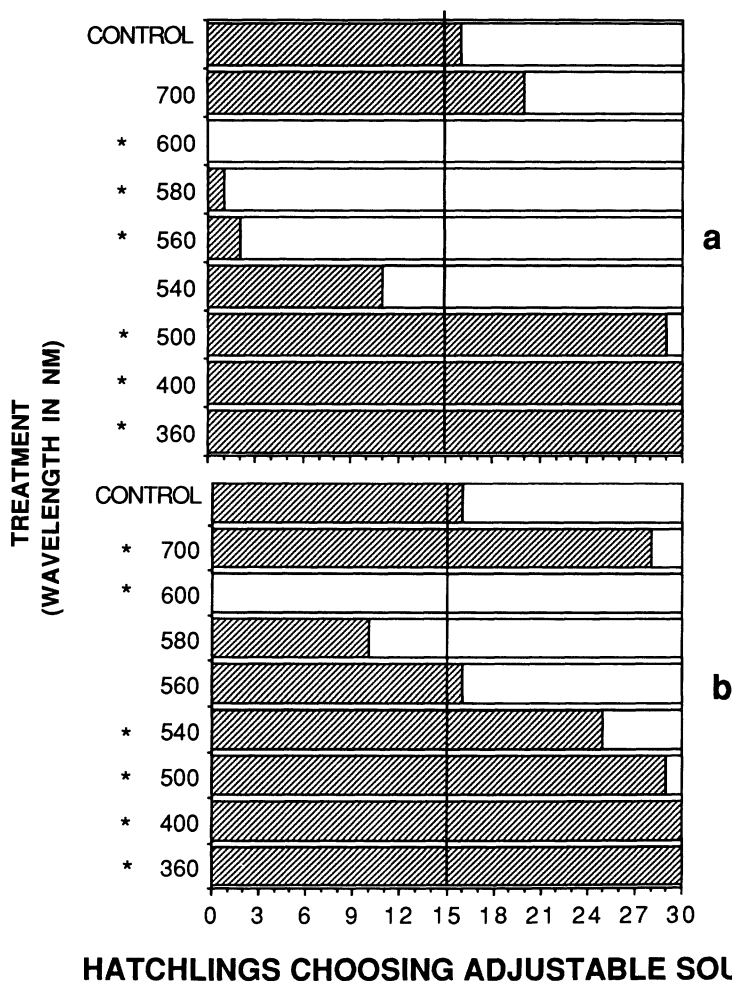


Fig. 4. The number of loggerhead hatchlings choosing an adjustable light source varying among the wavelengths specified, at an intensity of 3.5 log units (a) and at maximum source intensity (b). A darkened window served as the alternate choice. During the control treatment, lighting remained off. All represented hatchlings chose either the darkened window or the light source. Distributions marked with an asterisk (*) are significantly different from random (binomial probability test, $P < 0.05$).

(Fig. 3). This contrast holds when comparisons are made to ERG data taken from light-adapted green turtles as well (Granda and O'Shea, 1972). Mrosovsky (1972), using broad-band blue and red light, also observed discrepancies between behavioral responses of green turtles and the action spectra provided by Granda and O'Shea. Although evidence suggests that green turtle hatchlings use some assessment of spectral quality in sea finding, behavioral experiments that more closely match ERG methods are needed to quantify this pattern.

A phototactic response positively biasing short-wavelength light also has been found

among a variety of anurans (Hailman and Jaeger, 1974). Those workers have rejected the contention of Muntz (1962) that the response is an escape mechanism directly resulting in water finding but instead propose an "open sky" attraction hypothesis. In the case of hatchling sea turtles, phototaxis with a spectral bias for short-wavelength light, either reflected from a blue ocean or scattered from a blue sky, may result in seaward orientation under a majority of conditions.

Although no action spectrum exists that would allow a physiological-behavioral comparison to be made for the loggerhead, the manner in

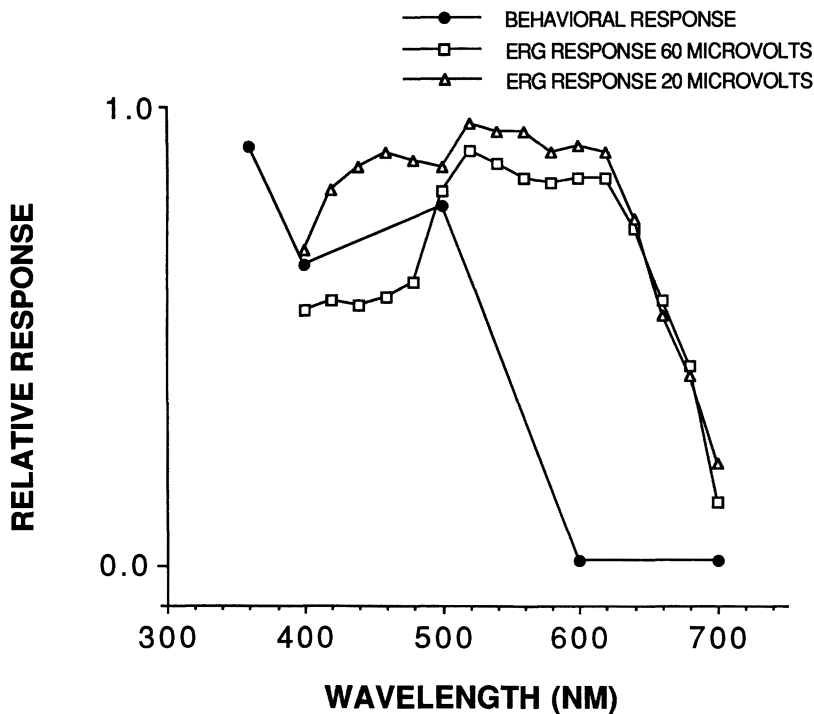


Fig. 5. Behavioral and action responses to spectral light in hatchling green turtles. Relative response for the behavioral curve is the proportion of green turtle hatchlings choosing a light source varying among the wavelengths specified at log intensity 3.5 (1.44×10^{17} photons $s^{-1} m^{-2}$), over a source of constant color and intensity. Action response curves are adapted from Granda and O'Shea (1972) and represent log sensitivity among wavelengths, as measured by electroretinography (ERG). Relative response for the ERG curves is intensity sufficient to evoke 60 and 20 microvolt criterion responses. The high and low criterion response curves represent high and low light intensity levels. Absolute intensity for the ERG light source was reported to be 2.7×10^{17} photons $s^{-1} m^{-2}$ at 580 nm.

which loggerhead hatchlings behave toward spectral light indicates that they too may use spectral cues in sea finding. Whereas loggerhead hatchlings orient positively to near-ultraviolet, violet, green, and red light (Fig. 2), they avoid yellow and yellow-orange light (Fig. 4a-b). The aversion that loggerhead hatchlings show toward yellow light, or xanthophobic response, has also been observed in loggerhead hatchlings orienting on a natural beach when presented 590 nm monochromatic yellow light from a low pressure sodium vapor (LPS) light source (Witherington and Bjorndal, 1991). Regardless of distance, no loggerhead hatchling was attracted to the LPS light source. In one of the first papers describing sea finding in sea turtles, Hooker (1911) reported that loggerhead hatchlings on a beach during the day responded negatively to panes of glass transmitting primarily orange-red light. Hooker could

not be certain, however, that this response indicated a reaction to color. Responses identical to those Hooker observed are predicted from hatchlings exhibiting simple phototaxis. The responses observed from loggerhead hatchlings in the laboratory (present study) and on the beach (Witherington and Bjorndal, 1991), however, strongly suggest a response to color. If the behavior we observed was simply a response to light of a specified brightness, the same response would have been expected to wavelengths and intensities other than the two intensities of yellow wavelengths (Fig. 4a-b).

A negative response to long-wavelength light (576 and 605 nm) during escape behavior has been reported for the leopard frog (*Rana pipiens*) (Fite et al., 1978). Because the normal escape response of this frog is toward water, this mechanism may share functional similarities with that of the loggerhead. One function

of xanthophobia in loggerhead hatchlings may be to reduce the attraction of light sources with a substantial participation of long-wavelength light. Such an adaptation could be advantageous if long-wavelength light sources with the potential to disrupt the sea-finding ability of a directional or phototropotaxis mechanism were common in nature. Rising and setting celestial bodies appear as predominantly long-wavelength sources because of the short-wavelength scattering effect of the atmosphere and have the potential to disrupt hatchling sea finding. Some controversy exists regarding whether the rising sun affects sea finding in sea turtles. Whereas Ehrenfeld and Carr (1967) and van Rhijn (1979) report that green turtles and hawksbill turtles (*Eretmochelys imbricata*) are affected insignificantly by the sun on the horizon, Mrosovsky (1970) and Mrosovsky and Kingsmill (1985) report that loggerhead, green, and hawksbill turtles are significantly affected. The loggerhead hatchlings in Mrosovsky's study orienting at sunrise or sunset without the contrast of a dune horizon still moved in the general ocean direction. It is remarkable that the sun, as an intense opposing light source, affected orientation in these experiments as little as it did.

The positive response of loggerhead hatchlings to 700 nm light at high intensity shows that a comprehensive bias against long-wavelength light does not exist. In addition to being on the periphery of color sensitivity in loggerheads, 700 nm light may also fall outside their ability for color discrimination. The variation in response of loggerhead hatchlings to 540, 560, and 580 nm light at varying intensity indicates that the xanthophobic response is not independent of light intensity.

Models of mechanisms by which sea turtles achieve a seaward orientation commonly employ the term brightness to denote the cue that guides hatchlings to the ocean (Verheijen and Wildschut, 1973; van Rhijn, 1979; Mrosovsky and Kingsmill, 1985). Unfortunately, brightness in this usage is not a currently measurable value. Brightness from the perspective of the sea turtle hatchling must certainly incorporate intensity in proportion to a species-specific action spectrum. Could perceived brightness, however, be influenced by other biased responses to color? Brightest-direction models must incorporate a definition for brightness that considers such complexities if those models are to explain the orientation behavior we observed in loggerhead and green turtle hatchlings.

ACKNOWLEDGMENTS

We thank Florida Power and Light Company, the National Fish and Wildlife Foundation, and the United States Fish and Wildlife Service for funding this study. We are especially grateful to E. Possardt and R. Wilcox for their support. J. Provancha and R. Wheeler of Bionetics Company provided the spectroradiometer in addition to technical counsel. L. Ehrhart graciously allowed us access to his study area, and T. Holderfield and W. Hancock aided in the field work. A. Bolten provided invaluable advice throughout the study, J. Brockmann and N. Mrosovsky reviewed earlier drafts of the manuscript, and J. Miranda aided in the construction of the apparatus.

LITERATURE CITED

- CARR, A., AND L. OGREN. 1960. The ecology and migrations of sea turtles. IV. The green turtle in the Caribbean sea. *Amer. Mus. Nat. Hist. Bull.* 121: 1-48.
- DANIEL, R. S., AND K. U. SMITH. 1947. The sea-approach behavior of the neonate loggerhead turtle (*Caretta caretta*). *J. Comp. Physiol. Psychol.* 40:413-420.
- EHRENFELD, D. W. 1968. The role of vision in the sea-finding orientation of the green turtle (*Chelonia mydas*). II. Orientation mechanism and range of spectral sensitivity. *Anim. Behav.* 16:281-287.
- , AND A. CARR. 1967. The role of vision in the sea-finding orientation of the green turtle (*Chelonia mydas*). *Ibid.* 15:25-36.
- FITE, K. V., J. SOUKUP, AND R. G. CAREY. 1978. Wavelength discrimination in the leopard frog: a reexamination. *Brain Behav. Evol.* 15:405-414.
- GRANDA, A. M., AND P. J. O'SHEA. 1972. Spectral sensitivity of the green turtle (*Chelonia mydas mydas*) determined by electrical responses to heterochromatic light. *Ibid.* 5:143-154.
- , AND C. A. DVORAK. 1977. Vision in turtles, p. 451-495. *In: Handbook of sensory physiology.* Vol. VII/5, the visual system in vertebrates. F. Crescitelli (ed.). Springer-Verlag, Berlin, Germany.
- HAILMAN, J. P., AND R. G. JAEGER. 1974. Phototactic responses to spectrally dominant stimuli and use of colour vision by adult anuran amphibians: a comparative survey. *Anim. Behav.* 22:757-795.
- HOOKE, D. 1911. Certain reactions to color in the young loggerhead turtle. *Carnegie Inst. Washington Publ.* 132:71-76.
- LIMPUS, C. J. 1971. Sea turtle ocean finding behaviour. *Search* 2:385-387.
- LOEW, E. R., AND J. N. LYTHERG. 1985. The ecology of colour vision. *Endeavour* 14:170-174.
- MROSOVSKY, N. 1968. Nocturnal emergence of

- hatchling sea turtles: control by thermal inhibition of activity. *Nature* 220:1338–1339.
- . 1970. The influence of the sun's position and elevated cues on the orientation of hatchling sea turtles. *Anim. Behav.* 18:648–651.
- . 1972. The water-finding ability of sea turtles. *Brain Behav. Evol.* 5:202–225.
- , AND A. CARR. 1967. Preference for light of short wavelengths in hatchling green sea turtles, *Chelonia mydas*, tested on their natural nesting beaches. *Behaviour* 28:217–231.
- , AND S. J. SHETTLEWORTH. 1968. Wavelength preferences and brightness cues in the water finding behaviour of sea turtles. *Ibid.* 32:211–257.
- , AND S. F. KINGSMILL. 1985. How turtles find the sea. *Z. Tierpsychol.* 67:237–256.
- MUNTZ, W. R. A. 1962. Effectiveness of different colors of light in releasing positive phototactic behavior of frogs, and a possible function of the retinal projection to the diencephalon. *J. Neurophysiol.* 25:712–720.
- PARKER, G. H. 1922. The crawling of young loggerhead turtle toward the sea. *J. Exp. Zool.* 6:323–331.
- VAN RHIJN, F. A. 1979. Optic orientation in hatchlings of the sea turtle, *Chelonia mydas*. I. Brightness: not the only optic cue in sea-finding orientation. *Mar. Behav. Physiol.* 6:105–121.
- , AND J. C. VAN GORKOM. 1983. Optic orientation in hatchlings of the sea turtle, *Chelonia mydas*. III. Sea-finding behaviour: the role of photic and visual orientation in animals walking on the spot under laboratory conditions. *Ibid.* 9:211–228.
- VERHEIJEN, F. J., AND J. T. WILDSCHUT. 1973. The photic orientation of sea turtles during water finding behaviour. *Neth. J. Sea Res.* 7:53–67.
- WITHERINGTON, B. E., AND K. A. BJORNDAL. 1991. Influences of artificial lighting on the seaward orientation of hatchling loggerhead turtles (*Caretta caretta*). *Biol. Conserv.* 55:139–149.
- , ———, AND C. M. MCCABE. 1990. Temporal pattern of nocturnal emergence of loggerhead turtle hatchlings from natural nests. *Copeia* 1990:1165–1168.

ARCHIE CARR CENTER FOR SEA TURTLE RESEARCH AND DEPARTMENT OF ZOOLOGY, UNIVERSITY OF FLORIDA, GAINESVILLE, FLORIDA 32611. Accepted 19 Nov. 1990.