

INDEMNIFICATION / HOLD HARMLESS AFFIDAVIT

DATE APPROVED:

City Manager or Designee

RE: PROPERTY(S) LOCATED AT:

TO: TOWN OF FORT MYERS BEACH, FLORIDA
ATTN: DIRECTOR OF COMMUNITY DEVELOPMENT
2525 ESTERO BLVD.
FORT MYERS BEACH, FL 33931

FROM: Kurt Kroemer and Edward Rood
Legal owner(s) of the above property (“Owners”).

The undersigned hereby affirm that he/she is/are the legal owner of the above-referenced property(s) (“Properties”). Furthermore, the undersigned hereby acknowledges that he/she has made application(s) for and received approval from the Town of Fort Myers Beach, Florida (“Town”), for a Special Exception for the construction of a dune walkover on the Properties, which is the subject of a legal appeal currently pending before the Twentieth Judicial Circuit court in and for Lee County Florida (“Pending Appeal”).

In connection with the foregoing, the undersigned is hereby requesting the Town to issue a building permit(s) for the construction of the following described improvement(s) on the Properties prior to the conclusion of the Pending Appeal:

Dune Walkover

In consideration of the Town agreeing to issue a building permit(s) to the undersigned as herein requested, the undersigned agrees as follows:

- a) Pay all actual or estimated permit costs and other applicable Town regulatory fees associated with the improvements requested to be built prior to issuance of any building permits by the Town; and

- b) Acknowledge he/she is proceeding at his/her own risk and hereby agrees to assume all responsibility and to indemnify, defend, and hold harmless the Town, its officers, agents, and assigns in connection herewith; and
- c) Immediately cease all construction on the Dune Walkover if an injunction, stay, stop work order or other similar order is issued by a court or the Town during the Pending Appeal; and
- d) Immediately remove the Dune Walkover, whether completed or not, if an injunction, or other similar order is issued by a court ordering the removal of the Dune Walkover; and
- e) Acknowledge that before construction of the Dune Walkover may commence, he/she must obtain all approvals and permits which are required by all applicable Federal and State agencies; and
- f) Acknowledge that the Town may impose conditions on approval which are required by State, County, or Town laws and regulations that are otherwise necessary to insure the public health, safety, and welfare of the residents of the Town; and that the Town may enforce the terms of this affidavit by its issuance of the building permit(s); and
- g) Acknowledge that the issuance of building permit(s) to the undersigned does not give rise to a claim of equitable estoppel, nor a grant of any vested right whatsoever for use, or completion of construction of the Dune Walkover on the Properties; and
- h) Indemnify, defend, and hold harmless the Town, its officers, agents, and assigns from any claims, demands, liabilities, losses, causes of action of any nature whatsoever arising out of or in connection with the building permit(s) issued or any part thereof, from and against all costs, fees, expenses, liabilities, any orders, judgments, or decrees which may be entered, and from and against all costs for attorneys' fees, expenses and liabilities incurred in the defense of such claim or in the investigation thereof.
- i) If the Town brings any action or proceeding relating to this Agreement or the enforcement of any provision of this Agreement it shall be entitled to recover from the owner of the Properties reasonable attorneys' fees, costs, and disbursements (in addition to any other relief to which the Town may be entitled).
- j) Authorize the Town to enter the Properties and immediately remove the and remove the Dune Walkover if an injunction, stay, stop work order or other similar order is issued by a court or the Town during the Pending Appeal and the owners of the Properties fail to immediately remove the Dune Walkover as provided for herein. The Town is further authorized to record a special assessment for the full cost of the removal of the Dune Walkover in the public records of Lee County, which shall constitute a lien against the Properties.

Kurt Kroemer

Owner's Signature

STATE OF FLORIDA)
COUNTY OF LEE)

The undersigned instrument was acknowledged before me this ____ day of June, 2023. He /she has personally appeared before me and is known to me or has produced _____ as identification and did (did not) take an oath.

Name: Notary Public –State of Florida

Commission no:

My commission expires:

Edward Rood

Owner's Signature

STATE OF FLORIDA)
COUNTY OF LEE)

The undersigned instrument was acknowledged before me this ____ day of June, 2023. He /she has personally appeared before me and is known to me or has produced _____ as identification and did (did not) take an oath.

Name: Notary Public –State of Florida

Commission no:

My commission expires: