

ATTACHMENT C POOL INSTALLATION PROTOCOL

PURPOSE

A Declaration of Restrictive Covenant recorded in the public records of St. Johns County requires compliance with the following protocol for the installation of in-ground pools at certain residential lots within the Madeira Subdivision (Lots 1-15, 63-81, 98-100, and 128-131). For certain lots within the Madeira Subdivision, an Engineering Control (EC) prevents the direct exposure to soil below a depth of 2 feet below ground surface (bgs) that may exceed applicable Soil Cleanup Target Levels (SCTLs), per Chapters 62-780 and 62-777, Florida Administrative Code (FAC), for arsenic. Breaching the EC for the installation of in-ground pools will result in the excavation of soil with arsenic concentrations potentially above SCTLs and, as such, certain construction and safety measures must be used during the installation. Accordingly, certain plans must be prepared, and processes must be followed to properly complete the pool installation and removal process, as more particularly set forth herein. The construction and safety measures discussed in this Pool Installation Protocol shall be read in accordance with all other standards set forth in the Declaration of Restrictive Covenant, Engineering Control Maintenance Plan (ECMP), and applicable HOA documents.

1.0 HOA APPROVAL REQUIREMENTS AND REGULATORY NOTIFICATION

Prior to commencing construction of a pool, the proposed pool design must be reviewed and approved by the Architectural Review Board (ARB) for compliance with the HOA requirements, Declaration of Restrictive Covenant, and Pool Installation Protocol. During the HOA review process, the ARB will remind the applicant of the obligations of this Pool Installation Protocol, including but not limited to the contractor requirements and regulatory notification requirements set forth herein. The HOA shall only approve applications for pools that meet all requirements set forth in the Declaration of Restrictive Covenant, the ECMP, and this Pool Installation Protocol.

After the HOA determines that the proposed pool meets the requirements set forth in the Declaration of Restrictive Covenant and Pool Installation Protocol, the Homeowner must provide a copy of the approved application to the Florida Department of Environmental Protection (FDEP) – Northeast District, located at 8800 Baymeadows Way West, Suite 100, Jacksonville, FL 32256.

The Homeowner shall provide written notification to the FDEP – Northeast District, at least seven days prior to commencing installation activities, and shall allow FDEP reasonable access to the installation site for inspection throughout the installation process.

2.0 CONTRACTOR REQUIREMENTS

All contractors must comply with Federal, State, and local environmental, health, and safety laws and regulations applicable to the goods and/or services provided for the installation of in-ground pools. Any work by Florida State licensed contractors that could adversely affect any personnel involved, citizens, residents, users, neighbors or the surrounding environment must comply with any and all employment safety, environmental, and health laws. The HOA will maintain a list of known contractors that are trained to complete this work.

3.0 MANAGEMENT OF EXCAVATED SOIL DURING INSTALLATION

The application to the HOA must include a description of how soil will be managed during pool installation. The application must reference compliance with the following requirements:

- 1) Excavation and disposal of potentially impacted soil must be conducted following the requirements of Chapter 62-780 FAC.
- 2) A licensed environmental engineer/geologist (or a qualified environmental professional working under their guidance) must provide oversight for work involving potentially impacted soil during pool installation.
 - a) The supervising engineer or geologist shall ensure that all individuals participating in pool installation follow proper procedures for reducing exposure risks to impacted soil. Minimum guidelines to reduce the potential exposure to impacted soil are included in Attachment C.1.
- 3) Soil excavated during pool installation may be managed in two ways: (1) Excavated soils may be placed within the commercial area (Phase 2C) of the development (Section 3.0 (4)) or (2) disposed of at a landfill certified to accept this type of soil as detailed in Section 3.0(5) below. **Upon completion of development activities within the commercial parcel (Phase 2C) (e.g., completion of grading activities and/or installation of impervious surface), excavated soil from pool installation activities shall not be placed within this area. Post development of Phase 2C, excavated soil from pool installation activities must be disposed of at a permitted facility. The HOA website and summary fact sheet referenced in Section 8.0 and 9.0 herein shall be revised when placement of soils within the commercial area are no longer permitted.**
- 4) Prior to completion of development activities within the commercial parcel (Phase 2C), excavated soils for the installation of pools may be placed within this designated commercial area. The designated commercial area is shown as the North Commercial Parcel on the attached figure.

The following requirements must be completed for the placement of pool excavated soil within the commercial parcel:

- a) Upon completion of pool installation activities and disposal at the commercial parcel, up to 10 discrete soil borings will be installed spatially across the area where the soil is placed on the commercial parcel, to the depth of soil placed. Samples collected from the borings will be analyzed for arsenic. If the arsenic concentration is above the commercial SCTL (12 milligrams per kilogram), then the soil may be blended to meet the commercial SCTL, removed and properly disposed of at a landfill, or be capped with an EC (in which the commercial parcel would have its own ECMP).
- b) If the soil is blended to reduce the arsenic concentration to below the commercial SCTL, sufficient clean fill material will be added to the footprint of the soil placed from the pool excavations. Subsequently the clean fill material and soil placed from the pool excavation will be blended. Following blending activities, up to 10 discrete soil borings will be installed spatially across the area where the soil is blended, to the depth of the soil placed/blended. Each sample will be analyzed for arsenic to verify the concentration is below the commercial SCTL. If the arsenic concentration remains above the commercial SCTL, the soil may be re-blended to meet the commercial SCTL, removed and properly disposed of at a landfill, or be capped with an EC.

- c) Placement of soils on the commercial parcel should be spread as soon as practical to avoid temporary stockpiling.
 - d) Transportation of excavated soil to the commercial parcel **shall not be permitted following completion of development for the commercial area.**
- 5) If soil from pool installation is taken to a landfill, the following requirements shall be met:
 - a) All excavated soil must be properly disposed of at a landfill certified to accept this type of soil.
 - i) Landfills may require additional testing (called waste characterization sampling) prior to accepting the soil. Each landfill has their own requirements and should be contacted directly for more information. A list of regional landfills that may accept this soil is in Attachment C.2.
 - ii) All transported soil must be properly documented (manifested) from origination to final destination. To document proper disposal, copies of the manifests must be included in the "Pool Installation Report", which will be submitted to FDEP upon completion of the pool installation. An example manifest is provided in Attachment C.3.
 - 6) All excavated soil, regardless of final disposition (commercial area or landfill), must be direct loaded to either trucks or roll-off containers. **NO** stockpiling of excavated soil on the ground surface is allowed.
 - 7) Any excavated soil within designated containers (trucks or roll-offs) must be covered/secured at the end of the workday or when the container is full, to eliminate the potential for direct exposure to the public.
 - 8) If the excavated area is to be left open for any reason, then the entire excavation must be secured to eliminate the potential for direct exposure to the public. The entire open excavation must be covered with material suitable for the purpose (e.g. - visqueen) and temporary fencing should surround the excavated area (e.g. - construction safety fencing).
 - 9) The following FDEP guidance documents are available to assist with pool installation activities and soil management at <https://floridadep.gov/waste/district-business-support/content/waste-cleanup-program-guidance> :
 - a) Draft Guidance for Soil Reuse Involving Soil Mixing/Blending Activities
 - b) Draft Guidance for Preparation of Soil Management Plans

4.0 MANAGEMENT OF GROUNDWATER DURING INSTALLATION

In cases where limited dewatering may be necessary for the installation of a pool, then the following protocol is required and must be documented in the application to the HOA:

Initial Requirement – Lot Specific Groundwater Characterization

- 1) A licensed environmental engineer/geologist (or a qualified environmental professional working under their guidance) must provide oversight for dewatering work during pool installation when initial groundwater sampling shows an arsenic concentration greater than 10 micrograms per liter ($\mu\text{g/l}$).
- 2) Collect a "lot specific" representative groundwater sample and have it analyzed by a NELAC certified laboratory for arsenic. A list of local laboratories that can analyze a groundwater sample is presented in Attachment C.4.

- a) Discharge from dewatering activities should be analyzed prior to discharge. Appropriate permits should be secured prior to discharging into stormwater features or surface water bodies.
 - b) The pre-discharge effluent can be tested by collecting a groundwater sample from a temporary monitoring well or direct push technology sample tooling, installed in the proposed dewatering area. The collected groundwater sample will be analyzed for arsenic.
- 3) If the groundwater sample has an arsenic concentration equal to or less than 10 µg/l, then limited dewatering can commence under standard practices for pool installation.
 - 4) If the groundwater sample has an arsenic concentration greater than 10 µg/l, then additional dewatering precautions/protocols listed below must be followed.

Dewatering Protocol

Common practice for dewatering during pool installation involves a low-flow, ¾" submersible pump that is placed at the bottom of the excavation while the plumbing and reinforcement is placed. Each homeowner should discuss the anticipated volume of groundwater that will be removed from the excavation area with their pool contractor prior to installation activities.

- 1) Dewatering of potentially arsenic-impacted groundwater must be conducted following the requirements of Chapter 62-780 FAC and in a manner similar to that at contaminated sites.
- 2) All groundwater removed during dewatering activities must be pumped directly into an onsite container.
 - a) Discharge of groundwater during dewatering activities to the ground is **PROHIBITED**, unless the groundwater sample has an arsenic concentration equal to or less than 10 µg/l.
- 3) Impacted groundwater derived from dewatering activities must be properly disposed of at a wastewater treatment facility certified to accept this waste.
 - a) Facilities may require additional testing (waste characterization sampling) prior to accepting the water. Each facility has their own requirements and should be contacted directly for more information. A list of regional wastewater treatment facilities that may accept the dewatering effluent is presented in Attachment C.5.
 - b) All transported effluent must be properly documented (manifested) from origination to final destination. To document proper disposal, copies of the manifests must be included in the "Pool Installation Report", which will be submitted to FDEP upon completion of the pool installation.

5.0 POOL CONSTRUCTION

Given that the in-ground pool and surrounding decking will be a barrier to exposure to impacted soil, the following minimum requirements must be followed during construction and documented within the application to the HOA:

- 1) Pool walls and bottoms will be constructed of Shotcrete, Gunite, or similar material with a minimum thickness of six inches.
- 2) If repairs are necessary to the walls or bottom of the pool, then similar material and minimum thicknesses will apply.
- 3) Pool decking will be constructed of concrete, concrete pavers, or similar material with a minimum thickness of four inches.

6.0 POOL INSTALLATION REPORT

Upon completion of pool installation activities, a report detailing the management of soil and groundwater (if applicable) must be submitted to FDEP for review. At a minimum, the report needs to include the following:

- 1) Homeowner information
- 2) Development Phase Number and Lot Number designations
- 3) Contractor information
- 4) Dates of Installation
- 5) Dimensions of excavation
- 6) Approved plans for the pool
- 7) Approximate volume of soil removed from the lot during construction
- 8) Approximate volume of groundwater removed during construction, if applicable
- 9) Results of groundwater sample testing, if applicable
- 10) Disposition of groundwater (whether impacted or not)
- 11) Identify if soil was placed within the commercial parcel (Phase 2C) or received by a landfill
- 12) Soil analytical results post-placement within the commercial area, if applicable
- 13) Name of receiving landfill for excavated soil (as applicable)
- 14) Name of receiving disposal and treatment facility for dewatering effluent, if applicable
- 15) Copies of waste manifests for soil and groundwater (as applicable)

The report shall be submitted to the Florida Department of Environmental Protection's Northeast District Office within 60 days of completion of the pool installation activities.

7.0 POOL INSPECTION, MAINTENANCE, AND REPAIR

Integrity of the pool will need to be inspected during and after construction such that the newly installed EC (the pool) is maintained and provides sufficient protection of exposure to the underlying soil. Post-construction, the EC inspections will be performed on a yearly basis for evidence of deterioration, or other damage, that may provide an exposure to the underlying soil. An inspection, maintenance, and repair form is located in Attachment B of the ECMP.

8.0 POOL REMOVAL

All pools must be properly abandoned in accordance with the requirements of the HOA. The following are the minimal requirements to abandon a pool:

1. Prior to commencing with removal or abandonment of an in-ground pool, the Homeowner must submit a formal request to the HOA for review and approval. During the HOA review process, the HOA will remind the applicant of its obligations, including but not limited to contractor requirements, regulatory notification requirements, and debris disposal requirements set forth herein.
2. The Homeowner may not commence with the removal or abandonment of the pool prior to approval by the HOA.
3. Homeowner shall provide written notification to the FDEP – Northeast District, at least seven days prior to commencing removal/abandonment activities, and shall allow FDEP reasonable access to the property for inspection throughout this process.
4. If removal/abandonment activities shall consist of excavating additional soil, then the procedures identified in Section 3.0 (Management of Excavated Soil During Installation), of Attachment C (Pool Installation Protocol), of the ECMP, shall be applicable and must be followed.

5. If pool abandonment will consist of removal of underground piping, concrete walls, or material that was in contact with potentially arsenic-impacted soil, then the contractor and its employees must be appropriately trained to work within said soil per the requirements of Section 2.0 (Contractor Requirements).
6. Only clean fill may be used to fill in the prior pool area. Soil may not be sourced from within the Madeira subdivision.
7. Any construction debris (e.g. – metal, plastic piping, concrete) that was in contact with potentially arsenic-impacted soil must be properly disposed of at a landfill willing to accept said debris.

Please refer to the HOA website for instructions, procedures, and summary fact sheets for proper abandonment of pools.

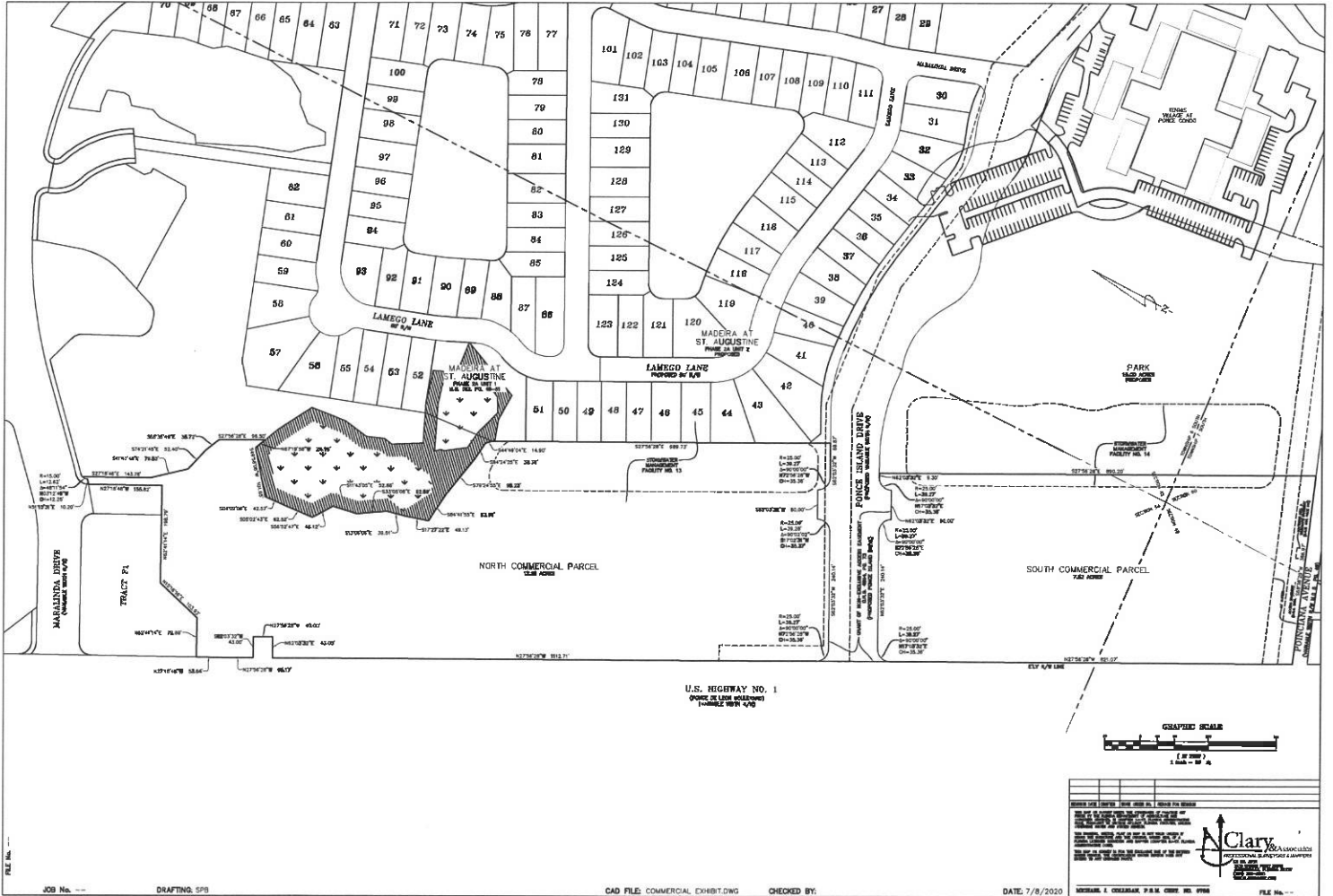
9.0 PROTOCOL FOR OWNER VIOLATIONS

The failure to comply with the requirements of the Declaration of Restrictive Covenant, and the applicable HOA requirements, and this Pool Installation Protocol, shall result in a violation and the assessment of stipulated penalties. The stipulated penalties are set forth in the HOA documents and summarized on the HOA website and summary fact sheets.

If a violation of these requirements occurs, the HOA gives the Developer, the Master Association, or any Owner the right to: (a) prosecute proceedings for the recovery of damages against those so violating or attempting to violate any such covenant or restriction; or (b) to maintain a proceeding in any court of competent jurisdiction against those so violating or attempting to violate any such covenant or restriction for the purpose of preventing or enjoining all or any such violations or attempted violations.

In addition to all other remedies, the Board of Directors shall have the authority, in its sole discretion, to suspend the Owner's (and Owner's family, tenants, guests, invitees or occupants) right to use the Common Property recreational facilities for a reasonable time and to levy reasonable fines against Owner or occupant for the failure of the Owner, his family, tenants, guests, invitees or occupants, to comply with any covenant, restriction, rule, or regulation contained in this Declaration, the Articles, or the Bylaws, provided the following procedures are adhered to:

1. Each incident which is grounds for a fine shall be the basis for a separate fine. In case of continuing violations, each continuation after notice is given shall be deemed a separate incident.
2. Amounts: The Board of Directors may impose Special Assessments against the Lot, Parcel or Unit owned by the Owner as follows:
 - a. First non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00);
 - b. Second non-compliance or violation: a fine not in excess of Five Hundred Dollars (\$500.00);
 - c. Third and subsequent non-compliance, or a violation or violations which are of a continuing nature after notice, a fine not in excess of One Thousand Dollars (\$1,000.00) in the aggregate;
 - d. Provided, however, to the extent that state law is modified to permit fines of greater amounts, the Declaration shall be automatically amended to include such increase.



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MOORE & CREAGAN, P.A. CHIEF: MR. WHEA FILE No. ---