### **ATTACHMENT NO. 1**

#### HIGHLAND BEACH BUILDING DEPARTMENT



3614 S. Ocean Boulevard Highland Beach, FL 33487 Ph: (561) 278-4540

PLANNING BOARD STAFF REPORT

- MEETING OF: DECEMBER 9, 2021
- TO: PLANNING BOARD
- FROM: INGRID ALLEN, TOWN PLANNER

SUBJECT: APPLICATION BY RJ MELE CONSTRUCTION, INC., FOR A SPECIAL EXCEPTION APPROVAL TO INSTALL 90 LINEAR FOOT SEAWALL AND 400 SQUARE FOOT DOCK FOR A PROPERTY LOCATED AT 2500 SOUTH OCEAN BOULEVARD (DO# 21-0009).

I. GENERAL INFORMATION:	
<u>Applicant (Property Owner):</u>	Adrian C. Stitts and Mariana Deligiannis-Stitts 9910 Bay Leaf Court Parkland, FL 33076
Applicant's Agent:	RJ Mele RJ Mele Construction, Inc. 4101 N. Ocean Boulevard, Suite D705 Boca Raton, Fl. 33431
<b>Property Characteristics:</b>	
Comprehensive Plan Land Use:	Single Family
Zoning District:	Residential Single Family (RS)
Site Location:	2500 South Ocean Boulevard
Parcel PCN#:	24-43-46-28-09-000-0154

#### **Request and Analysis:**

The Applicant is proposing to install a 90 linear foot seawall and 400 square foot dock. The new seawall is to be located 16 feet west of an existing seawall which will be removed. The area between the existing and new seawall (1,440 square feet) will be backfilled with 200 cubic yards of fill. Note the Applicant has submitted a concurrent Site Plan Approval request for a new two-story 6,655 square foot single family residence with pool and spa (Development Order No. 21-0005).

Pursuant Section 14.1 of the Town Code of Ordinances, the following provisions pertaining to "land filling" apply:

Any person desiring to add to or extend any lands, areas, including submerged lands, to remove sand, rock or earth from any submerged lands, to construct a finger canal, lagoon or yacht basin within the territorial limits of the town by any means, including, but not limited to, hydraulic dredging, pumping, dragline, dynamiting or shovel, shall first make application to the town commission for permission to do so. Such written application shall be accompanied by a plan or drawing showing the area to be filled and also showing the area from which any fill material is to be dredged or removed by other means. Specifications sufficient in detail as to clearly outline how the dredging or filling procedure will take place must also accompany the application.

The Applicant has provided a narrative for the proposed fill (Attachment No. 1) which was reviewed and accepted by Cap Government, Inc. As provided in Section 14.1 of the Town Code (noted above), the request for land filling will be reviewed and considered by the Town Commission.

Pursuant to Section 6-128 of the Town Code, no bulkhead, seawall, or retaining wall shall be erected or constructed in any water, canal or lake, or on land abutting thereon, within the limits of the town, unless plans and specifications have been submitted to and approved by all federal, state and county agencies with jurisdiction over such construction activities, the planning board and the town consulting engineer, with a copy of such plans and specifications being filed with the town.

The Applicant has obtained both Florida Department of Environmental Protection (FDEP) and US Army Corps of Engineers (ACOE) authorization for the seawall (including fill) and dock. The corresponding file numbers for each agency are provided in the table below. Note that both the FDEP and ACOE authorizations include the installation of a boat lift as provided on the plan set the Applicant submitted to these agencies. Pursuant to Section 30-68(g)(6)d.1. of the Town Code, this proposed boat lift is located within the 25 foot side setback required for accessory marine facilities located within the Residential Single Family (RS) zoning district. That said, the boat lift is not included as part of this Special Exception request and has been removed from the seawall and dock plan set submitted to the Town.

PROPOSED ACTIVITY	FDEP (FILE NO.)	ACOE (FILE NO.)
Seawall (including fill)	50-388036-001-EE	SAJ-2020-01935(NW-CGK)
Dock	50-388036-002-EE	SAJ-2020-01935(GP-CGK)

Pursuant to Section 6-128(b) of the Town Code, all seawalls west of State Road A1A shall be at Base Flood Elevation (BFE) or higher as provided by the FEMA FIRM maps. The BFE for the property is currently at 6 feet. The Applicant's proposed seawall is 6.0 feet NAVD.

The Applicant's request is consistent with the special exception provisions of Section 30-36 of the Town Code, were applicable, and consistent with the Town Comprehensive Plan and Code of Ordinances.

Section 30-67(b) of the Town Code indicates that docks and seawalls in the Residential Single Family (RS) zoning district require special exception approval by the Planning Board. Section 30-36(a) of the Town code states that the Planning Board may approve, approve with conditions, or deny a request for special exception relating to seawalls, bulkheads, retaining walls and accessory marine facilities.

If the Planning Board approves the request, the Applicant will be required to obtain a building permit from the Town of Highland Beach Building Department following such approval and prior to initiation of construction. Pursuant to Section 30-21(g) of the Town Code, commencement of construction shall be initiated within two (2) years following the date of approval by the Planning Board.

#### II. Recommendation

Staff recommends approval of the special exception request to install a 90 linear foot seawall and 400 square foot dock, based on the plans date stamped received by the Building Department on November 19, 2021, subject to the following conditions:

- 1. Contingent upon approval by the Town Commission for a land fill permit pursuant to Chapter 14 of the Town Code of Ordinances.
- ➢ Plans meet Town of Highland Beach Zoning and other governmental agencies requirements and are consistent with the Town Comprehensive Plan.
- Plans meet Town of Highland Beach Zoning requirements; however, approvals are pending before the Town of Highland Beach will issue permits, with other governmental agencies as listed.

Plans do not meet Town of Highland Beach Zoning requirements.

Should you have any questions, please feel free to contact me at (561) 637-2012 or iallen@highlandbeach.us

Attachments: Attachment No. 1 – Applicant's proposed fill narrative Application Aerials FDEP approval ACOE approval Applicant Plans

#### ATTACHMENT NO. 1

#### NARRATIVE FOR PROPOSED FILLING FOR 2500 OCEAN BOULEVARD

ProjectStitt's Residence- 2500 South Ocean Boulevard, Highland Beach, FI 33487RE:Filling of property between existing seawall and proposed seawall

#### To: Highland Beach Planning Department

This narrative is in response to Comment 2.12 of the application for proposed filling for the above-referenced project.

Pursuant to Section 14-1 of the Town Code, any person desiring to add or extend any lands, areas shall first make application to the Town Commission for permission to do so. Given the latter, provide a separate narrative that describes the proposed fill component of the project including:

# a. A plan or drawing showing the area to be filled and also showing the from which any fill material to be dredged or removed by other means.

#### RESPONSE

The applicant is proposing to install a seawall at the west property line of the property, which is coincident with the Intracoastal Waterway. An existing seawall is currently located approximately 16' east of the property line. The area between the existing and proposed seawall shall be filled with clean fill material. Approximately 200 CY of fill material is required.

A permit has been issued by the *Army Corps of Engineers* for the proposed filling and seawall. This permit identifies the limits of filling and provides a plan view and cross section of the area to be filled. The full permit, filed under "*STITT'S SEAWALL Permit 11.6.20.pdf*", has been uploaded with this application.

On pages 12 and 13 of "STITT'S SEAWALL Permit 11.6.20.pdf", is the plan view and section view of the proposed filling.

b. Clearly outline how the dredging or filling procedure will take place.

#### RESPONSE

For this project, the area between the proposed and existing seawall will be filled. No dredging is proposed, other than minor de-silting between the existing and proposed seawall.

Prior to filling the gap between the proposed and existing seawall, a wall structure will be installed for the new seawall. Once the wall structure is installed, the space between the new and existing seawall shall be backfilled in one foot lifts and compacted.

Also uploaded with this application are:

- A. *"Stitt's Dock.Seawall Lift Plans 8.6.21.pdf".* Page 1 shows the site plan.
- B. The topographic survey, "Stitt's Baseline Survey 4.26.21".

c. Indicate whether and hydraulic filling of land and/or removal of sand, rock, and earth from submerged lands will take place.

#### RESPONSE

For this project, there will not be any hydraulic filling of land. Fill will be placed, as noted in the response to item 2 above, and compacted.

There will not be any removal of sand, rock, or earth as part of this project. Once the bottom is de-silted, filling will take place.

Thank you for your kind attention to this matter. Should you have questions regarding this matter, please do not hesitate to e-mail this office at <u>ajhydro@bellsouth.net</u>.

Sincerely, A. J. Hydro Engineering, Inc.

Howard Jablon, P.E.

cc: file

Attachments

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R.J. MELE CONSTRUCTION, INC State Certified General Contractor License No: CG-C054395

Date: October 20, 2021 4101 N Ocean Blvd, Suite D-705 Boca Raton, Fl. 33431

Phone: 561-929-1440 Email: rjmeleconst@yahoo.com www.rjmeleconstruction.com

ATTN: Building Department : Ingrid Allen 3616 South Ocean Blvd. Highland Beach, Fl. 33487

Subject: Stitts Residence 2500 South Ocean Blvd. Highland Beach, Fl. 33487

This letter is to address the Removal of Boat Lift and the addendum to Application D021-0009.

Note: The boat lift has been removed from all drawings.

Please Reference the Narrative Comment Letter dated 9/29/21.

Sincerely

Rocco J. Mele State of Florida Licensed General Contractor License CGC# 054395



#### TOWN OF HIGHLAND BEACH DEVELOPMENT APPROVAL APPLICATION

#### Application #\_\_\_\_\_

I request a hearing regarding the terms of the Zoning Ordinances of the Town of Highland Beach. This request relates to the property and zoning requirements set forth in this application.

PROPERTY INFORMATION ASSOCIATED WITH THIS APPLICATION			
Address: 2500 S OCEAN BLVD, HIGHLAND BEACH, FL, 33487		PCN:	24-43-46-28-09-000-0154
Full Legal Description of the Property [as described in the deed] or reference to an attact The North 90.00 feet of Lot 15A, Plat of Byrd Beach, according to the map or plat thereof as recorded in Plat Book 20, Page 1, Public Records of Palm Beach County, Florida.			achment:
Zoning District: RS	What is the location of the installation?         □ Intracoastal Waterway (ICW)       □ Interior Canal/Basin       X N/A		
	🗆 Intracoastal waterway (ICW)		r Canal/Basin 🕱 N/A

# PROPERTY OWNER (APPLICANT) INFORMATION Name: ADRIAN STITTS Phone: 423-718-4496 Fax: N/A Mailing Address: 9910 BAY LEAF CT, PARKLAND, FL, 33076 Email Address: acstitts@gmail.com

APPLICANT'S AGE	ENT INFORMATION		
Name: Rocco Mel	le	Phone: 561-929-1440	Fax:
<b>Company Name:</b>	RJ MELE CONSTRUCTION, INC		·
Mailing Address:       4101 N OCEAN BLVD SUITE D705       BOCA RATON FL 33431			
Email Address:	RJMELECONST@YAHOO.COM		

#### Provide a detailed description of the project application (use additional pages if necessary):

Removal of existing seawall. Apply new fill material. New construction of seawall, dock and boat lift.

I give permission to the members of the Town Commission, Planning Board and staff to inspect the property for the purpose of this application. I declare that all statements made herein are true, based upon the best available information. Willful false statements may jeopardize the validity of my application or any decision issued thereon. I have fully read the information outlining the Board procedures and application requirements. With this application, I am submitting the necessary supporting materials listed.

Applicant's Signature:	Date: <u>6-28-2021</u>	
Received by the Town Clerk's Office:		
Received By:	Date:	
Date Public Notices Mailed:		
Date Legal Advertisement Published:		

I give permission to the members of the Town Commission, Planning Board and staff to inspect the property for the purpose of this application. I declare that all statements made herein are true, based upon the best available information. Willful false statements may jeopardize the validity of my application or any decision issued thereon. I have fully read the information outlining the Board procedures and application requirements. With this application, I am submitting the necessary supporting materials listed.

Applicant's Signature:	Date: 6-28-2021
Received by the Town Clerk's Office:	11/0/0
Received By: _ DWN Clerks office	Date:9 202
Date Public Notices Mailed: 124 7021	
Date Legal Advertisement Published:	<u>+ </u>

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November 24, 2021

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# **2500 South Ocean Blvd**





# FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis Governor

Jeanette Nuñez Lt. Governor

Noah Valenstein Secretary

Southeast District Office 3301 Gun Club Road, MSC 7210-1 West Palm Beach, FL 33406 561-681-6600

June 3, 2020

Adrian Stitts Lot 15A, South Ocean Boulevard Highland Beach, FL 33487

Re: File No.: 50-388036-001-EE File Name: Stitts

Dear Adrian Stitts:

On May 19, 2020, we received your request for verification of exemption to install a 90 ln. ft. seawall between and adjoining existing seawalls or riprap. The project is located in the Intracoastal Waterway, Class III Waters, adjacent to Lot 15A, South Ocean Boulevard, Highland Beach (Section 28, Township 46 South, Range 43 East), in Palm Beach County (Latitude N 26° 25' 41.38", Longitude W 80° 3' 51.11").

Your request has been reviewed to determine whether it qualifies for (1) regulatory exemption, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal approval that may be necessary for work in wetlands or waters of the United States.

Your project did not qualify for the federal authorization of this verification request. Additional authorization must be obtained prior to commencement of the proposed activity. This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

If you have any questions regarding this matter, please contact Chloe Gossett at the letterhead address or at (561) 681-6674, <u>Chloe.Gossett@FloridaDEP.gov</u>.

www.floridadep.gov

#### 1. Regulatory Review – VERIFIED

Based on the information submitted, the Department has verified that the activity as proposed is exempt, under Chapter 62-330.051(12)(c), Florida Administrative Code, from the need to obtain a regulatory permit under Part IV of Chapter 373 of the Florida Statutes.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification may not be valid if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. In the event you need to re-verify the exempt status for the activity, a new request and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

#### 2. Proprietary Review- NOT REQUIRED

The activity does not appear to be located on sovereign submerged lands, and does not require further authorization under chapter 253 of the Florida Statutes, or chapters 18-20 or 18-21 of the Florida Administrative Code.

#### 3. Federal Review - NOT APPROVED

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the Corps. You must apply separately to the Corps using their APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at: https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book.

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection (or Duly Authorized Designee), State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

#### **Additional Information**

Please retain this letter. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

#### **NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until a subsequent order of the Department. Because the administrative hearing

Project No.: 50-388036-001-EE Project Name: Stitts Page 3 of 5

process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

#### Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at <u>Agency\_Clerk@dep.state.fl.us</u>. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

#### Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and

Project No.: 50-388036-001-EE Project Name: Stitts Page 4 of 5

120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

#### Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at <u>Agency\_Clerk@dep.state.fl.us</u>, before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

#### Mediation

Mediation is not available in this proceeding.

#### FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

#### Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Project No.: 50-388036-001-EE Project Name: Stitts Page 5 of 5

#### EXECUTION AND CLERKING

Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Jeffrey Meyer Environmental Manager Southeast District

Enclosures: Attachment A- Specific Exemption Rule Project drawings, 3 pages

#### **CERTIFICATE OF SERVICE**

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

FDEP – Jeff Meyer, Chloe Gossett Kyle Burg, Isiminger & Stubbs Engineering, Inc., <u>kburg@coastal-engineers.com</u>

Additional mailings: Matt Mitchell, Palm Beach County, Environmental Resources, <u>mmitchell@pbcgov.org</u>

#### FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Tancon Pring

Clerk

<u>June 3, 2020</u> Date

#### Attachment A

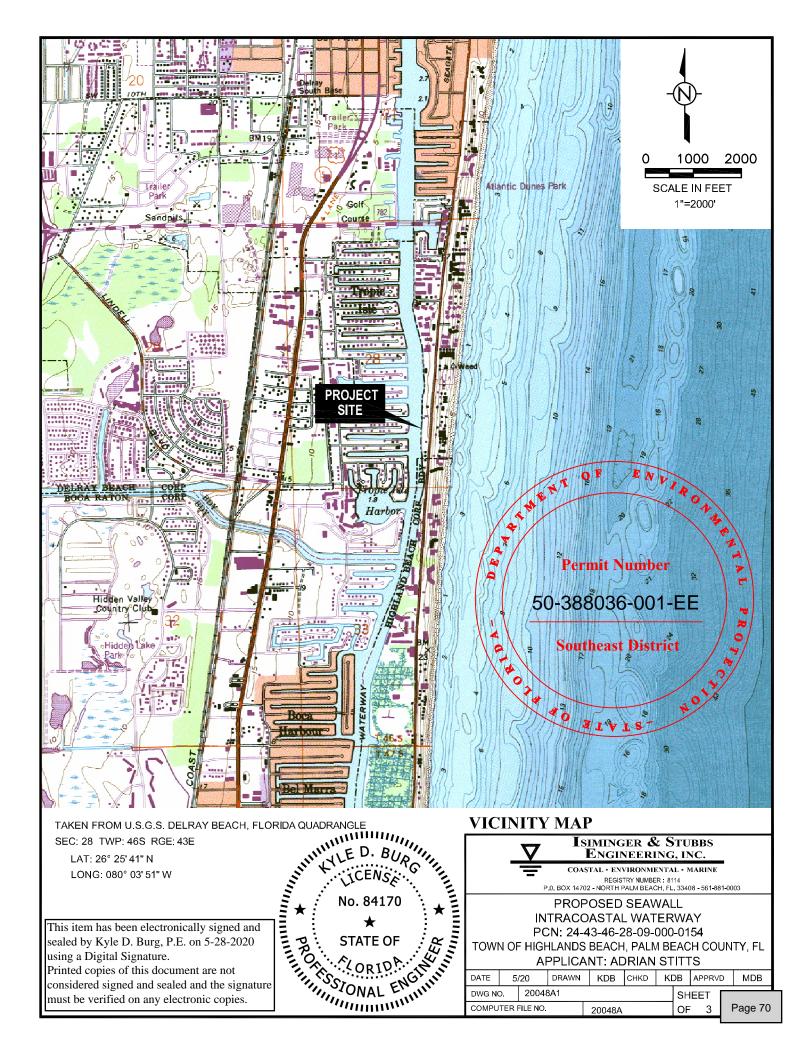
#### 62-330.051 Exempt Activities.

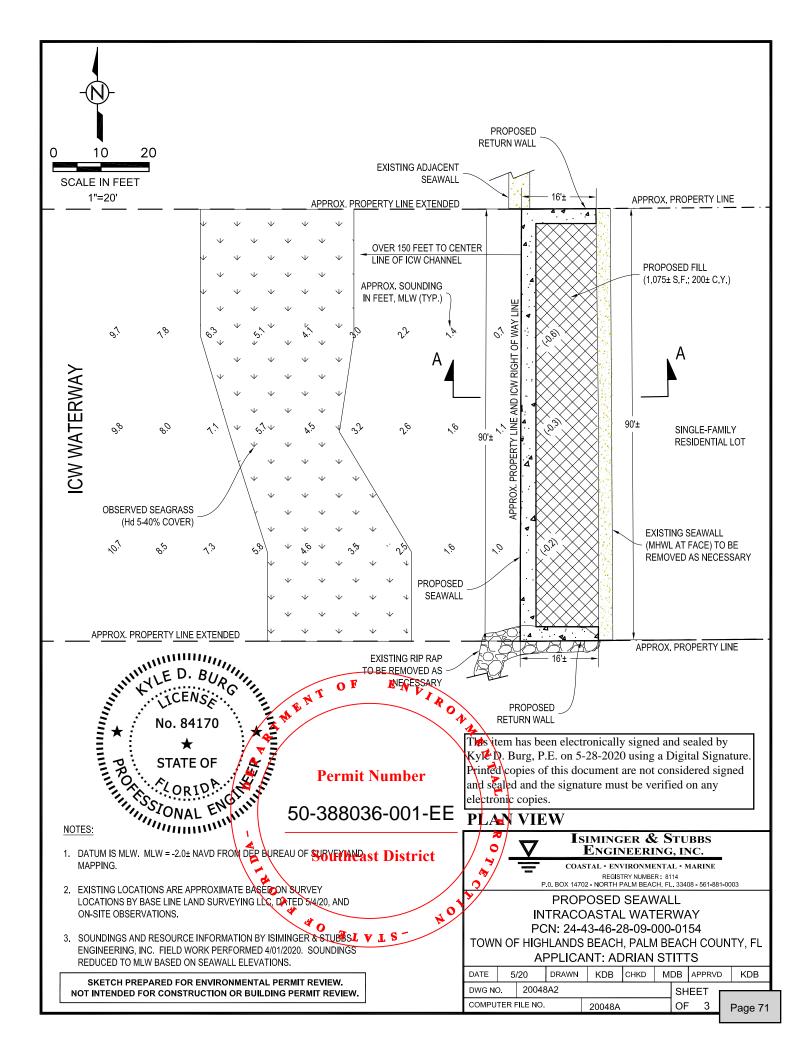
The activities meeting the limitations and restrictions below are exempt from permitting. However, if located in, on, or over state-owned submerged lands, they are subject to a separate authorization under chapters 253 and 258, F.S., as applicable.

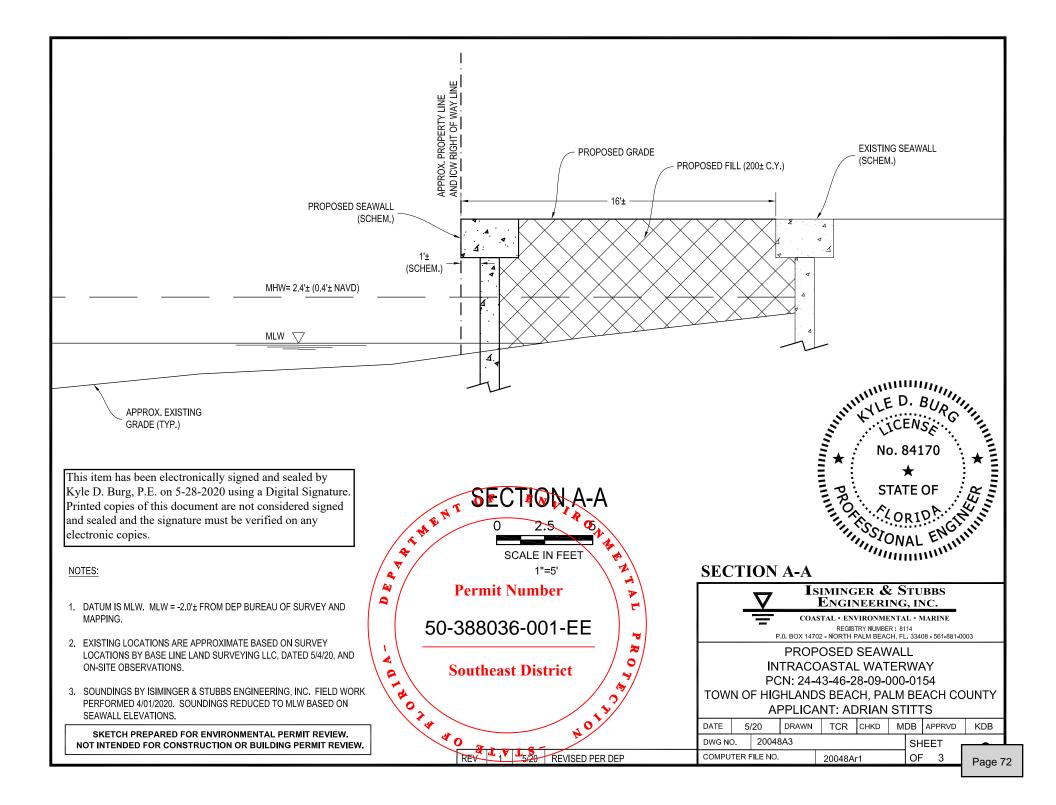
(12) Construction, Replacement, Restoration, Enhancement, and Repair of Seawall, Riprap, and Other Shoreline Stabilization –

(c) The construction of seawalls or riprap in wetlands or other surface waters between and adjoining existing seawalls or riprap at both ends in accordance with section 403.813(1)(o), F.S. For purposes of this exemption, riprap is subject to the same length and orientation limitations as a seawall.

Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 403.805(1) FS. Law Implemented 373.406, 373.4131, 373.4145, 373.415, 403.813(1) FS. History–New 10-1-13, Amended 6-1-18









# FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis Governor

Jeanette Nuñez Lt. Governor

Noah Valenstein Secretary

Southeast District Office 3301 Gun Club Road, MSC 7210-1 West Palm Beach, FL 33406 561-681-6600

October 22, 2020

Adrian Stitts Lot 15A, South Ocean Boulevard Highland Beach, FL 33487

Re: File No.: 50-388036-002-EE File Name: Stitts

Dear Adrian Stitts:

On October 15, 2020, we received your request for verification of exemption to perform the following activities: (1) install a 400 sq. ft. dock and (2) install a boatlift. The project is located in the Intracoastal Waterway, Class III Waters, adjacent to Lot 15A, South Ocean Boulevard, Highland Beach (Section 28, Township 46 South, Range 43 East), in Palm Beach County (Latitude N 26° 25' 41.38", Longitude W 80° 3' 51.11").

Your request has been reviewed to determine whether it qualifies for (1) regulatory exemption, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal approval that may be necessary for work in wetlands or waters of the United States.

Your project did not qualify for the federal authorization of this verification request. Additional authorization must be obtained prior to commencement of the proposed activity. This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

If you have any questions regarding this matter, please contact Chloe Gossett at the letterhead address or at (561) 681-6674, <u>Chloe.Gossett@FloridaDEP.gov</u>.

www.floridadep.gov

#### 1. Regulatory Review – VERIFIED

Based on the information submitted, the Department has verified that the activity as proposed is exempt, under Chapter 62-330.051(5)(b), Florida Administrative Code, from the need to obtain a regulatory permit under Part IV of Chapter 373 of the Florida Statutes.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification may not be valid if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. In the event you need to re-verify the exempt status for the activity, a new request and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

#### 2. Proprietary Review- NOT REQUIRED

The activity does not appear to be located on sovereign submerged lands, and does not require further authorization under chapter 253 of the Florida Statutes, or chapters 18-20 or 18-21 of the Florida Administrative Code.

#### **3.** Federal Review - NOT APPROVED

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the Corps. You must apply separately to the Corps using their APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at: https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book.

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection (or Duly Authorized Designee), State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

#### **Additional Information**

Please retain this letter. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

#### **NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until a subsequent order of the Department. Because the administrative hearing

Project No.: 50-388036-002-EE Project Name: Stitts Page 3 of 5

process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

#### Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at <u>Agency\_Clerk@dep.state.fl.us</u>. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

#### Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and

Project No.: 50-388036-002-EE Project Name: Stitts Page 4 of 5

120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

#### Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at <u>Agency\_Clerk@dep.state.fl.us</u>, before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

#### Mediation

Mediation is not available in this proceeding.

#### FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

#### Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Project No.: 50-388036-002-EE Project Name: Stitts Page 5 of 5

#### EXECUTION AND CLERKING

Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Chlor Gossett

Chloe Gossett Environmental Specialist Southeast District

Enclosures:

Attachment A- Specific Exemption Rule Project drawings, 3 pages

#### **CERTIFICATE OF SERVICE**

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

FDEP – Jeff Meyer, Chloe Gossett Kyle Burg, Isiminger & Stubbs Engineering, Inc., <u>kburg@coastal-engineers.com</u>

Additional mailings: Matt Mitchell, Palm Beach County, Environmental Resources, <u>mmitchell@pbcgov.org</u>

#### FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Shinathuray Buie

Clerk

Date

October 22, 2020

#### Attachment A

#### 62-330.051 Exempt Activities.

The activities meeting the limitations and restrictions below are exempt from permitting. However, if located in, on, or over state-owned submerged lands, they are subject to a separate authorization under chapters 253 and 258, F.S., as applicable.

(5) Dock, Pier, Boat Ramp and Other Boating-related Work -

(b) Installation of private docks, piers, and recreational docking facilities, and installation of local governmental piers and recreational docking facilities, in accordance with section 403.813(1)(b), F.S. This includes associated structures such as boat shelters, boat lifts, and roofs, provided:

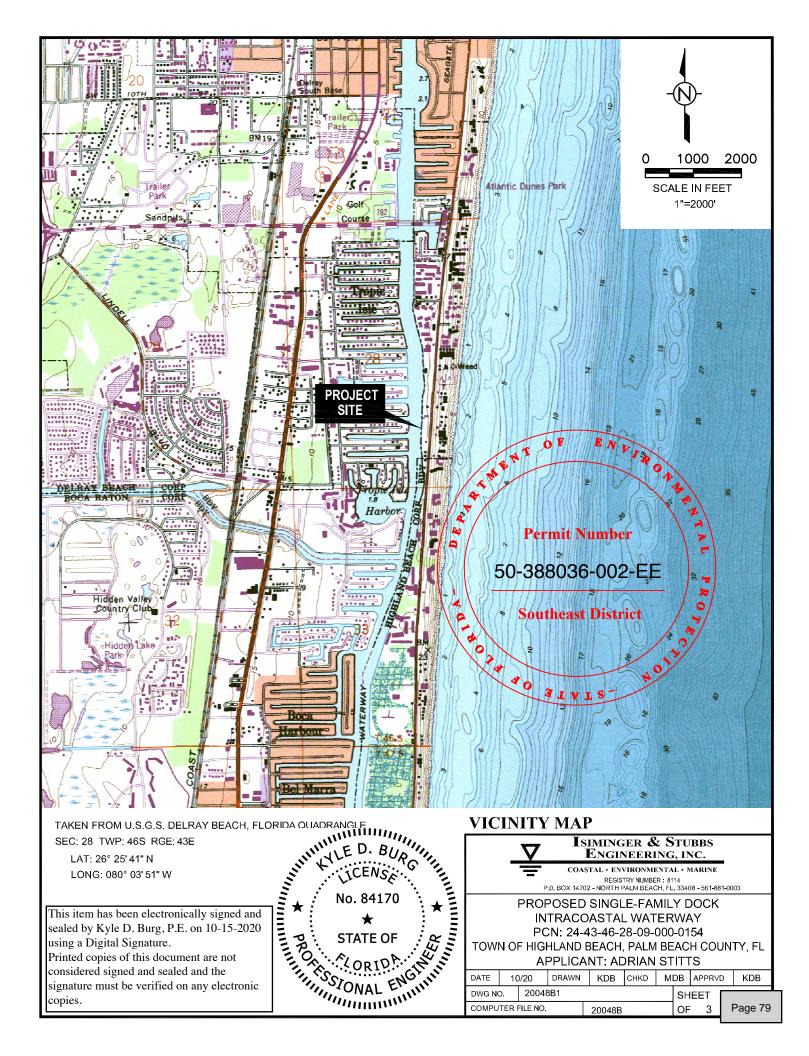
1. The cumulative square footage of the dock or pier and all associated structures located over wetlands and other surface waters does not exceed the limitations in section 403.813(1)(b), F.S.;

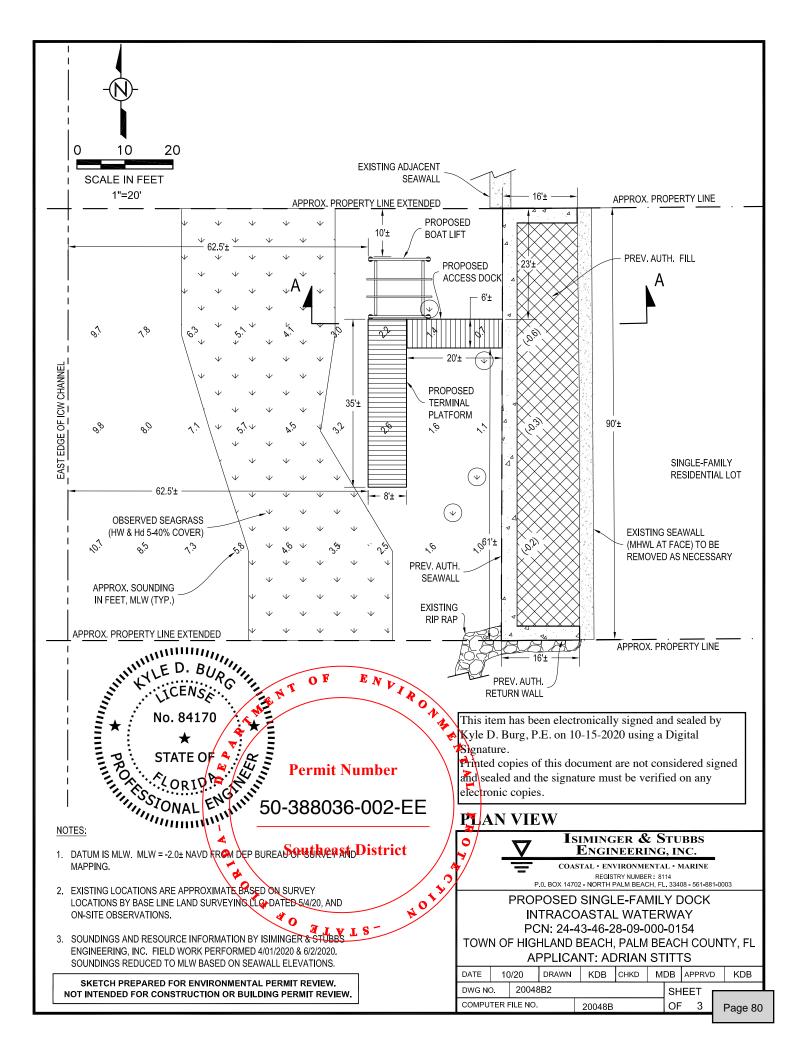
2. No structure is enclosed on more than three sides with walls and doors;

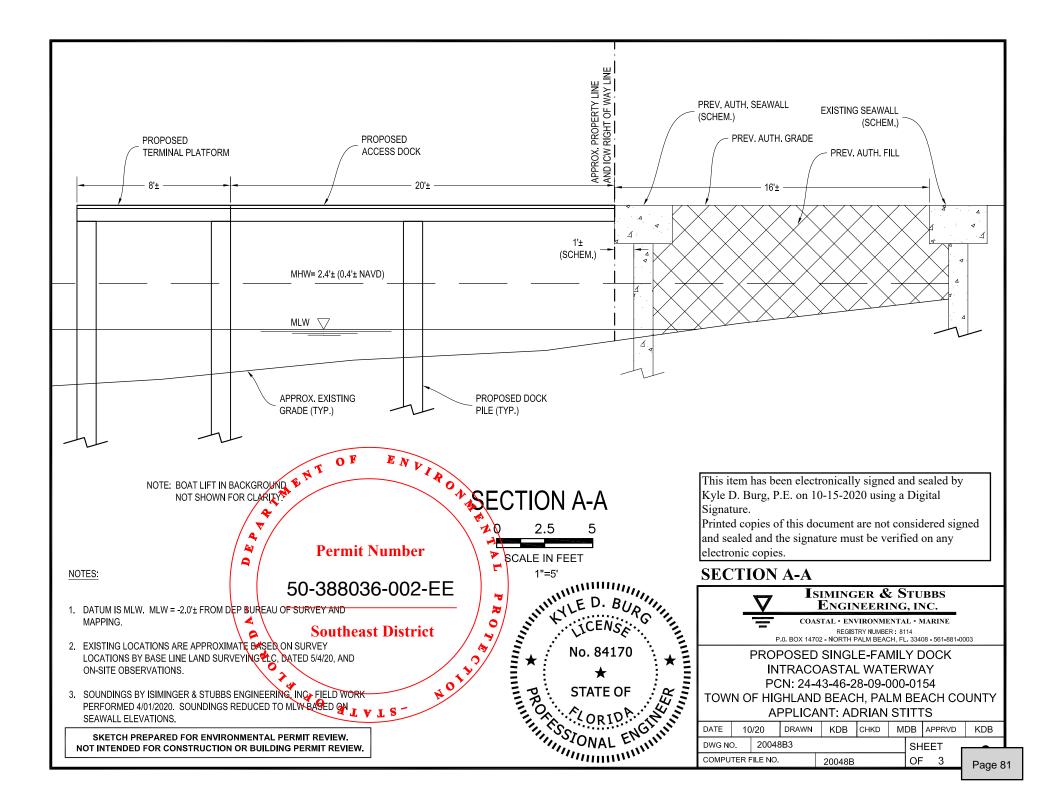
3. Structures are not used for residential habitation or commercial purposes, or storage of materials other than those associated with water dependent recreational use; and

4. Any dock and associated structure shall be the sole dock as measured along the shoreline for a minimum distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot.

Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 403.805(1) FS. Law Implemented 373.406, 373.4131, 373.4145, 373.415, 403.813(1) FS. History–New 10-1-13, Amended 6-1-18









DEPARTMENT OF THE ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT 4400 PGA BOULEVARD, SUITE 500 PALM BEACH GARDENS, FLORIDA 33410

#### September 10, 2020

Regulatory Division South Branch Palm Beach Gardens Section SAJ-2020-01935 (NW-CGK)

Adrian Stitts Lot 15A, South Ocean Boulevard Highland Beach, Florida 33487

Dear Mr. Stiits:

The U.S. Army Corps of Engineers (Corps) assigned your application for a Department of the Army permit, which the Corps received on May 19, 2020, the file number SAJ-2020-01935 (NW-CGK). A review of the information and drawings provided indicates that the proposed work would result in installation 90 linear feet of 16 feet waterward from the existing, where 200 cubic yards of fill will placed into 1,440 square feet to backfill the new wall. The activities subject to this permit are authorized pursuant to authorities under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), and Section 404 of the Clean Water Act (33 U.S.C. § 1344). The project is located at Lot 15A, South Ocean Boulevard, in Section 28, Township 46 South, Range 43 East, Highland Beach, Palm Beach County, Florida.

Your project, as depicted on the enclosed drawings, is authorized by Nationwide Permit (NWP) Number 13. In addition, project specific conditions have been enclosed. This verification is valid until <u>March 18, 2022</u>. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have 12 months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. Please access the U.S. Army Corps of Engineers' (Corps) Jacksonville District's Regulatory Internet page to access Internet links to view the Final Nationwide Permits, Federal Register Vol. 82, dated January 6, 2017, specifically pages 1983 to 2008, and the table of Regional Conditions. The Internet page address is as follows:

#### http://www.saj.usace.army.mil/Missions/Regulatory.aspx

Please be aware this Internet address is case sensitive and should be entered as it appears above. Once there you will need to click on "Source Book"; and, then click on

"Nationwide Permits." These files contain the description of the Nationwide Permit authorization, the Nationwide Permit general conditions, and the regional conditions, which apply specifically to this verification for NWP 13. Enclosed is a list of the six General Conditions, which apply to all Department of the Army authorizations. You must comply with all of the special and general conditions and any project specific condition of this authorization or you may be subject to enforcement action. In the event you have not completed construction of your project within the specified time limit, a separate application or re-verification may be required.

The following special conditions are included with this verification:

1. Reporting Address: The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:

a. For electronic mail (preferred): <u>SAJ-RD-Enforcement@usace.army.mil</u> (not to exceed 15 MB).

b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

The Permittee shall reference this permit number, SAJ-2020-01935 (GP-CGK) on all submittals.

- Commencement Notification: Within 10 days from the date of initiating the work authorized by this permit the Permittee shall submit a completed "Commencement Notification" Form (Attachment B).
- 3. As-Builts with XY's: Within 60 days of completion of the authorized work, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment C) to the Corps. The drawings shall be signed and sealed by a surveyor licensed under Florida Statute 472 and include the following:
  - a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawings shall include the X & Y State Plane coordination points of the most waterward point of the structure. The

drawings shall include the dimensions of the structure, depth of water (at mean low water) at the waterward end of the structure, and the distance from the waterward end of the structure to the near design edge of the Federal channel.

- b. A list of any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the attached "As-Built Certification By Professional Engineer" form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or "As-Built Certification By Professional Engineer" form does not constitute approval of any deviations by the Corps.
- c. Include the Department of the Army permit number on all sheets submitted.
- 4. Assurance of Navigation and Maintenance: The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
- Manatee Conditions: The Permittee shall comply with the enclosed (Attachment D) "Standard Manatee Conditions for In-Water Work – 2011."
- Project Design Criteria (PDCs) for In-Water Activities: The Permittee shall comply with National Marine Fisheries Service's "PDCs for In-Water Activities" dated November 20, 2017 (Attachment E).
- 7. Daylight Hours: All activities must be completed during daylight hours.

- 8. Construction Location: Project construction shall take place from uplands or from floating equipment (e.g., barge) with clearance to access the site; prop or wheel-washing is prohibited.
- 9. Fill Material: The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.
- 10. Setback: The project shall be constructed no closer than 90.31 from the near edge of the federal channel.
- 11. Notice of Permit: The Permittee shall complete and record the "Notice of Department of the Army Authorization" form (Attachment G) with the Clerk of the Circuit Court, Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to or interest in real property within the county of the authorized activity. Within 90 days from the effective date of this permit, the Permittee shall provide a copy of the recorded Notice of Permit to the Corps clearly showing a stamp from the appropriate official indicating the book and page at which the Notice of Permit is recorded and the date of recording.
- 12. Consent to Easement: A portion of the authorized work may be located within the Federal right-of-way for an identified Federal project and would require a Department of the Army Consent to Easement. By copy of this permit, the proposal is being forwarded to the Corps' Real Estate Division for action on the Consent to Easement. Failure to obtain the Consent to Easement or waiver invalidates this authorization. The Real Estate Division is responsible for issuing the Consent to Easement. Contact with Real Estate for questions or status updates can done at Post Office Box 4970, Jacksonville, Florida 32232-0019 or by telephone at 904-570-4514.

13. Cultural Resources/Historic Properties:

a. No structure or work shall adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdi ction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

This letter of authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. Prior to the initiation of any construction, projects qualifying for this Nationwide permit must qualify for an exemption under section 403.813(1), Florida Statutes or 373.406, Florida Statutes, or otherwise be authorized by the applicable permit required under Part IV of Chapter 373, Florida Statutes, by the Department of Environmental Protection, a water management district under section 373.069, Florida Statutes, or a local government with delegated authority under section 373.441, Florida Statutes, and receive Water Quality Certification and applicable Coastal Zone Consistency Concurrence or waiver thereto, as well as any authorizations required for the use of state-owned submerged lands under Chapter 253, Florida Statutes, and, as applicable, Chapter 258, Florida Statutes. You should check State-permitting requirements with the Florida Department of Environmental Protection or the appropriate water management district.

This letter of authorization does not include conditions that would prevent the 'take' of a state-listed fish or wildlife species. These species are protected under sec. 379.411, Florida Statutes, and listed under Rule 68A-27, Florida Administrative Code. With regard to fish and wildlife species designated as species of special concern or threatened by the State of Florida, you are responsible for coordinating directly with the Florida Fish and Wildlife Conservation Commission (FWC). You can visit the FWC license and permitting webpage (<u>http://www.myfwc.com/license/wildlife/</u>) for more information, including a list of those fish and wildlife species designated as species designated as species of special concern or threatened. The Florida Natural Areas Inventory (<u>http://www.fnai.org/</u>) also maintains updated lists, by county, of documented occurrences of those species.

This letter of authorization does not give absolute Federal authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

If you are unable to access the internet or require a hardcopy of any of the conditions, limitations, or expiration date for the above referenced NWP, please contact Christian Karvounis by e-mail at Christian.G.Karvounis@usace.army.mil or by telephone at 561-472-3508.

Thank you for your cooperation with our permit program. The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to complete our automated Customer Service Survey at <u>http://corpsmapu.usace.army.mil/cm\_apex/f?p=regulatory\_survey</u>. Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Your input is appreciated – favorable or otherwise.

Sincerely,

n/2 Mein

Christian Karvounis Project Manager

Enclosures: Attachment A: Drawings Attachment B: Commencement Notice form Attachment C: AS-Built Form Attachment D: Manatee Conditions Attachment E: PDC's for in-water work Attachment F: Notice of Permit form

CC:

Isiminger and Stubbs Engineering, Inc.

#### GENERAL CONDITIONS 33 CFR PART 320-330

1. The time limit for completing the work authorized ends on March 18, 2022.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort of if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

#### DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST

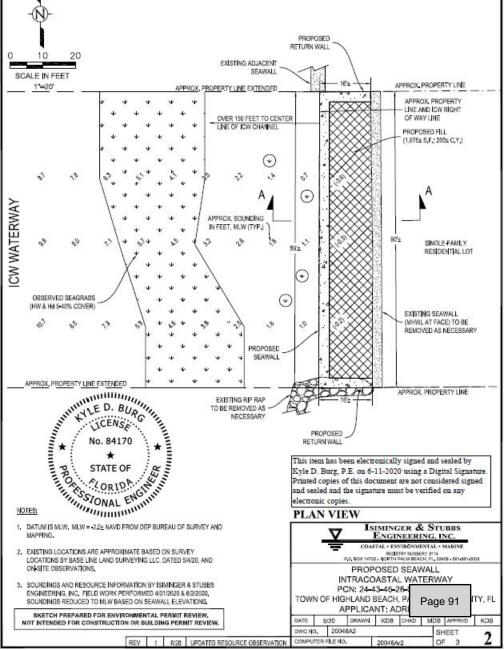
#### PERMIT NUMBER: SAJ-2020-01935 (NW-CGK)

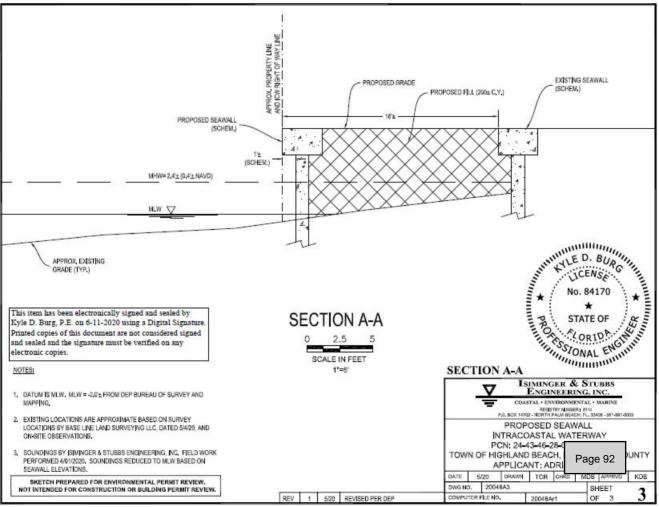
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. <u>Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.</u>

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Section, Post Office Box 4970, Jacksonville, FL 32232-0019 or electronic mail at saj-rd-enforcement@usace.army.mil.

(TRANSFEREE-SIGNATURE)	(SUBDIVISION)	
(DATE)	(LOT) (BLOCK)	
(NAME-PRINTED)	(STREET ADDRESS)	_
(MAILING ADDRESS)		

(CITY, STATE, ZIP CODE)





#### **COMMENCEMENT NOTIFICATION**

Within 10 days of initiating the authorized work, submit this form via electronic mail to sajrd-enforcement@usace.army.mil (preferred, not to exceed 15 MB) <u>or</u> by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

- 1. Department of the Army Permit Number: SAJ-2020-01935 (NW-CGK)
- 2. Permittee Information:

Name:	
Email:	
Address:	
Phone:	
3. Construction St	art Date:
4. Contact to Sche	edule Inspection:
4. Contact to Scherer Name:	edule Inspection:
Name:	
Name: Email:	

Signature of Permittee

Printed Name of Permittee

Date

#### AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

Within sixty (60) days of completion of the authorized work, submit this form and one set of asbuilt engineering drawings via electronic mail to <u>saj-rd-enforcement@usace.army.mil</u> (preferred, but not to exceed 15 MB) <u>or</u> by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019. If you have questions regarding this requirement, please contact the Enforcement Branch at 904-232-3697.

1. Department of the Army Permit Number: SAJ-2020-01935 (NW-CGK)

2. Permittee Informa	ation:	
Name:		<u>.</u>
Address:		

3. Project Site Identification (physical location/address):

4. As-Built Certification: I hereby certify that the authorized work, including any mitigation required by Special Conditions to the permit, has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

Signature of Engineer	Name ( <i>Please type</i> )	Name ( <i>Please type</i> )	
(FL, PR, or VI) Reg. Number	Company Name		
City	State	ZIP	
(Affix Seal)			

Date	Telephone Number

Date Work Started:\_\_\_\_\_ Date Work Completed:\_\_\_\_\_

Identify any deviations from the approved permit drawings and/or special conditions (attach additional pages if necessary):

#### STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.

### **CAUTION: MANATEE HABITAT**

### All project vessels

## IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work all in-water activities must

# SHUT DOWN

Report any collision with or injury to a manatee:



Wildlife Alert: 1-888-404-FWCC(3922)

cell \*FWC or #FWC

#### U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion (JaxBO) Project Design Criteria (PDCs) for In-Water Activities

#### November 20, 2017

1) **(AP.7.) Education and Observation**: The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:

http://sero.nmfs.noaa.gov/protected\_resources/section\_7/threatened\_endangered/in dex.html

- 2) (AP.8.) Reporting of interactions with protected species:
  - a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to takereport.nmfsser@noaa.gov and SAJ-RD-Enforcement@usace.army.mil.
  - b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email Sawfish@MyFWC.com
  - c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email nmfs.ser.sturgeonnetwork@noaa.gov
  - d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
  - e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.
- 3) (AP.9.) Vessel Traffic and Construction Equipment: All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:
  - a) Construction Equipment.
    - All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
    - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
    - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of

construction equipment and shall not resume until the species has departed the area of its own volition.

- iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.
- b) All Vessels:
  - i) Sea turtles: Maintain a minimum distance of 150 ft.
  - ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
  - iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (http://www.fisheries.noaa.gov/pr/shipstrike/).
  - iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
  - v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
  - vi) When these animals are sighted while the vessel is underway (e.g., bowriding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
  - vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.
- 4) (AP.10.) Turbidity Control Measures during Construction: Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:
  - a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
  - b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
  - c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
  - d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
  - e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm

Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):

- Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
- ii) The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cableline). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.
- 5) **(AP.11.) Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.
  - a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible inwater lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
  - b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

Prepared by:	
Permittee:	
Address:	

Phone:\_\_\_\_\_

#### NOTICE OF DEPARTMENT OF THE ARMY AUTHORIZATION

**TAKE NOTICE** the United States Army Corps of Engineers (Corps) has issued a permit or verification SAJ-2020-10935 to Adrian Stitts (Permittee) on September 10, 2020, authorizing work in navigable waters of the United States in accordance with Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403) on a parcel of land known as Folio/Parcel ID: \_\_\_\_\_\_

located at Lot 15A, South Ocean Boulevard, in Section 28, Township 46 South, Range 43 East, Highland Beach, Palm Beach County, Florida.

Within 30 days of any transfer of interest or control of said property, the Permittee must notify the Corps in writing of the property transfer by submitting the completed permit transfer page included with the issued permit or verification. The subject permit or verification concerns only that portion of the property determined to fall within the jurisdiction of the Corps and this notice is applicable only to those portions of the subject property in, over, under, or affecting navigable waters of the United States.

**Conditions of the Permit/Verification:** The permit or verification is subject to General Conditions and Special Conditions which may affect the use of the work authorized in Intracoastal Waterway. Accordingly, interested parties should closely examine the entire permit or verification, all associated applications, and any subsequent modifications.

To obtain a copy of the authorization in its entirety submit a written request to: U.S. Army Corps of Engineers Regulatory Division - Special Projects & Enforcement Branch Post Office Box 4970 Jacksonville, Florida 32232-0019

Questions regarding compliance with these conditions should be directed to: U.S. Army Corps of Engineers Enforcement Section Post Office Box 4970 Jacksonville, Florida 32232-0019

#### **Conflict Between Notice and Permit**

This Notice of Authorization is not a complete summary of the issued permit or verification. Provisions in this Notice of Permit shall not be used in interpreting the

permit or verification provisions. In the event of conflict between this Notice of Permit and the permit or verification, the permit or verification shall control.

#### This Notice is Not an Encumbrance

This Notice is for informational purposes only. It is not intended to be a lien, encumbrance, or cloud on the title of the premises.

#### Release

This Notice may not be released or removed from the public records without the prior written consent of the Corps.

This Notice of Authorization is executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_. This document is being submitted for recordation in the Public Records of Palm Beach County, Florida as part of the requirement imposed by the authorization SAJ-2020-01935 issued by Corps.

Permittee:

Address:

Phone:\_\_\_\_\_

STATE OF FLORIDA COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is personally known to me or has produced \_\_\_\_\_\_ as identification.

Notary Public

(seal)

Print

My Commission Expires\_\_\_\_\_



DEPARTMENT OF THE ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT 4400 PGA BOULEVARD ,SUITE 500 PALM BEACH, FLORIDA 33410

March 15, 2021

Regulatory Division South Branch Palm Beach Gardens Section SAJ-2020-01935 (GP-CGK)

Adrian Stitts Lot 15A, South Ocean Boulevard Highland Beach, Florida 33487

Dear Mr. Stitts:

The U.S. Army Corps of Engineers (Corps) assigned your application for a Department of the Army permit, which the Corps received on October 21, 2020, the file number SAJ-2020-01935. A review of the information and drawings provided indicates that the proposed work would result in the installation of a new 400 square foot dock consisting of a 6-foot by 20-foot wide access walkway and a 8-foot by 35-foot terminal platform with an associated 4-post boatlift. The activities subject to this permit are authorized pursuant to authorities under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403). The project is located at Lot 15A, South Ocean Boulevard, in Section 28, Township 46 South, Range 43 East, Highland Beach, Palm Beach County, Florida.

Your project, as depicted on the enclosed drawings, is authorized by Regional General Permit (GP) SAJ-20 and its subsequent modifications, if applicable. This authorization is valid until March 27, 2023. Please access the Corps' Jacksonville District Regulatory Division Internet page to view the special and general conditions for SAJ-20, which apply specifically to this authorization. The Internet URL address is:

http://www.saj.usace.army.mil/Missions/Regulatory.aspx

Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Once there you will need to click on "Source Book"; and, then click on "General Permits." Then you will need to click on the specific SAJ permit noted above. You must comply with all of the special and general conditions of the permit; and, any project-specific conditions noted below, or you may be subject to enforcement action. The following project-specific conditions are included with this authorization:

1. Reporting Address: The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:

a. For electronic mail (preferred): <u>SAJ-RD-Enforcement@usace.army.mil</u> (not to exceed 15 MB).

b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

The Permittee shall reference this permit number, SAJ-2020-01935(GP-CGK) on all submittals.

- Commencement Notification: Within 10 days from the date of initiating the work authorized by this permit the Permittee shall submit a completed "Commencement Notification" Form (Attachment B).
- 3. As-Builts with XY's: Within 60 days of completion of the authorized work, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment C) to the Corps. The drawings shall be signed and sealed by a surveyor licensed under Florida Statute 472 and include the following:
  - a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawings shall include the X & Y State Plane coordination points of the most waterward point of the structure. The drawings shall include the dimensions of the structure, depth of water (at mean low water) at the waterward end of the structure to the near design edge of the Federal channel.
  - b. A list of any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the attached "As-Built Certification By Professional Engineer" form the deviations between the work authorized by this permit and the work as

constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or "As-Built Certification By Professional Engineer" form does not constitute approval of any deviations by the Corps.

- c. Include the Department of the Army permit number on all sheets submitted.
- 4. Assurance of Navigation and Maintenance: The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
- Manatee Conditions: The Permittee shall comply with the enclosed (Attachment D) "Standard Manatee Conditions for In-Water Work – 2011."
- Project Design Criteria (PDCs) for In-Water Activities: The Permittee shall comply with National Marine Fisheries Service's "PDCs for In-Water Activities" dated November 20, 2017 (Attachment E).
- 7. Daylight Hours: All activities must be completed during daylight hours.
- 8. Construction Location: Project construction shall take place from uplands or from floating equipment (e.g., barge) with clearance to access the site; prop or wheel-washing is prohibited.
- 9. Setback: The project shall be constructed no closer than 62.5 from the near edge of the federal channel.
- 10. Notice of Permit: The Permittee shall complete and record the "Notice of Department of the Army Authorization" form (Attachment G) with the Clerk of

the Circuit Court, Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to or interest in real property within the county of the authorized activity. Within 90 days from the effective date of this permit, the Permittee shall provide a copy of the recorded Notice of Permit to the Corps clearly showing a stamp from the appropriate official indicating the book and page at which the Notice of Permit is recorded and the date of recording.

- 11. Consent to Easement: A portion of the authorized work may be located within the Federal right-of-way for an identified Federal project and would require a Department of the Army Consent to Easement. By copy of this permit, the proposal is being forwarded to the Corps' Real Estate Division for action on the Consent to Easement. Failure to obtain the Consent to Easement or waiver invalidates this authorization. The Real Estate Division is responsible for issuing the Consent to Easement. Contact with Real Estate for questions or status updates can done at Post Office Box 4970, Jacksonville, Florida 32232-0019 or by telephone at 904-570-4514.
- 12. Cultural Resources/Historic Properties:

a. No structure or work shall adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdi ction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

This authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. Prior to the initiation of any construction, projects qualifying for this NWP/RGP permit must qualify for an exemption under section 403.813(1), F.S. or 373.406, F.S., or otherwise be authorized by the applicable permit required under Part IV of Chapter 373, F.S., by the Department of Environmental Protection, a water management district under section 373.069, F.S., or a local government with delegated authority under section 373.441, F.S., and receive Water Quality Certification (WQC) and applicable Coastal Zone Consistency Concurrence (CZCC) or waiver thereto, as well as any authorizations required for the use of state-owned submerged lands under Chapter 253, F.S., and, as applicable, Chapter 258, F.S. You should check State-permitting requirements with the Florida Department of Environmental Protection or the appropriate water management district.

This authorization does not include conditions that would prevent the 'take' of a statelisted fish or wildlife species. These species are protected under sec. 379.411, Florida Statutes, and listed under Rule 68A-27, Florida Administrative Code. With regard to fish and wildlife species designated as species of special concern or threatened by the State of Florida, you are responsible for coordinating directly with the Florida Fish and Wildlife Conservation Commission (FWC). You can visit the FWC license and permitting webpage (http://www.myfwc.com/license/wildlife/) for more information, including a list of those fish and wildlife species designated as species of special concern or threatened. The Florida Natural Areas Inventory (http://www.fnai.org/) also maintains updated lists, by county, of documented occurrences of those species.

This authorization does not give absolute Federal authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

If you are unable to access the internet or require a hardcopy of any of the conditions, limitations, or expiration date for the above RGP(s), please contact Christian Karvounis by e-mail at <u>Christian.G.Karvounis@usace.army.mil</u> or by telephone at 561-472-3508.

Thank you for your cooperation with our permit program. The Corps' Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to complete our automated Customer Service Survey at http://corpsmapu.usace.army.mil/cm\_apex/f?p=regulatory\_survey. Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Your input is appreciated – favorable or otherwise.

Sincerely,

into Mein

Christian Karvounis Project Manager

Enclosures: Attachment A: Drawings Attachment B: Commencement Notice Form Attachment C: As Built form Attachment D: Manatee Conditions Attachment E: PDC's Attachment F: Notice of Permit Form

#### GENERAL CONDITIONS 33 CFR PART 320-330

1. The time limit for completing the work authorized ends on the **<u>dates identified in the</u> <u>letter</u>**.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

#### DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST

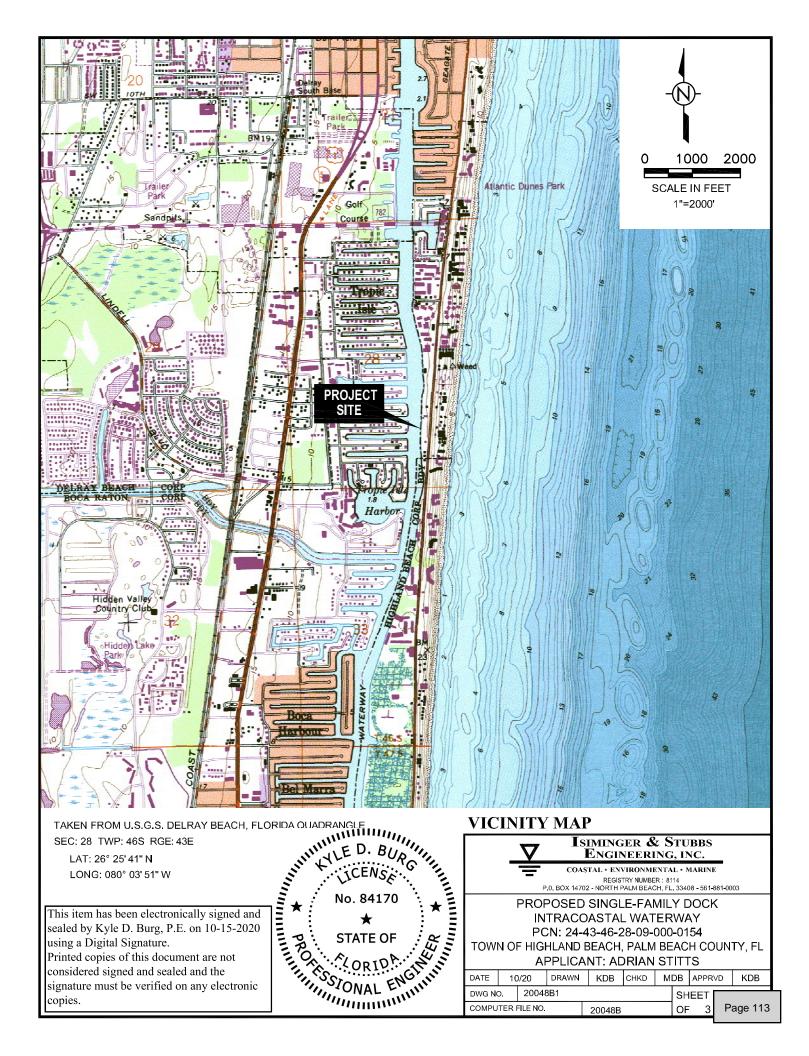
#### PERMIT NUMBER: SAJ-2020-01935 (GP-CGK)

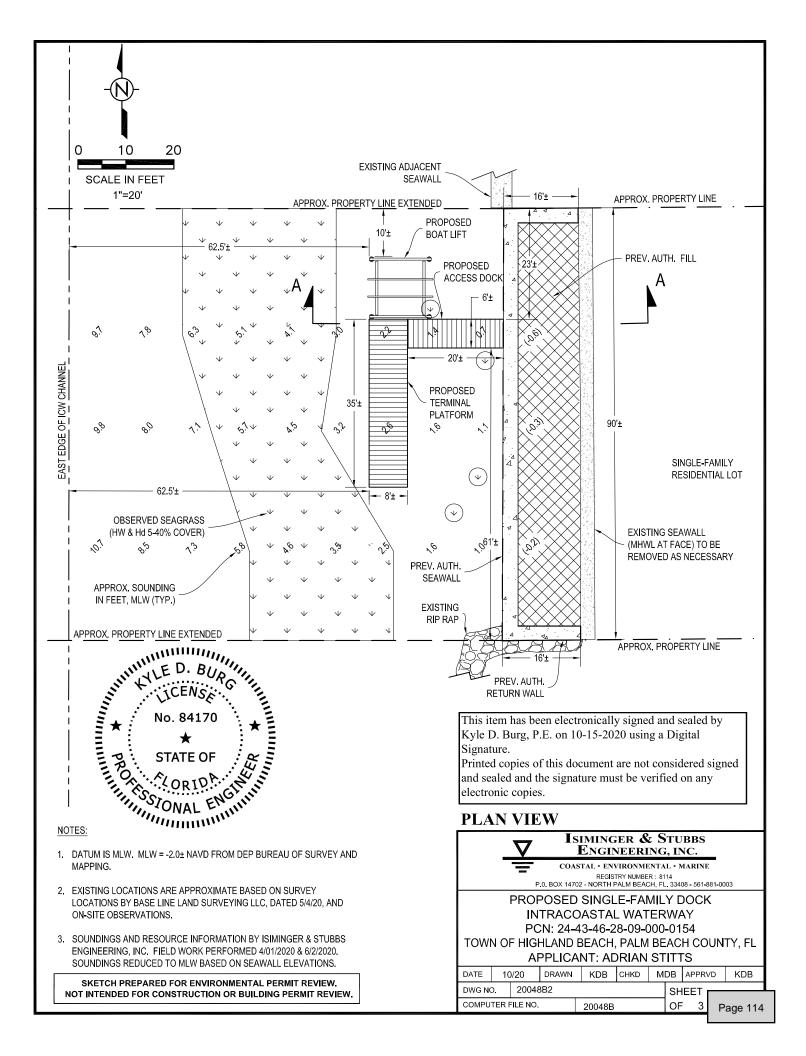
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. <u>Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.</u>

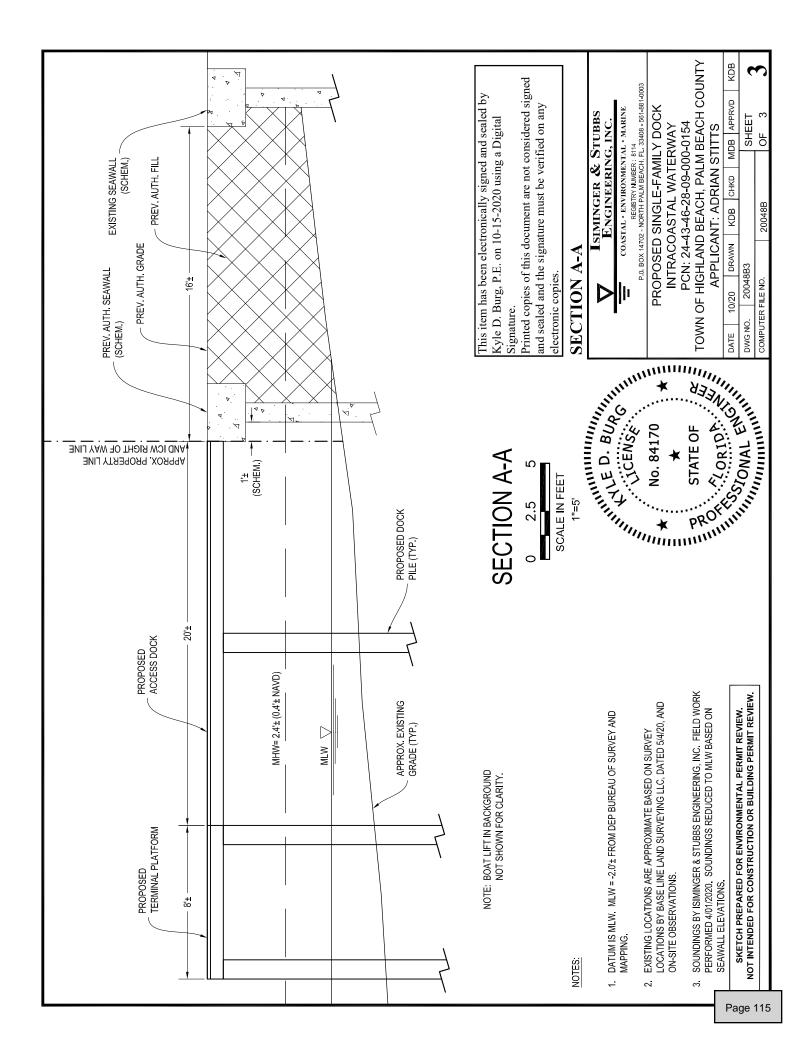
To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019 or by electronic mail at saj-rd-enforcement@usace.army.mil.

(TRANSFEREE-SIGNATURE)	(SUBDIVISIO	(SUBDIVISION)		
(DATE)	(LOT)	(BLOCK)		
(NAME-PRINTED)	(STREET AI	DDRESS)		
(MAILING ADDRESS)				

(CITY, STATE, ZIP CODE)







#### **COMMENCEMENT NOTIFICATION**

Within 10 days of initiating the authorized work, submit this form via electronic mail to sajrd-enforcement@usace.army.mil (preferred, not to exceed 15 MB) <u>or</u> by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

- 1. Department of the Army Permit Number: SAJ-2020-01935 (GP-CGK)

Signature of Permittee

Printed Name of Permittee

Date

#### AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

Within sixty (60) days of completion of the authorized work, submit this form and one set of asbuilt engineering drawings via electronic mail to <u>saj-rd-enforcement@usace.army.mil</u> (preferred, but not to exceed 15 MB) <u>or</u> by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019. If you have questions regarding this requirement, please contact the Enforcement Branch at 904-232-3697.

1. Department of the Army Permit Number: SAJ-2020-01935 (GP-CGK)

2. Permittee Informa	ition:
Name:	
Address:	

3. Project Site Identification (physical location/address):

4. As-Built Certification: I hereby certify that the authorized work, including any mitigation required by Special Conditions to the permit, has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

Signature of Engineer	Name ( <i>Please type</i> )	
(FL, PR, or VI) Reg. Number	Company Name	
City	State	ZIP
(Affix Seal)		

Date	Telephone Number

Date Work Started:\_\_\_\_\_ Date Work Completed:\_\_\_\_\_

Identify any deviations from the approved permit drawings and/or special conditions (attach additional pages if necessary):

#### STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.

### **CAUTION: MANATEE HABITAT**

### All project vessels

## IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work all in-water activities must

# SHUT DOWN

Report any collision with or injury to a manatee:



Wildlife Alert: 1-888-404-FWCC(3922)

cell \*FWC or #FWC

#### U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion (JaxBO) Project Design Criteria (PDCs) for In-Water Activities

#### November 20, 2017

1) **(AP.7.) Education and Observation**: The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:

http://sero.nmfs.noaa.gov/protected\_resources/section\_7/threatened\_endangered/in dex.html

- 2) (AP.8.) Reporting of interactions with protected species:
  - a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to takereport.nmfsser@noaa.gov and SAJ-RD-Enforcement@usace.army.mil.
  - b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email Sawfish@MyFWC.com
  - c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email nmfs.ser.sturgeonnetwork@noaa.gov
  - d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
  - e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.
- 3) (AP.9.) Vessel Traffic and Construction Equipment: All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:
  - a) Construction Equipment.
    - All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
    - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
    - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of

construction equipment and shall not resume until the species has departed the area of its own volition.

- iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.
- b) All Vessels:
  - i) Sea turtles: Maintain a minimum distance of 150 ft.
  - ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
  - iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (http://www.fisheries.noaa.gov/pr/shipstrike/).
  - iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
  - v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
  - vi) When these animals are sighted while the vessel is underway (e.g., bowriding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
  - vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.
- 4) (AP.10.) Turbidity Control Measures during Construction: Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:
  - a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
  - b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
  - c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
  - d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
  - e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm

Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):

- Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
- ii) The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cableline). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.
- 5) **(AP.11.) Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.
  - a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible inwater lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
  - b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

Prepared by:
Permittee: \_\_\_\_\_\_
Address: \_\_\_\_\_

Phone:\_\_\_\_\_

#### NOTICE OF DEPARTMENT OF THE ARMY AUTHORIZATION

**TAKE NOTICE** the United States Army Corps of Engineers (Corps) has issued a permit or verification SAJ-2020-01935 to Adrian Stitts (Permittee) on September 10, 2020, authorizing work in navigable waters of the United States in accordance with Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403) on a parcel of land known as Folio/Parcel ID: \_\_\_\_\_\_

located at Lot 15A, South Ocean Boulevard, in Section 28, Township 46 South, Range 43 East, Highland Beach, Palm Beach County, Florida.

Within 30 days of any transfer of interest or control of said property, the Permittee must notify the Corps in writing of the property transfer by submitting the completed permit transfer page included with the issued permit or verification. The subject permit or verification concerns only that portion of the property determined to fall within the jurisdiction of the Corps and this notice is applicable only to those portions of the subject property in, over, under, or affecting navigable waters of the United States.

**Conditions of the Permit/Verification:** The permit or verification is subject to General Conditions and Special Conditions which may affect the use of the work authorized in Intracoastal Waterway. Accordingly, interested parties should closely examine the entire permit or verification, all associated applications, and any subsequent modifications.

To obtain a copy of the authorization in its entirety submit a written request to: U.S. Army Corps of Engineers Regulatory Division - Special Projects & Enforcement Branch Post Office Box 4970 Jacksonville, Florida 32232-0019

Questions regarding compliance with these conditions should be directed to: U.S. Army Corps of Engineers Enforcement Section Post Office Box 4970 Jacksonville, Florida 32232-0019

#### **Conflict Between Notice and Permit**

This Notice of Authorization is not a complete summary of the issued permit or verification. Provisions in this Notice of Permit shall not be used in interpreting the

permit or verification provisions. In the event of conflict between this Notice of Permit and the permit or verification, the permit or verification shall control.

# This Notice is Not an Encumbrance

This Notice is for informational purposes only. It is not intended to be a lien, encumbrance, or cloud on the title of the premises.

## Release

This Notice may not be released or removed from the public records without the prior written consent of the Corps.

This Notice of Authorization is executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_. This document is being submitted for recordation in the Public Records of Palm Beach County, Florida as part of the requirement imposed by the authorization SAJ-2020-01935 issued by Corps.

Permittee:

Address:

Phone:\_\_\_\_\_

STATE OF FLORIDA COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is personally known to me or has produced \_\_\_\_\_\_ as identification.

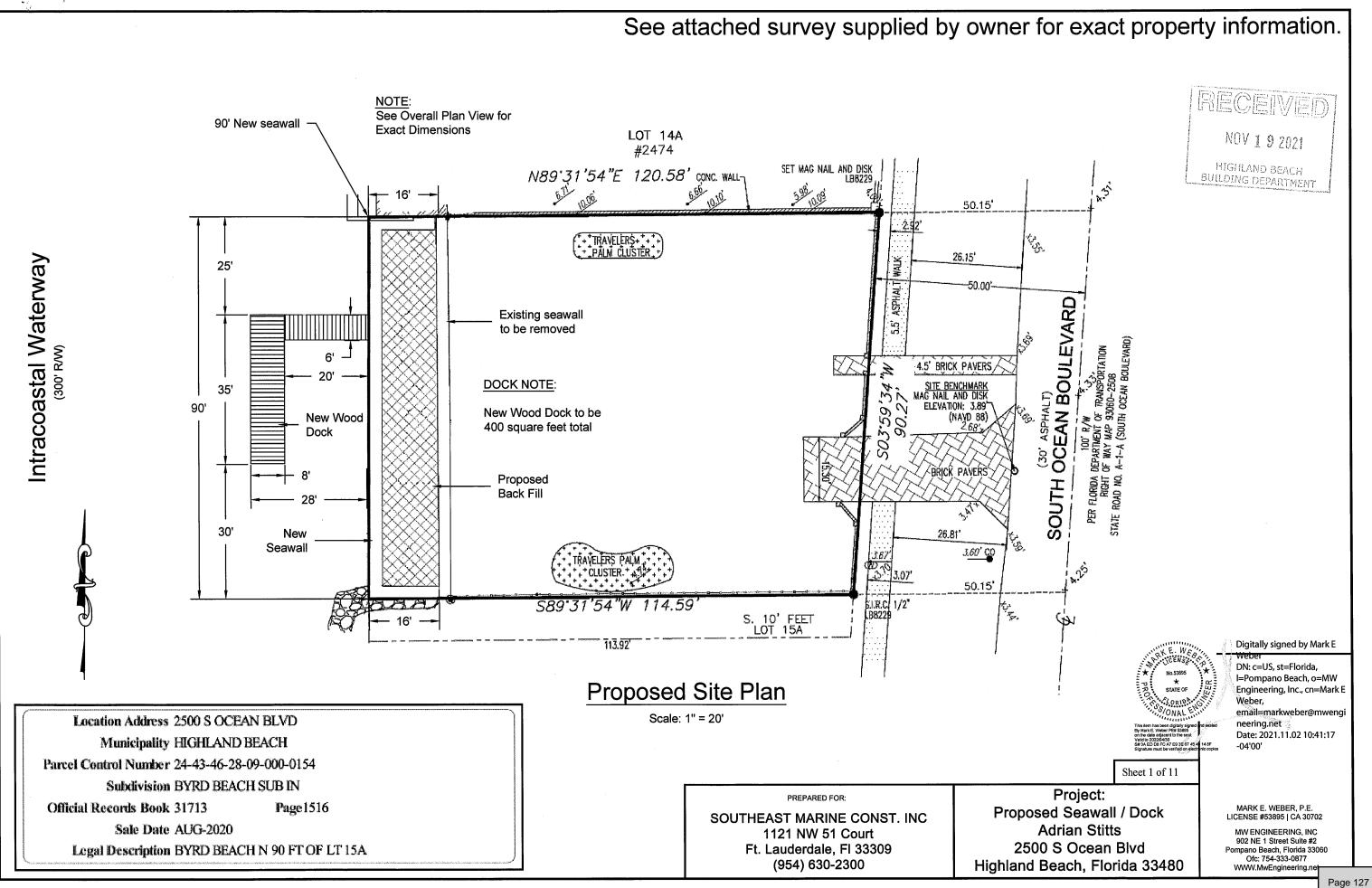
Notary Public

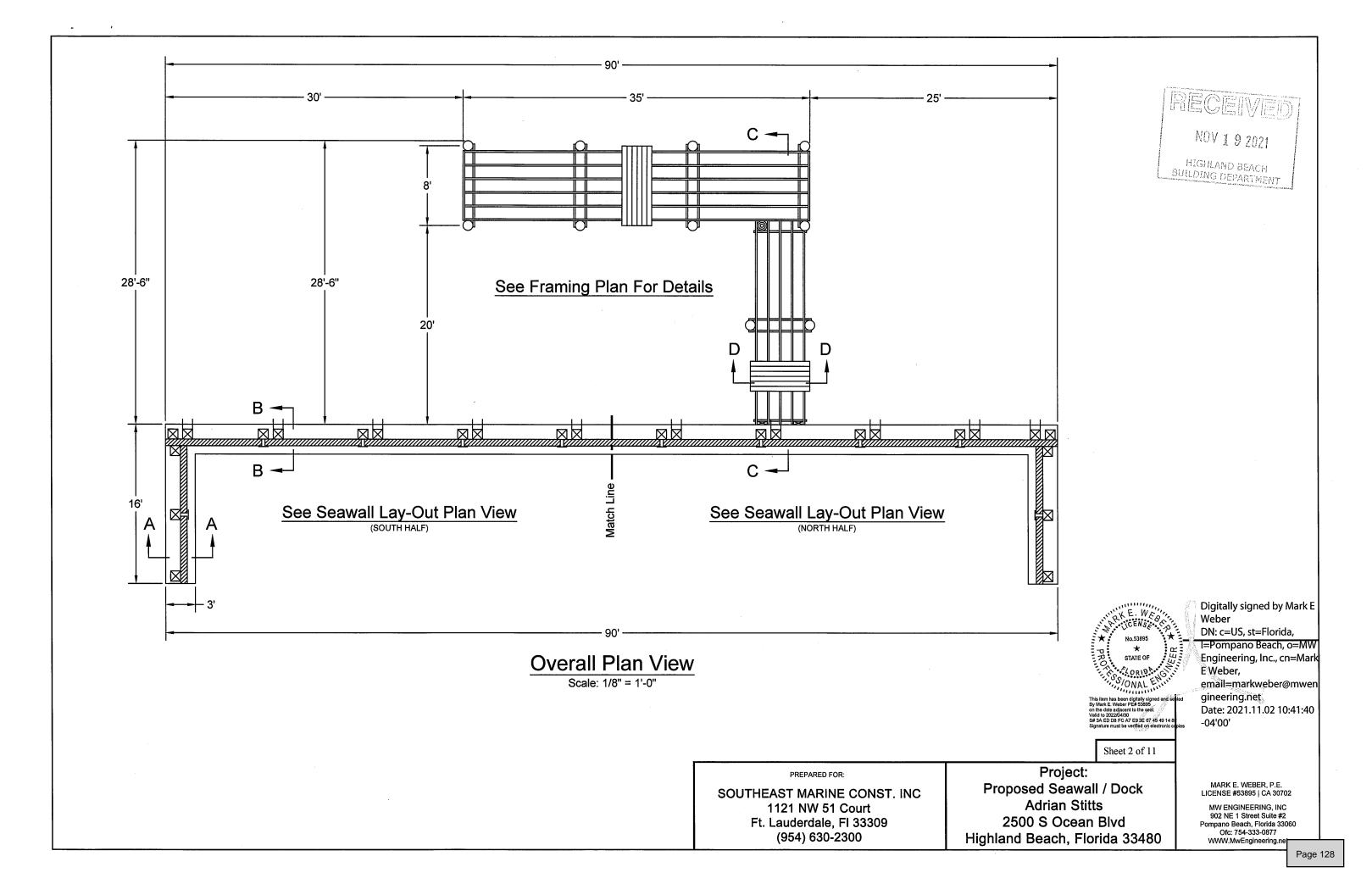
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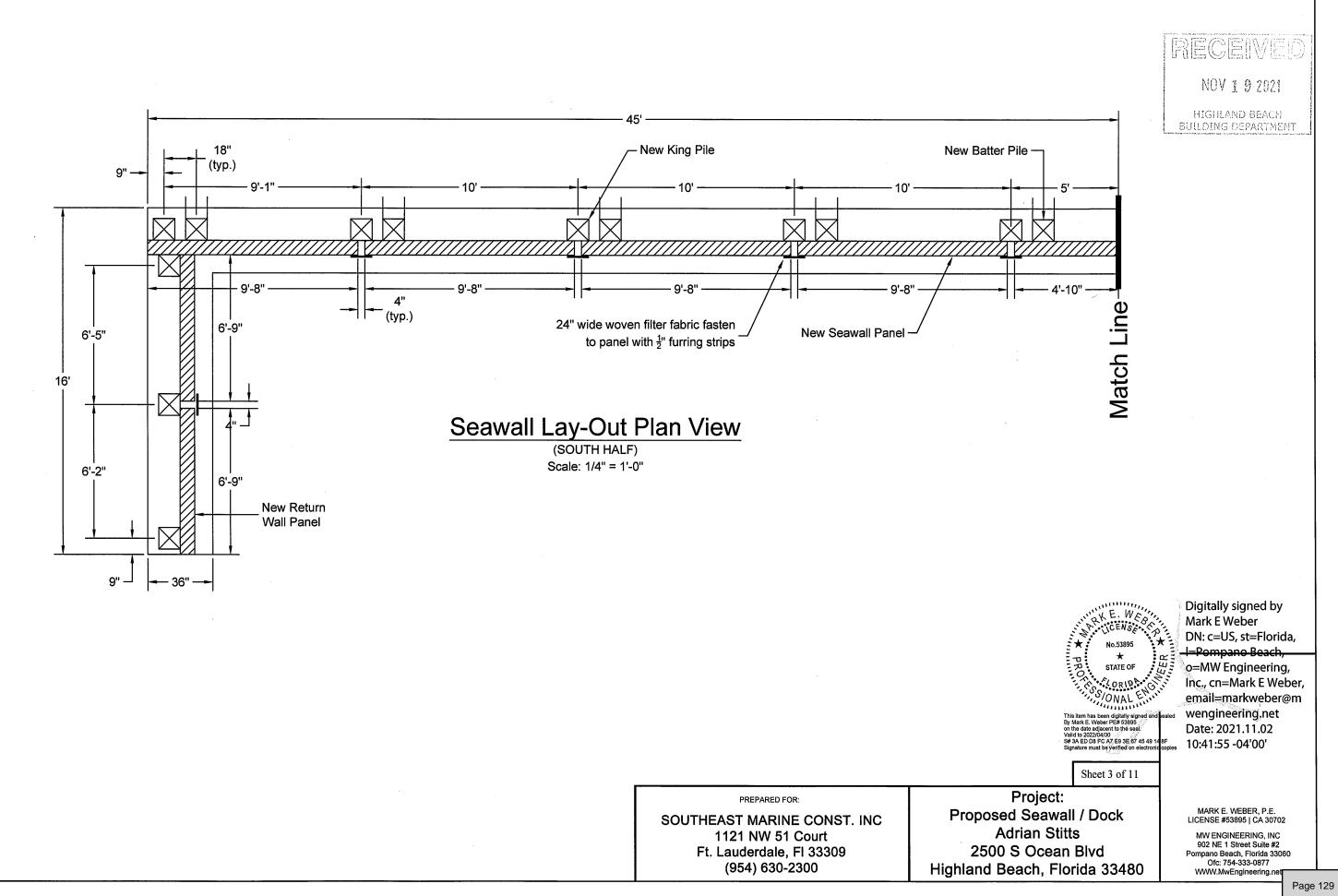
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My Commission Expires\_\_\_\_\_





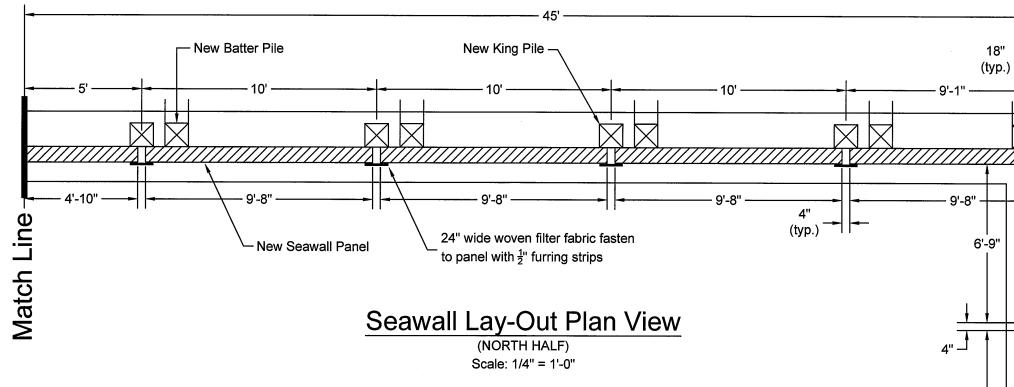




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PREPARED FOR:	
SOUTHEAST MARINE CONST. INC	Propos
1121 NW 51 Court	
Ft. Lauderdale, Fl 33309	2500
(954) 630-2300	Highland I



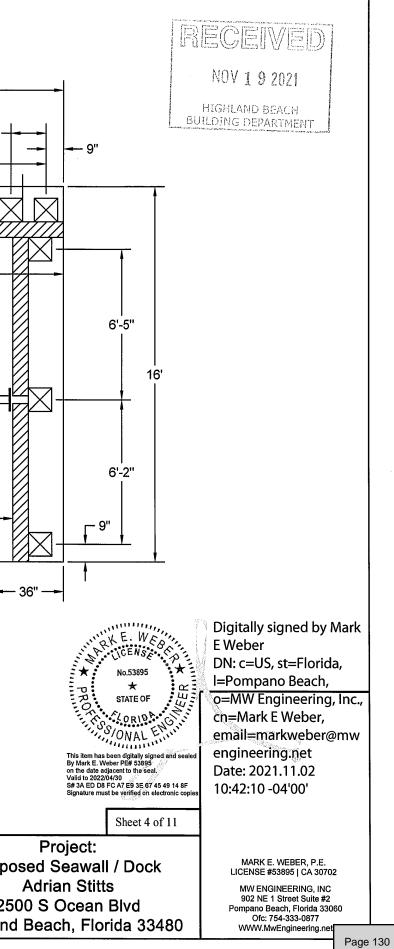
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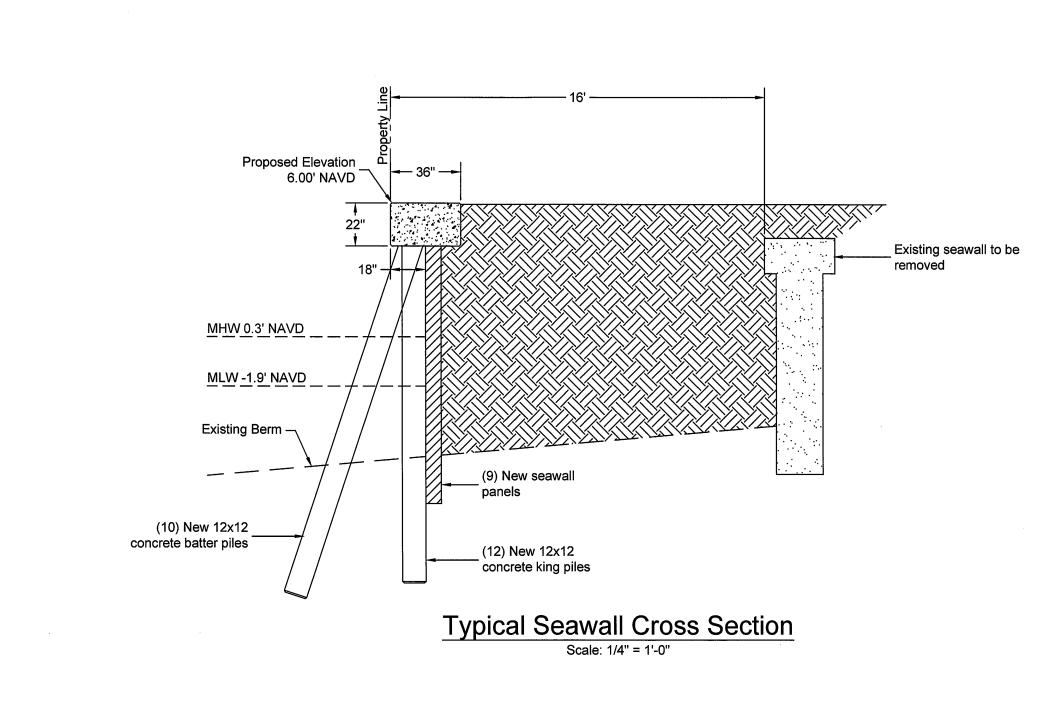
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New Return \_\_\_\_\_ Wall Panel

6'-9"

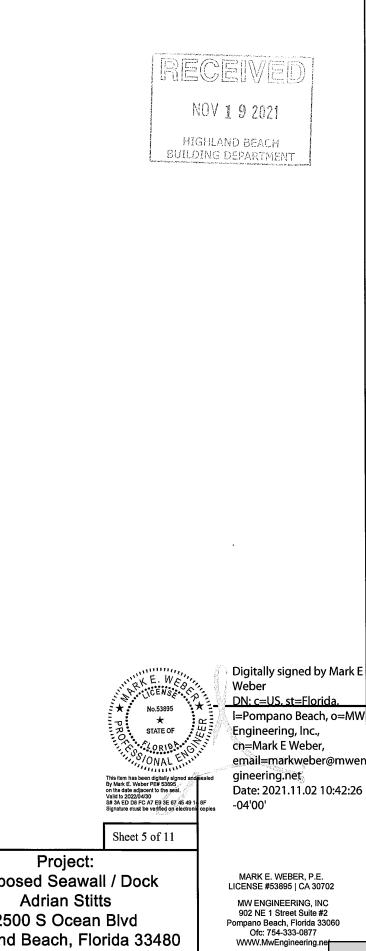
PREPARED FOR:	
SOUTHEAST MARINE CONST. INC	Prop
1121 NW 51 Court Ft. Lauderdale, Fl 33309	25
(954) 630-2300	Highlan



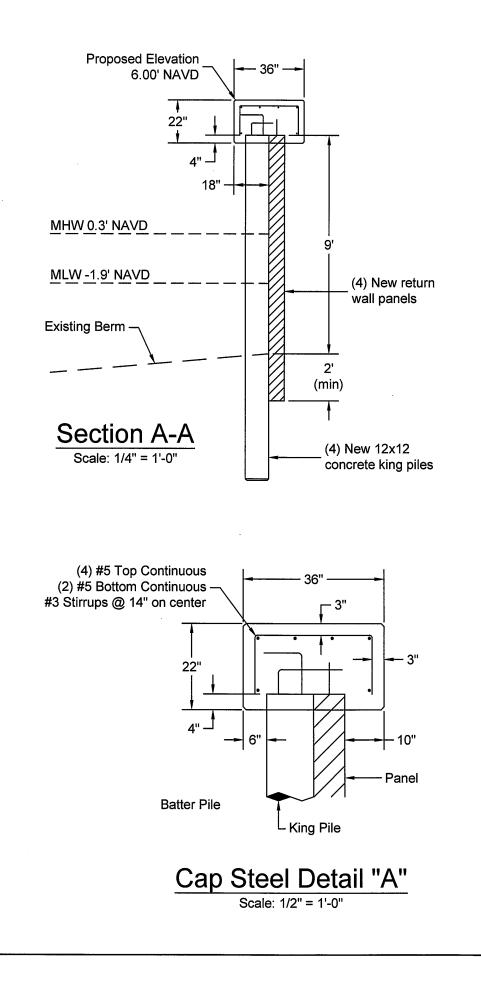


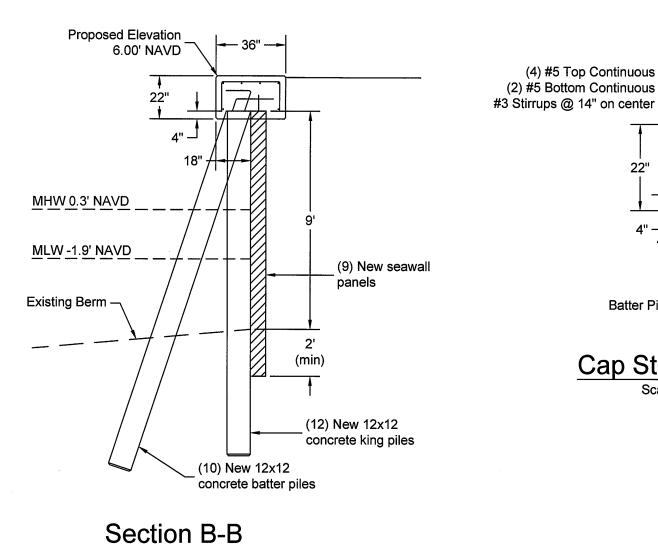
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PREPARED FOR:	
SOUTHEAST MARINE CONST. INC	Prop
1121 NW 51 Court	
Ft. Lauderdale, FI 33309	2
(954) 630-2300	Highlan



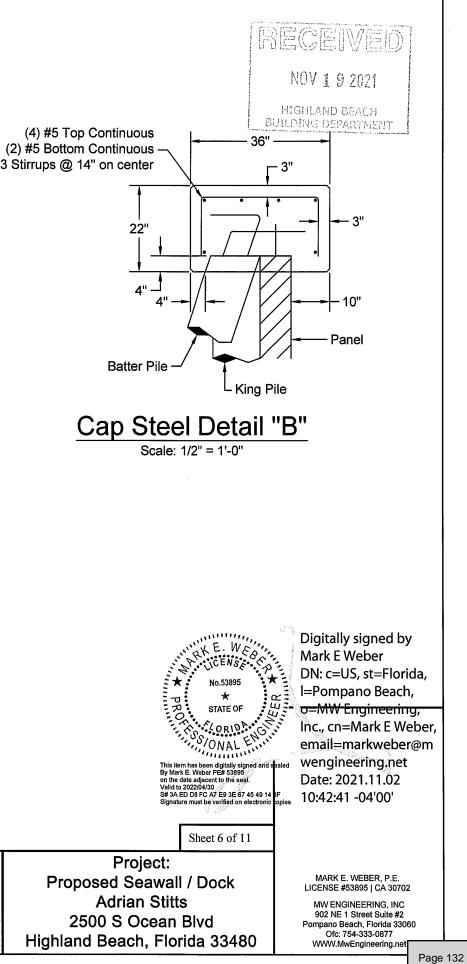


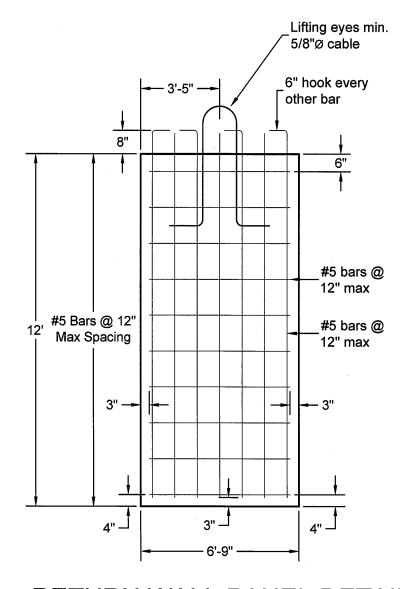




Scale: 1/4" = 1'-0"

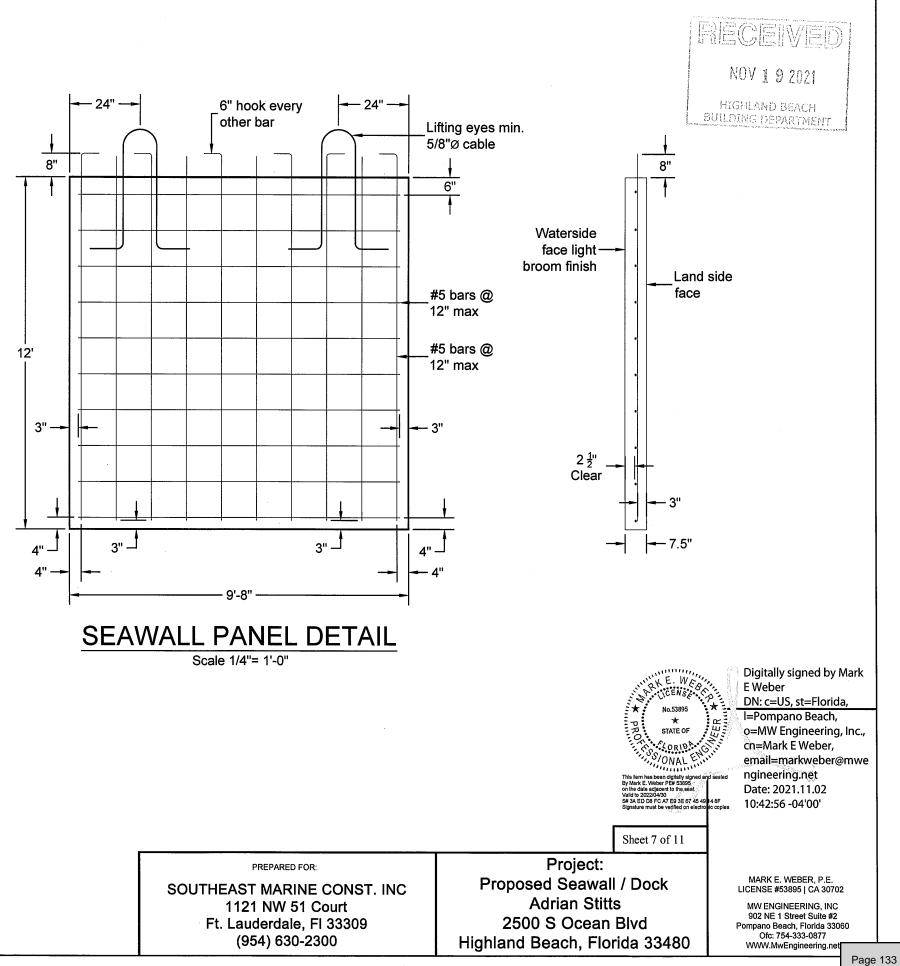
PREPARED FOR:	
SOUTHEAST MARINE CONST. INC	Pro
1121 NW 51 Court	
Ft. Lauderdale, Fl 33309	
(954) 630-2300	Highla
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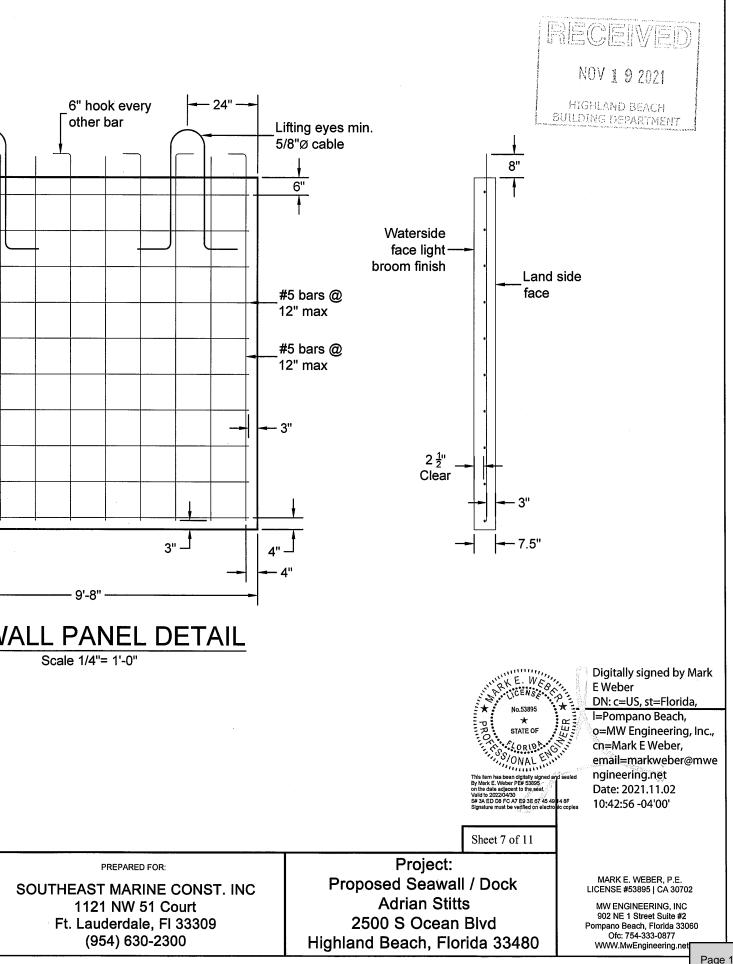




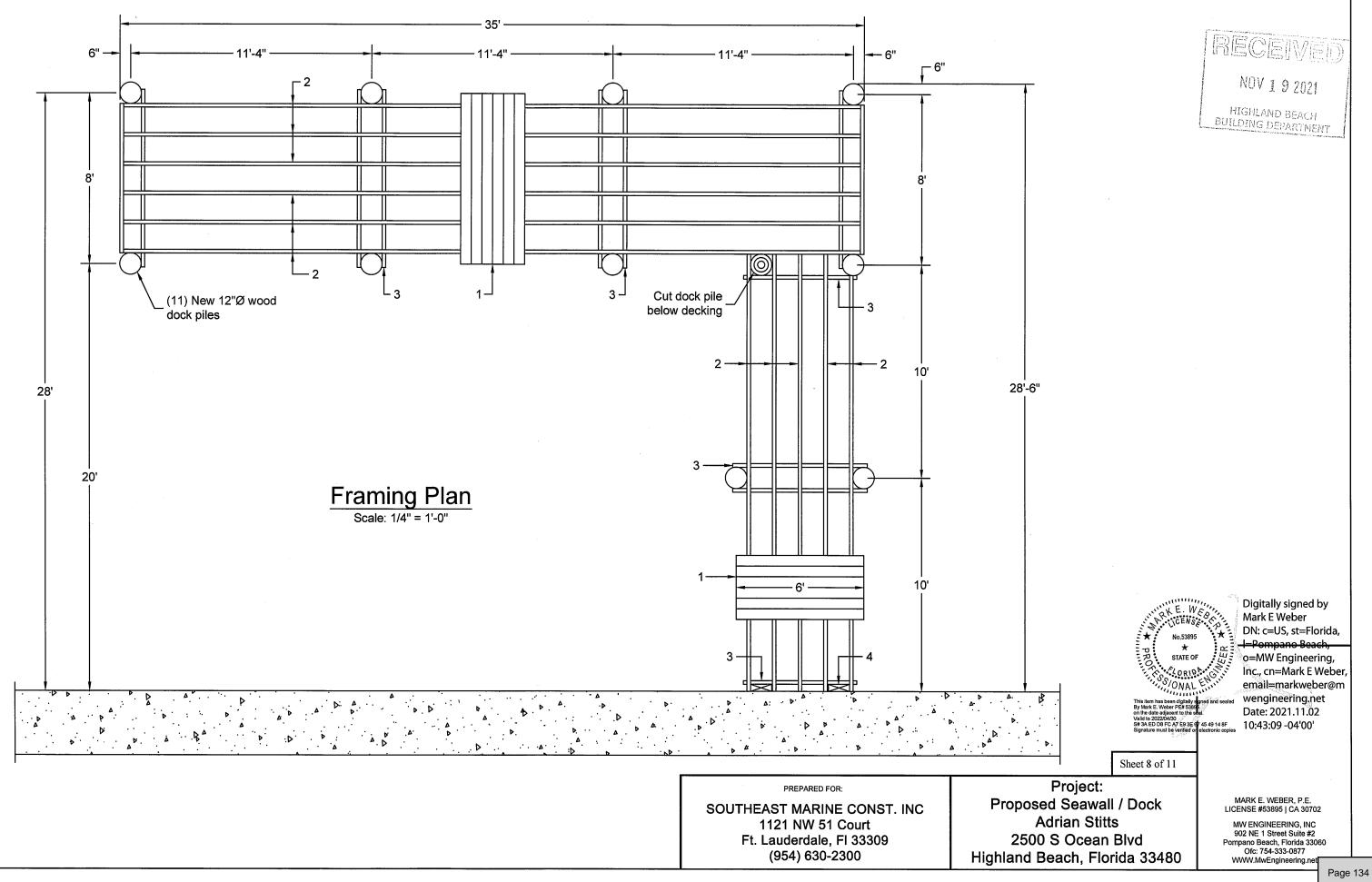
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# **RETURN WALL PANEL DETAIL** Scale 1/4"= 1'-0"

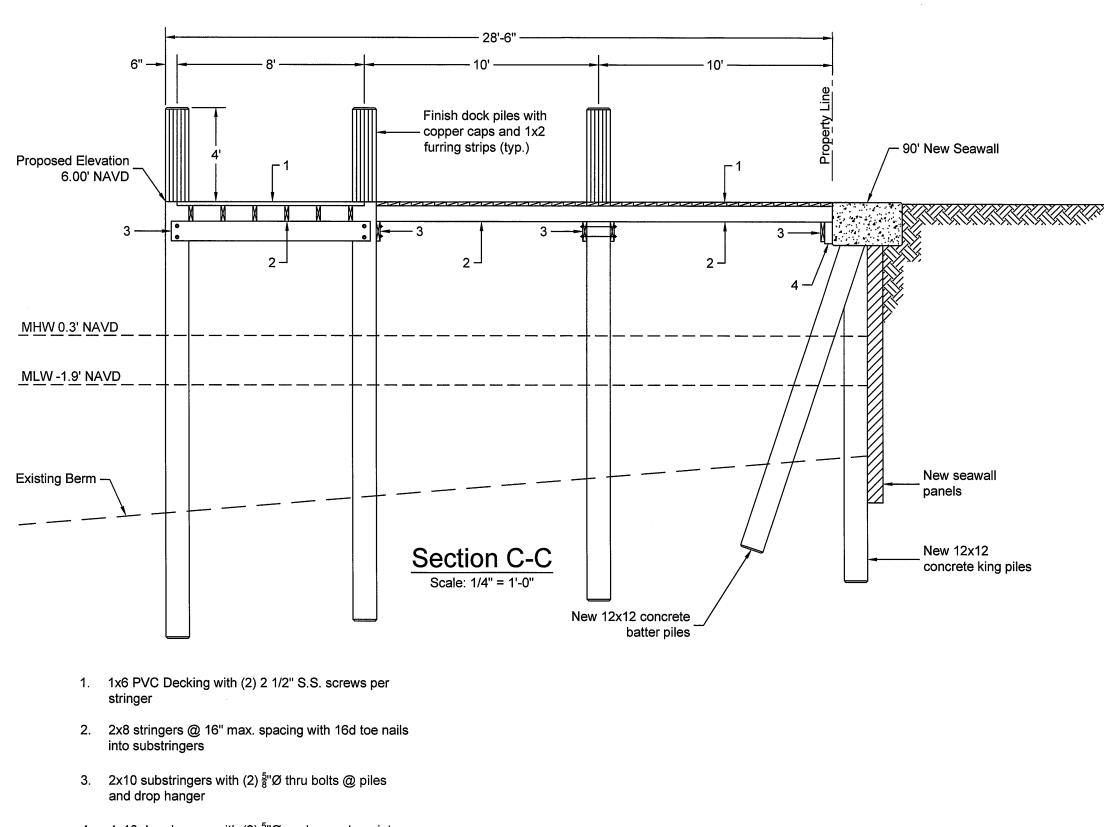












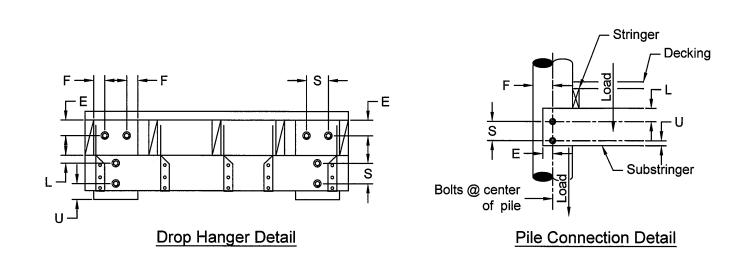
PREPARED FOR:	Project:
SOUTHEAST MARINE CONST. INC	Proposed Seawall / Dock
1121 NW 51 Court	Adrian Stitts
Ft. Lauderdale, FI 33309	2500 S Ocean Blvd
(954) 630-2300	Highland Beach, Florida 33480
(954) 830-2300	Highland Beach, Florida 33480

 4x10 drop hanger with (2) <sup>5</sup>/<sub>8</sub> @ wedge anchors into new seawall cap, min. 4" embedment



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Bolt Diameter	1/2"	5/8"	3/4"	1"
E = End Dist = 4D	2	2 1/2"	3	4
L = Edge Dist, Loaded = 4D	2	2 1/2"	3	4
S = Spacing = 4D	2	2 1/2"	3	4
U = Edge Dist, Unloaded = 1.5D	3/4	15/16	1 1/8	1 1/2

# Load Perpendicular To Grain (Substringers)

Bolt Diameter	1/2"	5/8"	3/4"	1"
E = End Dist = 4D	2	2 1/2"	3	4
F = Edge Dist, Loaded = 4D	2	2 1/2"	3	4
S = Spacing = 4D	. 2	2 1/2"	3	4

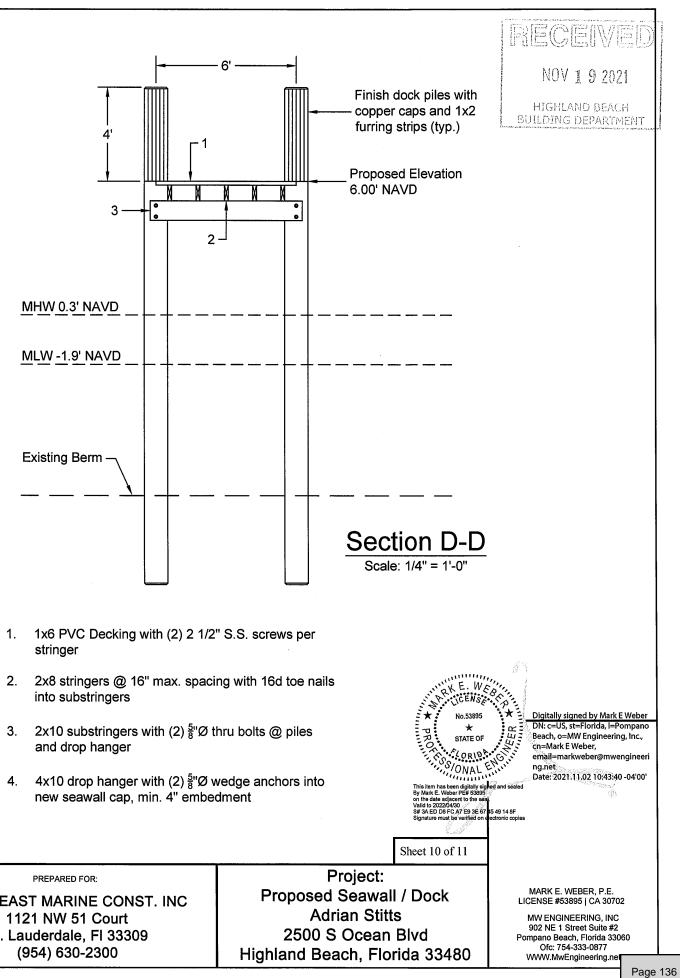
# Load Parallel To Grain (Piles)

Bolt Diameter	1/2"	5/8"	3/4"	1"
E = End Dist = 7D	3 1/2	4 3/8	5 1/4	7
F = Edge Dist, Loaded = 4D	2	2 1/2"	3	4
S = Spacing = 4D	2	2 1/2"	3	4

Load Parallel To Grain (Drop Hanger)

# NDS Bolt Spacing Requirements

(Tables 12.5.1A, 12.5.1B, 12.5.1C



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1121 NW 51 Court	
SOUTHEAST MARINE CONST. INC	Prope
PREPARED FOR:	_

### **GENERAL NOTES:**

- 1. Construction to follow the Florida Building Code 7th Edition (2020) and amendments as applicable and all Local, State and Federal Laws.
- 2. Licensed contractor shall verify the existing conditions prior to the commencement of the work. Any conflicts or omissions between existing conditions or the various elements of the working drawing shall be brought to the attention of the Engineer prior to the commencement of the work. The Licensed Contractor and all subcontractors are responsible for all lines, elevations, and measurements in connection with their work.
- 3. Do not scale drawings for dimensions.
- 4. Any deviation and/or substitution from the information provided herein shall be submitted to the Engineer for approval prior to commencement of work.
- 5. All unanticipated or unforeseen demolition and/or new construction conditions which require deviation from the plans and notes herein shall be reported to the Engineer prior to commencement of work.
- 6. All new work and/or materials shall conform to all requirements of each administrative body having jurisdiction in each appertaining circumstance.
- 7. All new materials and/or patchwork shall be provided to match existing materials and/or adjoining work where practical except as specifically noted herein.
- 8. Licensed Contractor to shall use all possible care to protect all existing materials, surfaces, and furnishings from damage during all phases of construction.
- 9. Licensed Contractor to verify location of existing utilities prior to commencing work.
- 10. The Licensed contractor to install and remove all shoring and bracing as required for the proper execution of the work.
- 11. Licensed Contractor to obtain all permits as necessary from all Local, State, and Federal agencies.
- 12. Turbidity barriers to be marked with site contractor's company name using permanent markings no smaller than 3 inches in height on the top of the barrier.

### PILE DRIVING:

- 1. Pile driving operations shall be observed by a special inspector, including test piles sufficient to determine the approximate length required to meet design capacity.
- 2. Piles shall be driven using an approved cushion block consisting of material so arranged so as to provide the transmission of hammer energy.
- 3. Piles shall be driven to required capacity (min. 10 tons) a minimum of 8' into berm or refusal.
- 4. Piles shall be driven with a drop hammer or gravity hammer provided the hammer shall weight no less than 3,000 pounds, and the fall of the hammer shall not exceed 6'.
- 5. Piles shall be driven with a variation of not more than  $\frac{1}{4}$  inch per foot from the vertical, or from the batter line indicated, with a maximum variation of the head of the pile from the position shown on the plans of not more than three inches.
- 6. Where piling must penetrate strata offering high resistance to driving, the structural engineer of record or special inspector may require that the piles be set in pre-drilled or punched holes. The piles shall reach their final penetration by driving.

### CONCRETE NOTES:

- 1. Concrete shall conform to ACI 318 (latest edition) and shall be regular weight, sulfate resistant, with a design strength of 5000 psi at 28 days with a maximum water-cementitious materials ratio, by weight aggregate concrete of 0.40.
- 2. Owner shall employ and pay for testing services from an independent testing laboratory for concrete sampling and testing in accordance with ASTM.
- 3. Licensed contractor is responsible for the adequacy of forms and shoring and for safe practice in their use and removal.
- 4. Concrete cover shall be 3" unless otherwise noted on the approved drawings.
- 5. Reinforcing steel shall be in conformance with the latest version of ASTM A615 Grade 60 specifications. All reinforcement shall be placed in accordance with ACI 315 and ACI Manual of Standard Practice.
- 6. Splices in reinforcing bars shall be not be less than 48 bar diameters and reinforcing shall be continuous around all corners and changes in direction. Continuity shall be provided at corners or changes in direction by bending the longitudinal steel around the corner 48 bar diameters.
- 7. Defective, cracked or loose concrete areas must be cut out, the rebar must be cleaned, coated with zinc and repaired with at least 3" of expoxy-concrete mix or gunnite concrete with sulfate-resistant cement.

### PILE NOTES:

- 1. Wood piles to be 2.5 lb. CCA treated in accordance with AWPA standard C18.
- 2. Wood piles shall be a minimum diameter of 10", Miami Dade County requires minimum diameter of 12".
- 3. Concrete piles shall attain 6000 psi compressive strength in 28 days.
- Concrete piles shall be reinforced with four <sup>7</sup>/<sub>16</sub> Ø lo-lax strands, 270 kips, and 5 ga. spiral ties.
- 5. Concrete piles shall be 12"x12" square, minimum length of 20'.
- 6. Concrete piles shall be cut to leave strands exposed a min. of 18" and tied to dock or cap steel or drill and epoxy (2) #5 8"x12" hook bars 6" into pile.

### WOOD DOCK NOTES:

- 1. All materials to be pressure treated pine unless otherwise noted.
- 2. All frame work materials to be Southern Pine Grade #1.
- 3. All Decking materials to be grade #1 unless otherwise noted.
- 4. All hardware to be Stainless Steel or Galvanized unless otherwise noted.

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(954) 630-2300	Highl

