

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

July 24, 2023

Regulatory Division South Branch Palm Beach Gardens Section SAJ-2007-01043 (NWP/GP-KMM)

Boca Highland Beach Club & Marina c/o Douglas Hillman 4801 South Ocean Boulevard Highland Beach, Florida 33487 Sent via email: kande@bocahighland.com and nutt3839@bellsouth.net

Dear Douglas Hillman:

The U.S. Army Corps of Engineers (Corps) has completed the review of your application for a Department of the Army permit, which the Corps received on December 6, 2022. Your application was assigned file number SAJ-2007-01043(NWP/GP-KMM). A review of the information and drawings provided indicates that the proposed work would improve water access and shoreline stabilization for an existing 6-slip multi-family docking facility by conducting the following activities:

1. Removal of a 636 square foot portion of existing marginal dock, removal of an existing mooring pile, and removal of an existing finger pier;

2. Installation of 257 linear feet of seawall 19-22" waterward of the existing wetface to adjoin and uniformly align the seawall with a seawall cap and installation of king and batter piles;

3. After installation of 257 linear feet of seawall, removal of a portion of 103 linear feet of seawall resulting in a reconfiguration of existing slips within the marina;

4. Proposed 310 cubic yards (830 square feet) of backfill landward of the seawall after seawall installation;

5. Installation of a 476 marginal dock, installation of a 30-foot by 4-foot finger pier;

6. Replace existing 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), and Section 404 of the Clean Water Act (33 U.S.C. § 1344). The project is located in the man-made basin directly connected to the Intracoastal Waterway, at 4801 S Ocean Blvd, in Section 09, Township 47 South, Range 43 East, Highland Beach, Palm Beach County, Florida.

The aspect of your project involving the installation of 257 linear feet seawall and cap, installation of king and batter piles and proposed 310 cubic yards of backfill as depicted

on the attached drawings, is authorized by Nationwide Permit 13 (NWP-13), Bank Stabilization. The aspect of your project involving the removal of 103 linear feet resulting in a reconfiguration of the existing marina basin and slips as depicted on the attached drawings, is authorized by Nationwide Permit 28 (NWP-28), Modification of Existing Marinas. **These verifications are valid until March 14, 2026**. In order for these NWPs authorizations to be valid, you must ensure that the work is performed in accordance with the Nationwide Permit General Conditions, the Jacksonville District Regional Conditions, and the General and Project-Specific Special Conditions listed below. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP 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 NWP. Alternatively, you can access the U.S. Army Corps of Engineers' (Corps) Jacksonville District's Regulatory Source Book web page for links to view NWP information at:

<u>https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book/</u>. Please be aware this Internet address is case sensitive and should be entered as it appears above. Once there you will need to select "Source Book" and then select "Nationwide Permits." These files contain the description of the NWP authorization, the NWP general conditions, and the regional conditions, which apply specifically to this NWP verification.

The aspect of your project involving the removal of the existing dock and piles, construction of the new marginal dock, installation of new docking structure and replacement of boatlift, as depicted on the attached drawings, is authorized by Regional General Permit (RGP) SAJ-20 and its subsequent modifications, if applicable. **This RGP authorization is valid until March 28, 2028**. Please access the Corps' Jacksonville District Regulatory Division Source Book webpage to view the special and general conditions for SAJ-20, which apply specifically to this authorization. The Internet URL address is: <u>http://www.saj.usace.army.mil/Missions/Regulatory.aspx</u>. Please be aware this Internet address is case sensitive and you will need to enter it exactly as it appears above. Once there select "Source Book" and then select "General Permits."

### You must comply with <u>ALL</u> the RGP general and special, attached and/or incorporated by reference, and the Project Specific Special Conditions and General Conditions, listed below, or you may be subject to enforcement action.

#### General Conditions (33 CFR PART 320-330):

1. The time limit for completing the work authorized by NWP-13 and NWP-28 ends on <u>March 14, 2026</u>. The time limit for completing the work authorized by RGP SAJ-20 ends on <u>March 28, 2028</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 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 on the transfer form attached to this letter and forward a copy 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.

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.

#### **Project Specific Special Conditions:**

The following project specific 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): SAJ-RD-Enforcement@usace.army.mil (not to exceed 15 MB).
  - b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, Florida 32232-0019.

The Permittee shall reference this permit number, SAJ-2007-01043 (NW/GP-KMM), on all submittals.

- 2. **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 2).
- 3. Self-Certification: Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the attached "Self-Certification Statement of Compliance" form (Attachment 3) and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the "Self-Certification Statement of Compliance" form. The description of any deviations on the "Self-Certification Statement of Compliance" form does not constitute approval of any deviations by the Corps.
- 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 "Standard Manatee Conditions for In-Water Work – 2011" (Attachment 4). The most recent version of the Manatee Conditions must be utilized.
- 6. Jacksonville District Programmatic Biological Opinion (JAXBO): Structures and activities authorized under this permit will be constructed and operated in accordance with all applicable PDCs contained in the JAXBO, based on the permitted activity. Johnson's seagrass and its critical habitat were delisted from the Endangered Species Act on May 16, 2022. Therefore, JAXBO PDCs required to minimize adverse effects to Johnson's seagrass and its critical habitat are no longer applicable to any project. Failure to comply with applicable PDCs will constitute noncompliance with this permit. In addition, failure to comply with the applicable PDCs, where a take of listed species occurs, would constitute an unauthorized take. The NMFS is the appropriate authority to determine compliance with the Endangered Species Act. The most current version of JAXBO can be accessed at the Jacksonville District Regulatory Division website in the Endangered Species section of the Sourcebook located at: <a href="http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx">http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx</a>

JAXBO may be subject to revision at any time. The most recent version of the JAXBO must be utilized during the design and construction of the permitted work.

7. **Turbidity Barriers:** Prior to the initiation of any of the work authorized by this permit, the Permittee shall install floating turbidity barriers with weighted skirts that extend within 1 foot of the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers shall remain in place and be maintained daily until the authorized work has been completed and turbidity within the construction area has returned to ambient levels. Turbidity barriers shall be removed upon stabilization of the work area.

#### 8. 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 permitted activities, items that may have historic or archaeological origin are observed the Permittee shall immediately cease all activities adjacent to the discovery that may result in the destruction of these resources and shall prevent his/her employees from further removing, or otherwise damaging, such resources. The applicant shall notify both the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850)-245-6333 and the Corps, of the observations within the same business day (8 hours). Examples of submerged historical, archaeological or cultural resources include shipwrecks, shipwreck debris fields (such as steam engine parts, or wood planks and beams), anchors, ballast rock, concreted iron objects, concentrations of coal, prehistoric watercraft (such as log "dugouts"), and other evidence of human activity. The materials may be deeply buried in sediment, resting in shallow sediments or above them, or protruding into water. The Corps shall coordinate with the Florida State Historic Preservation Officer (SHPO) to assess the significance of the discovery and devise appropriate actions. Project activities shall not resume without verbal and/or written authorization from the Corps.
- 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 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 jurisdiction, and from the Corps.

- d. In the unlikely event that unmarked human remains are identified on nonfederal 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 Archaeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO. 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 SHPO and from the Corps.
- 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.

#### Jurisdictional Determination:

A jurisdiction determination was not completed with this request. Therefore, this is not an appealable action. However, you may request an approved JD, which is an appealable action, by contacting the Corps for further instruction.

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.

This letter of authorization does not preclude the necessity to obtain any other Federal, State, or local permits, which may be required.

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>https://regulatory.ops.usace.army.mil/customer-service-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.

Should you have any questions related to this NWP/RGP verification or have issues accessing the documents referenced in this letter, please contact Kaitlyn Mallett at the letterhead address above, via telephone at 561-545-4885, or via e-mail at Kaitlyn.M.Mallett@usace.army.mil.

Sincerely,

Kaitlyn Mallett

Kaitlyn Mallett Project Manager

Enclosures Project Drawings Commencement Notification form Self-Certification Statement of Compliance form Standard Manatee Conditions for In-Water Work—2011

Cc:

Matthew Butler, Isiminger & Stubbs Engineering mbutler@coastal-engineers.com

#### DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST

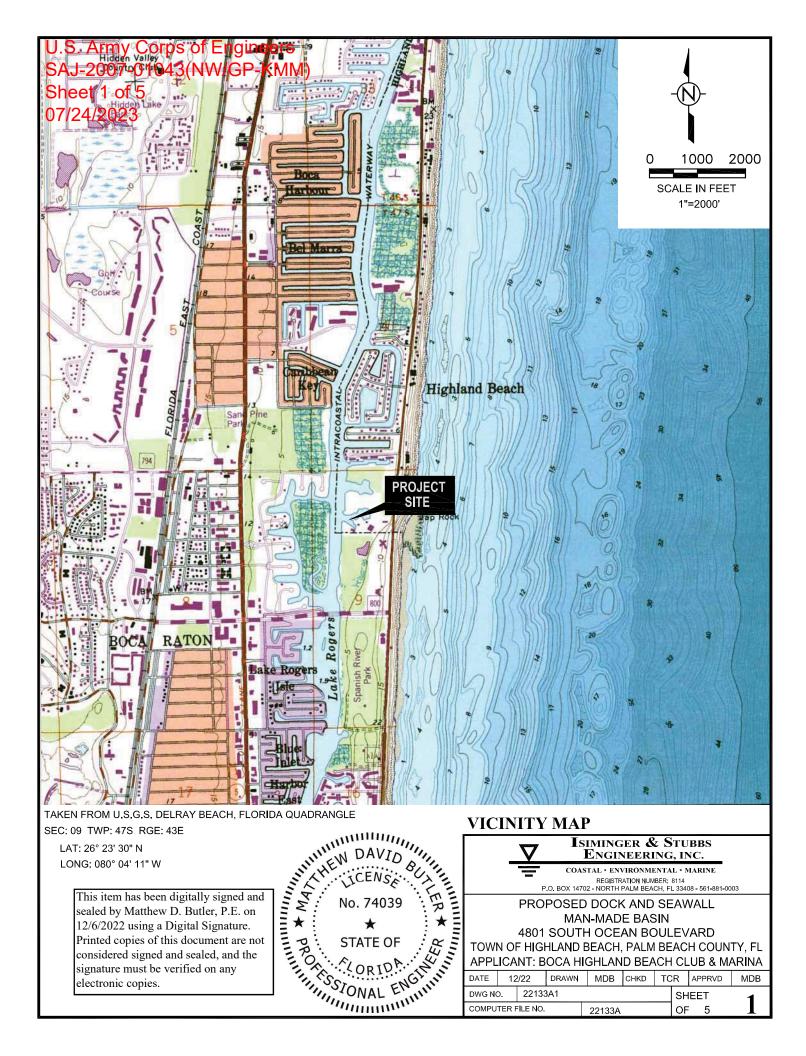
#### DA PERMIT NUMBER: SAJ-2007-01043(NW/GP-KMM)

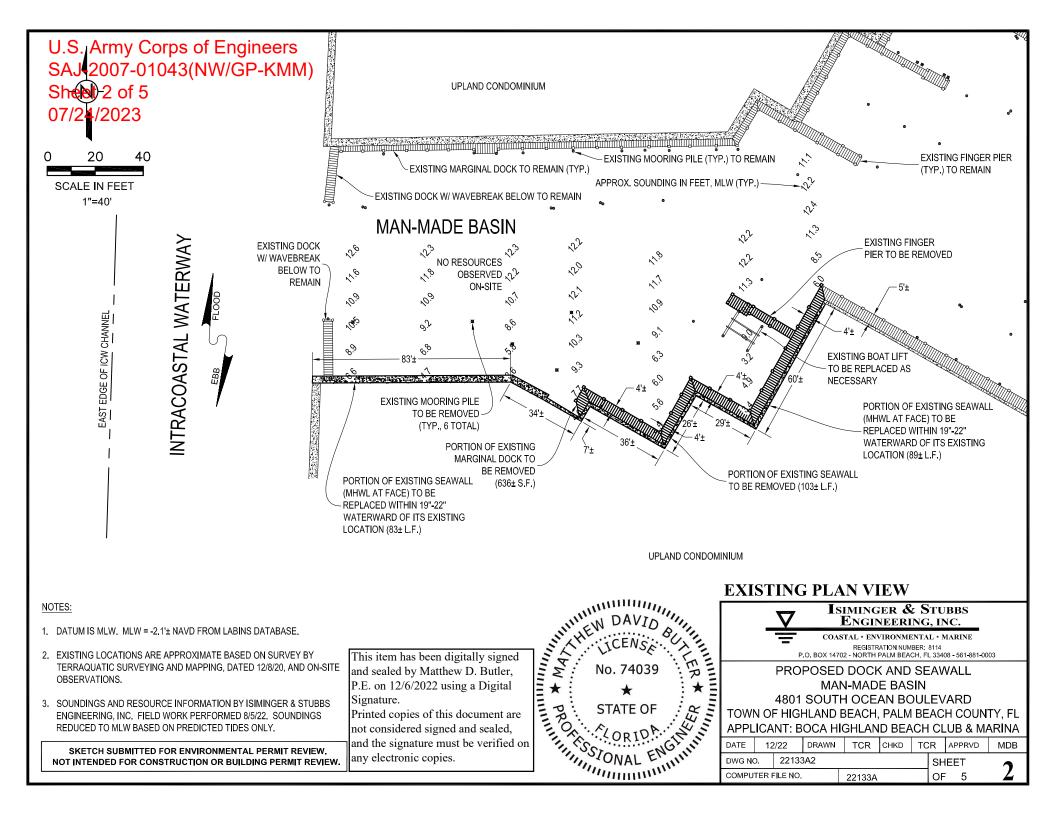
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. <u>Although the construction period for works authorized by Department of the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

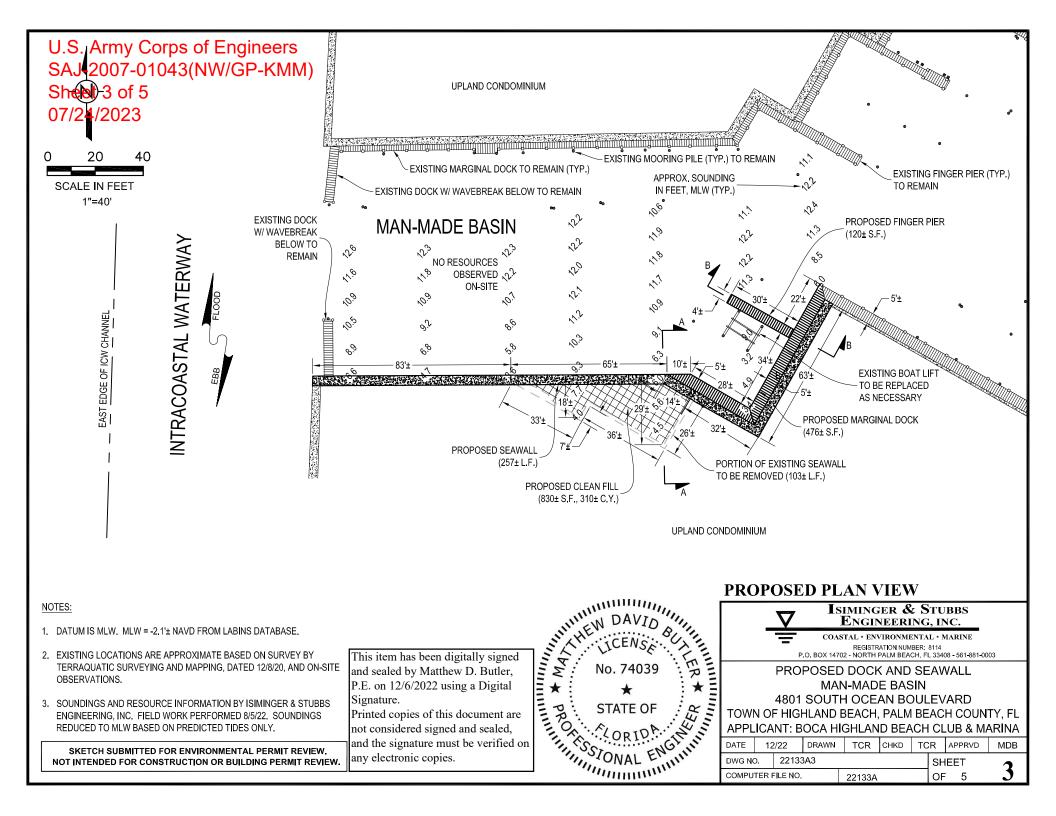
To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Section, Post Office Box 4970, Jacksonville, FL 32232-0019 or submit via electronic mail to: <u>SAJ-RD-Enforcement@usace.army.mil</u> (not to exceed 15 MB).

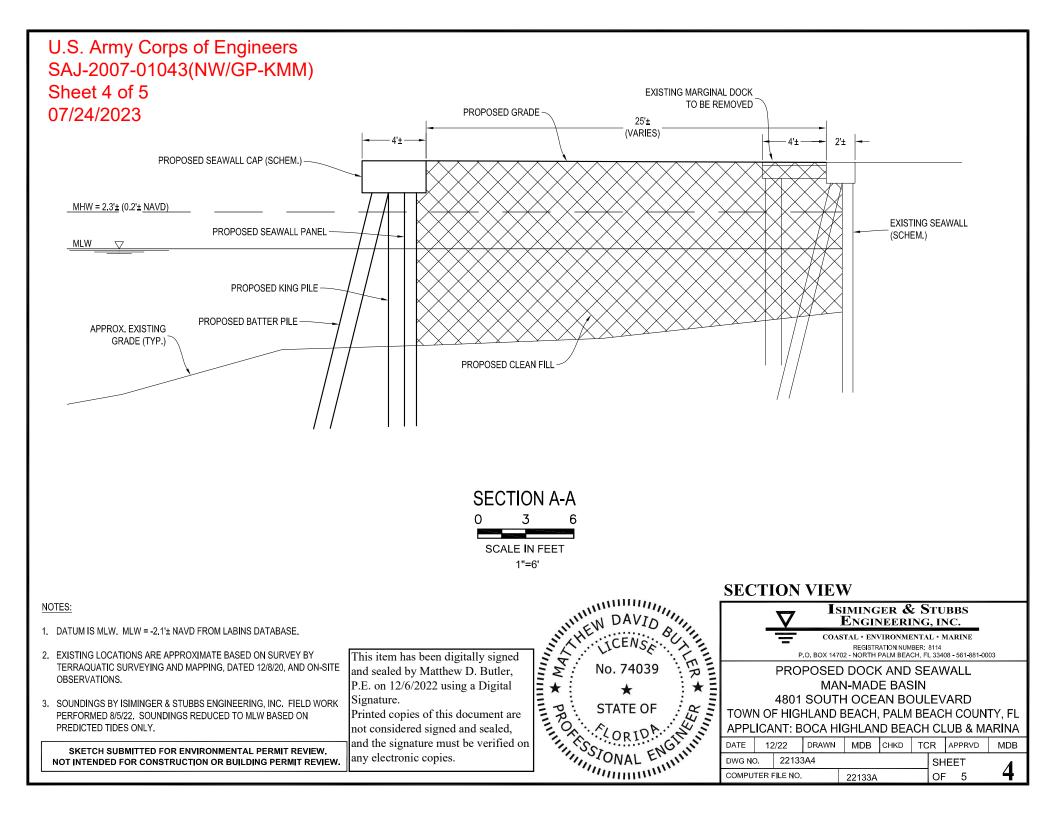
(TRANSFEREE-SIGNATURE)	(SUBDIV	(SUBDIVISION)			
(DATE)	(LOT)	(BLOCK)			
(NAME-PRINTED)	(STREET	(STREET ADDRESS)			
(MAILING ADDRESS)					

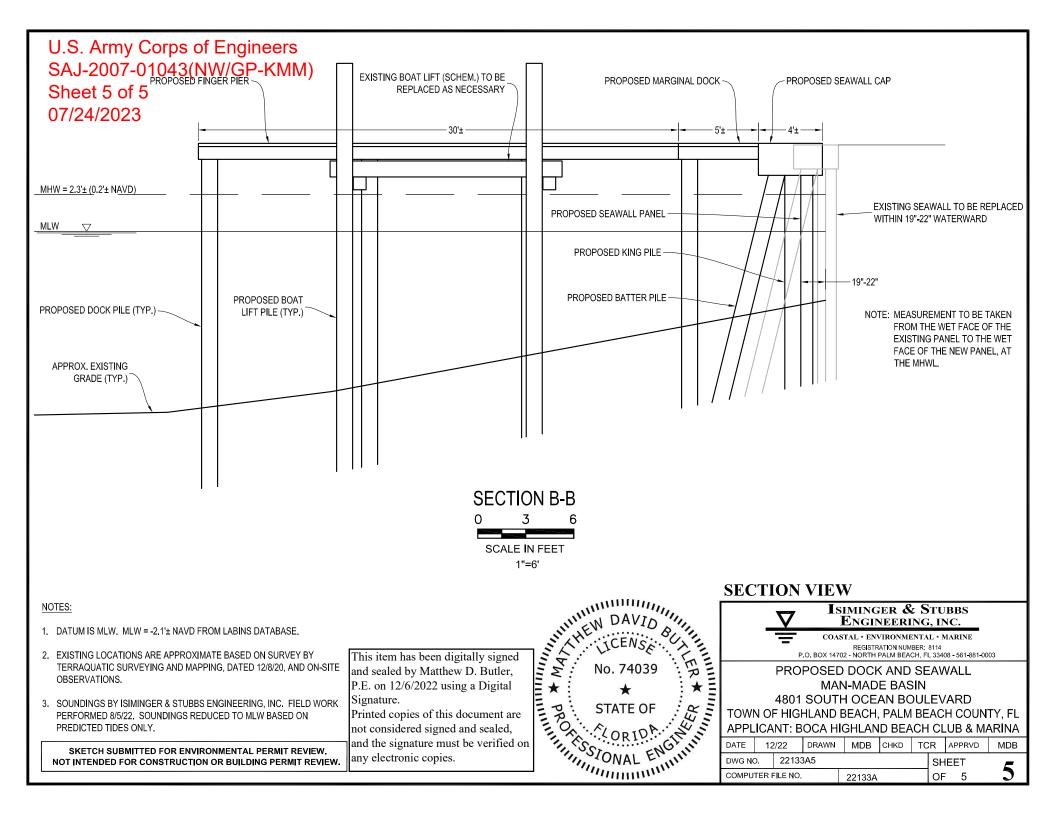
(CITY, STATE, ZIP CODE)











#### **COMMENCEMENT NOTIFICATION**

Within ten (10) days of initiating the authorized work, submit this form to via electronic mail to saj-rd-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 t	ne Army Permit Number: SAJ-	-	(	-	)				
2. Permittee Information:									
Name:									
Email:									
Address:									
Phone:									
3. Construction Start Date:									
3. Construction St	art Date:								
<ol> <li>Construction St</li> <li>Contact to Sche</li> </ol>									
4. Contact to Sche	dule Inspection:								
4. Contact to Scherer Name:	dule Inspection:								
4. Contact to Scher Name: Email:	dule Inspection:								

Printed Name of Permittee

Date

#### SELF-CERTIFICATION STATEMENT OF COMPLIANCE

<u>sa</u>	ithin sixty (60) days of com i <u>-rd-enforcement@usace.a</u>	<u>rmy.mil</u> (prefei	rred) <u>or</u> by st	andard mail	to U.S. A	Army Corps of			
Er	igineers, Enforcement Sect	ion, P.O. Box	4970, Jackso	onville, FL 3	2232-00	19.			
1.	1. Department of the Army Permit Number: SAJ ( - )								
2.	Permittee Information:	Name:							
		Email:							
		Address:							
		Phone:							
3.	Date Authorized Work S								
	Contact to Schedule Ins								
		Em	ail:						
	ocks, dredging, etc.): Acreage or Square Feet								
	Describe Mitigation con								
			. (anaon ana						
an	ertify that all work, and mit d conditions as described e attached drawing(s).	tigation (if app	licable) was	done in acc					
			Signature	of Permitte	e				

Printed Name of Permittee

#### 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