

RETURN to:
City Attorney's Office
200 N.W. 1st Avenue
Delray Beach, FL 33444

PCN: 20-43-46-09-43-000-0090
Address: 2002 Pelican Lane, Gulfstream

HOLD HARMLESS AND MAINTENANCE AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2025 by and between the City of Delray Beach, a Florida municipal corporation of the State of Florida (the "City"), whose address is 100 NW 1st Avenue, Delray Beach, Florida 33444, and Sarah M. Barker ("Owner"), whose address is 2002 Pelican Lane, Gulf Stream, Florida 33483.

W I T N E S S E T H:

WHEREAS, the City owns the submerged yacht basin located between Pelican Lane, Gulfstream, Florida, and George Bush Boulevard, Delray Beach, Florida, bearing Property Control Number 20-43-46-09-43-000-0090 ("Yacht Basin"); and

WHEREAS, the Owner is the fee simple owner of a parcel of land abutting the Yacht Basin at 2002 Pelican Lane, Gulfstream, Florida 33483 (the "Property"), as more particularly described in Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, the Property is located within the municipal boundaries of the Town of Gulfstream, Florida ("Town"); and

WHEREAS, the Owner, or her predecessors, installed a seawall and dock (the "Improvements") within the Yacht Basin; and

WHEREAS, the Owner submitted a permit application to the Town for the replacement of the existing seawall; and

WHEREAS, the Owner seeks to install the new seawall in the same location as the Improvements, pursuant to the terms of this Agreement; and

WHEREAS, this Agreement shall in no way be deemed an actual, constructive, or any other type of abandonment of the Yacht Basin by the City; and

WHEREAS, the Parties hereto mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The Parties hereby represent and warrant that the above recitals are accurate and correct and hereby incorporate them in this Agreement.

2. At all times hereto, the Owner shall own and maintain the Improvements installed in the Yacht Basin.

3. The Owner shall submit an application to the Town for the installation, construction, maintenance, repair, or removal of the Improvements as depicted in Exhibit "B", attached hereto and incorporated herein.

4. The Owner shall contemporaneously submit an application to the City for a permit for the portion of the Improvements lying within the Yacht Basin as depicted in Exhibit "B".

5. The Owner acknowledges the City shall assume no liability or responsibility for the Improvements, and Owner shall be solely responsible for the installation, construction, maintenance, repair, or removal of the Improvements, including, but not limited to, the costs of any materials and labor. The City shall have no liability or responsibility for any future partial or complete destruction or removal of the Improvements. The Owner shall further be responsible for obtaining all permits and approvals from all applicable governmental agencies to complete any required future maintenance, repair, or removal of the Improvements. In the event the Owner is required to submit a permit application to the Town for future maintenance, repair, or removal, so long as the Improvements are identical to or smaller than the Improvements as shown in Exhibit "B", the Owner does not need to seek permission from the City prior to submitting an application to the Town. However, if the proposed Improvements within the Yacht Basin are larger or utilize a different material than the Improvements shown in Exhibit "B", the Owner must obtain the City's permission prior to submitting an application to the Town.

6. Owner shall construct and install the Improvements in the locations and manner depicted in Exhibit "B". Owner shall supervise and direct the installation, construction, maintenance, repair, or removal of the Improvements and related restorative work, applying such skills and expertise as may be necessary to perform the work in accordance with the approved plans. Owner shall be solely responsible for the means, methods, techniques, sequences, and procedures of the installation, construction, maintenance, repair, or removal of the Improvements. The Owner shall, at a minimum, maintain the Improvements in a safe and aesthetically pleasing

condition, repairing or replacing any portion of the Improvements that fall below any applicable standards.

7. If at any time after the execution of this Agreement by the Owner, it shall come to the attention of the City that the Improvements are not properly maintained pursuant to the terms and conditions of this Agreement then the City may, at its option, issue a written notice that a deficiency or deficiencies exist, by sending a certified letter to the Owner. Thereafter, the Owner shall have a period of 30 days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the City may, at its option, maintain or repair the Improvements or part thereof and invoice the Owner for expenses incurred. If Owner fails to pay the invoice within 30 days, the City is authorized to record a lien on the Property, which is subject to foreclosure. Owner specifically waives any homestead rights and protections as to any such lien.

8. Owner agrees to hold the City, its officers, agents, employees, servants, designees, and appointees harmless for any damage to the Improvements caused by the City in the regular course of the City's maintenance responsibilities of the Yacht Basin and any use of the Yacht Basin by the City or the public. It is understood that any cost for replacement or repair of the Improvements shall be the Owner's responsibility, and the City will not be held liable for any damage to the Improvements.

9. If, for any reason, the City requires the use of the Yacht Basin for a public purpose, the City may terminate this Agreement, and the Owner shall be required to remove the Improvements at her own expense. Owner shall remove all Improvements from the Yacht Basin within 120 days of such notification.

10. Owner shall at all times hereafter indemnify, hold harmless and, at the City's option, defend or pay for an attorney selected by the City Attorney to defend the City, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional or negligent act of, or omission of, Owner, her employees, agents, servants, contractors, subcontractors, sub-subcontractors, officers, or anyone under her control, or accruing, resulting from, or related to the Improvements or the subject matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against City by

reason of any such claim, cause of action, or demand, Owner shall, upon written notice from City, resist and defend such lawsuit or proceeding by counsel satisfactory to City or, at City's option, pay for an attorney selected by City Attorney to defend City. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement. If Owner uses a contractor, subcontractor, or sub-subcontractor, Owner shall, by written contract, require its contractors, subcontractors, or sub-subcontractors to agree to the requirements and obligations of this Paragraph 10.

11. Any contractor, subcontractor, or sub-subcontractor hired by the Owner to install, construct, maintain, repair, or remove the Improvements shall, prior to beginning any such activities, maintain insurance coverage in accordance with the terms and conditions below.

- a. Such policy or policies shall be without any deductible amount and shall be issued by approved companies authorized to do business in the State of Florida, with an AM Best financial rating of A- or better. Owner shall pay all deductible amounts, if any. The policy or policies shall specifically protect the City by naming the City as an additional insured under the Commercial Liability Policy as well as on any Excess Liability Policy coverage. The official title of the certificate holder is City of Delray Beach, Florida. This official title shall be used in all insurance documentation.
- b. Commercial Liability Insurance. A Commercial Liability Insurance Policy shall be provided with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and shall contain minimum limits of One Million Dollars (\$1,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial Liability Policy as filed by the Insurance Services Office without restrictive endorsements excluding or limiting coverage for:
 - Premises and/or operations.
 - Explosion, Collapse and Underground Hazards.
 - Independent contractors.
 - Products and/or Completed Operations for contracts.

- Broad Form Contractual Coverage applicable to this specific Agreement, including any hold harmless and/or indemnification provisions.
 - Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.
- c. Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in the minimum amount required by Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the State of Florida, and all applicable federal laws.
- d. Coverage is not to cease and is to remain in force until all installation, construction, maintenance, repair, or removal activities have been completed. All policies must be endorsed to provide City with notice of expiration, cancellation and/or restriction. If any of the insurance coverage will expire prior to the completion of the work, copies of renewal policies shall be furnished upon expiration.
- e. Owner shall furnish to City proof of insurance such as Certificate of Insurance and endorsements, Declarations pages or policies evidencing the insurance coverage specified by this Paragraph 10 at least fifteen (15) calendar days prior to beginning any installation, construction, maintenance, repair, or removal activities.

12. This Agreement shall constitute the entire Agreement of the Parties with respect to the subject matter of it. All prior understandings and agreements between the Parties with respect to such matters are merged into this Agreement, which alone fully and completely expresses their understanding.

13. Upon conveyance of the Property to any future owner, this Agreement shall be deemed automatically assigned by the Owner to any such future owner(s) of the Property, and such future owner(s) shall be deemed to have assumed all the Owner's obligations hereunder. This Agreement may not otherwise be assigned or transferred by the Owner, in whole or part, without the written consent of the City.

14. This Agreement shall be binding on the Parties, their respective heirs, successors, legal representatives, and permitted assigns and shall be recorded in the Public Records of Palm Beach County and shall run with the land.

15. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Fifteenth Judicial Circuit in Palm Beach County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this Agreement, or interpret same, or if any administrative proceeding is brought for the same purposes, each party shall pay their own attorney's fees and costs, including appellate fees and costs. **BY ENTERING INTO THIS AGREEMENT, LICENSEE AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

16. Any notice or communication under this Agreement shall be in writing and may be given by registered or certified mail. If given by registered or certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid. If given otherwise, then by registered or certified mail, it should be deemed to have been given when delivered to and received by the party to whom it is addressed. The notices and communication shall be given to the particular parties at the following addresses:

City: City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

Owner: Sarah Barker
2002 Pelican Lane
Gulf Stream, Florida 33483

Either party may, at any time by giving ten (10) days' written notice, designate any other person or entity or any other address in substitution of the foregoing to which the notice or communication shall be given.

IN WITNESS WHEREOF, said Owner has signed and sealed these presents the day and year first above written.

WITNESSES:

Kathy Barker
Signature

Kathy Barker
Name

6106 Black Trl Ct, Louisville Ky 40258
Address

Jennifer Roberts
Signature

Jennifer Roberts
Name

12811 High Meadows Pike Prospect KY 40059
Address

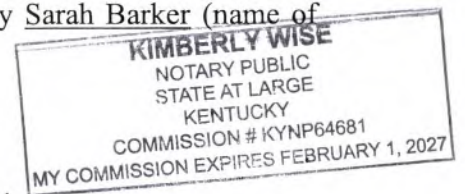
STATE OF KENTUCKY

COUNTY OF JEFFERSON

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 17th day of April, 2025, by Sarah Barker (name of person acknowledging).

Personally known ☒ OR Produced Identification

Type of Identification Produced Drivers License



Kimberly Wise
Notary Public - State of Kentucky

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

Alexis Givings, City Clerk

By: _____
Thomas F. Carney, Jr., Mayor

Approved as to Form:

Lynn Gelin, Esq., City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION OF REAL PROPERTY

Lot 9, Driftwood Landing, according to the map or plat thereof as recorded in Plat Book 30, Page 32, Public Records of Palm Beach County, Florida.

EXHIBIT “B”



TAKEN FROM U.S.G.S. DELRAY BEACH, FLORIDA QUADRANGLE

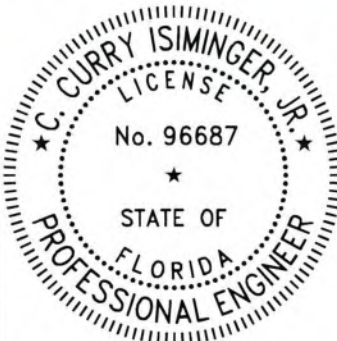
SEC: 09 TWP: 46S RGE: 43E

LAT: 26° 28' 31" N

LONG: 080° 03' 36" W

6/18/2025

This item has been digitally signed and sealed by Charles Curry Isiminger, Jr., P.E. on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.



VICINITY MAP



**ISIMINGER & STUBBS
ENGINEERING, INC.**

COASTAL • ENVIRONMENTAL • MARINE

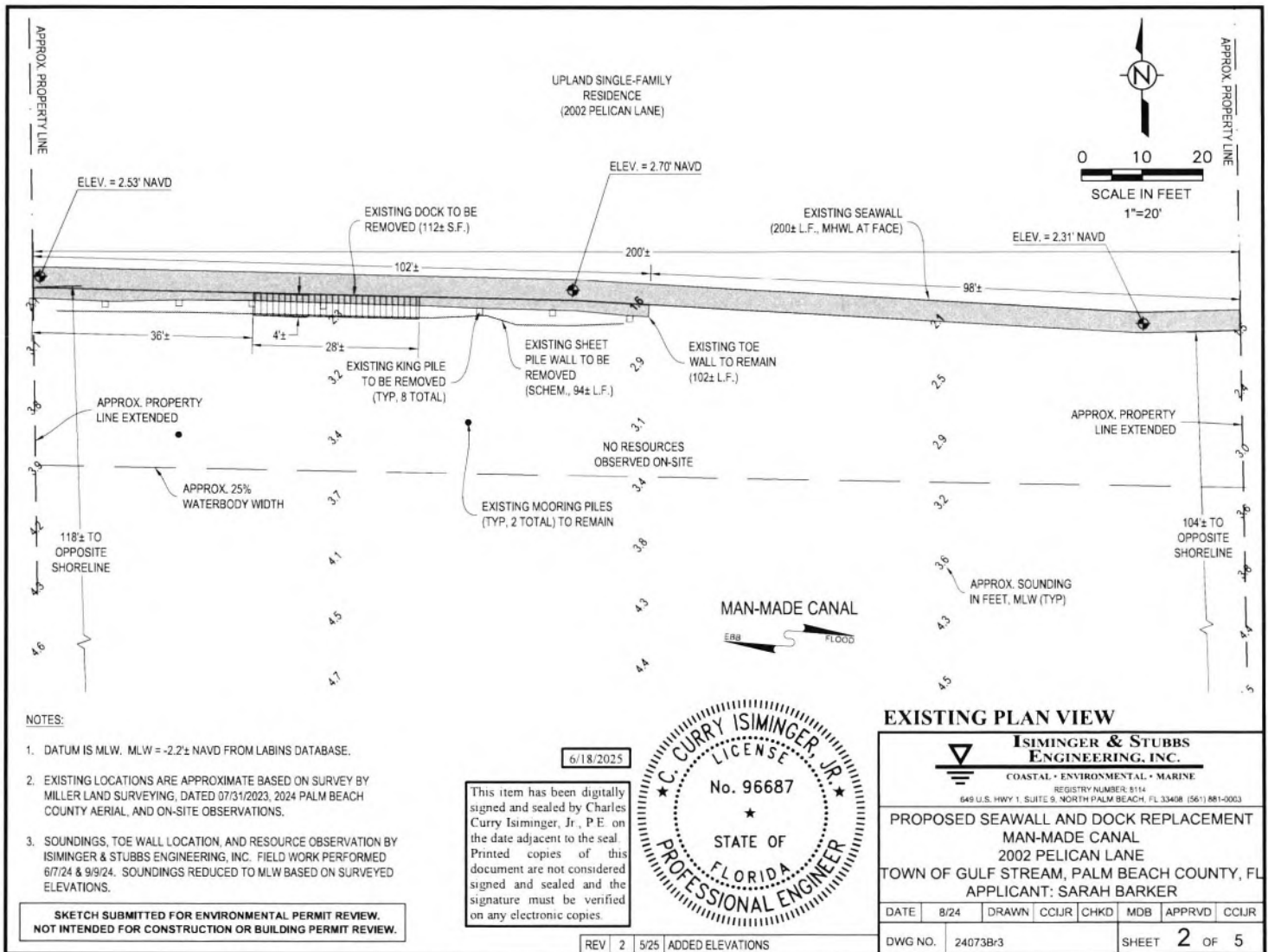
REGISTRY NUMBER: 8114

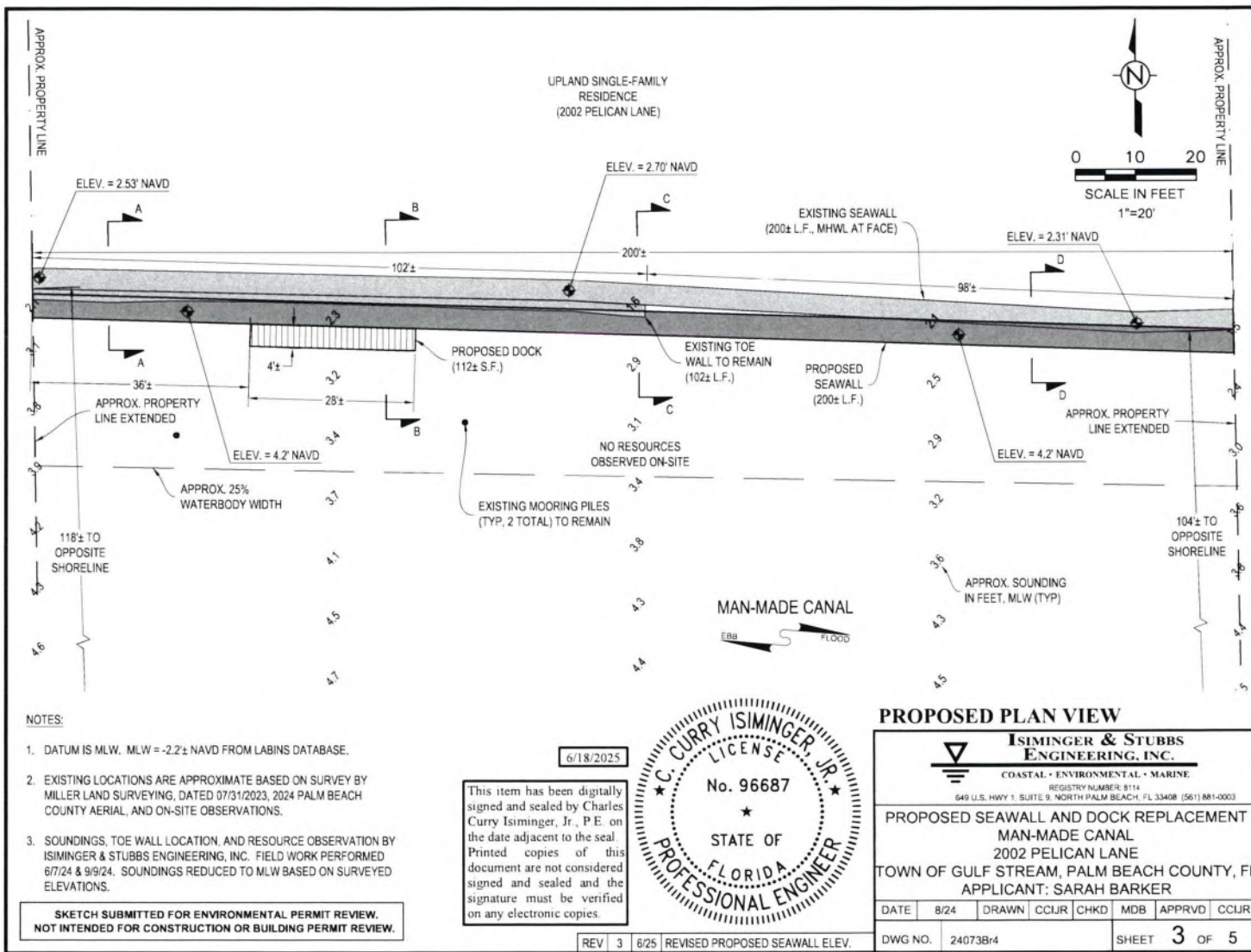
649 U.S. HWY 1, SUITE 9, NORTH PALM BEACH, FL 33408 (561) 881-0003

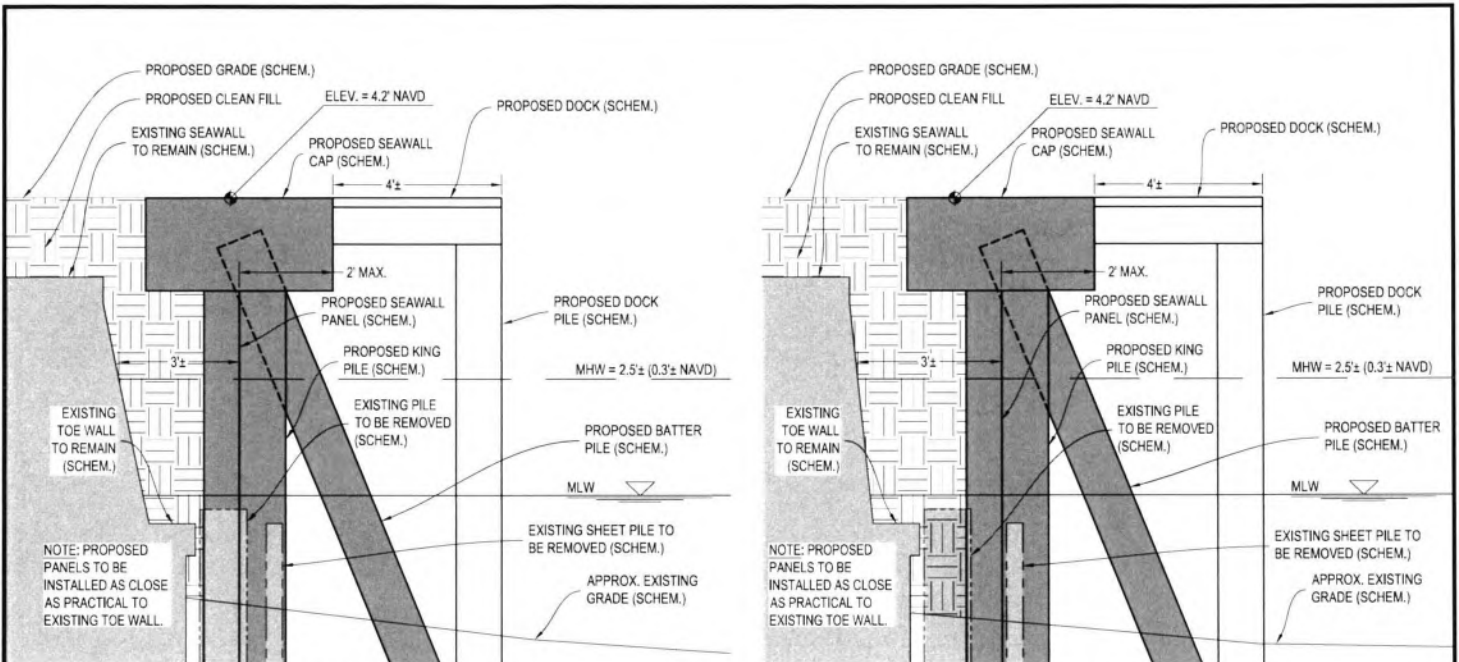
PROPOSED SEAWALL AND DOCK REPLACEMENT
MAN-MADE CANAL
2002 PELICAN LANE
TOWN OF GULF STREAM, PALM BEACH COUNTY, FL
APPLICANT: SARAH BARKER

DATE	8/24	DRAWN	CCIJR	CHKD	MDB	APPRVD	CCIJR
DWG NO.	24073Br1					SHEET	1 OF 5

REV 1 9/24 REV. TOE WALL PER FIELD MEASUREMENTS







SECTION A-A

0 1.5 3
SCALE IN FEET
1"=3'

SECTION B-B

0 1.5 3
SCALE IN FEET
1"=3'

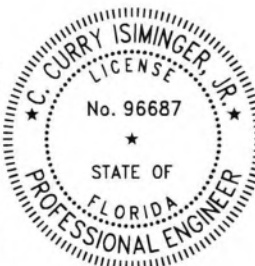
NOTES:

- DATUM IS MLW. MLW = -2.2' NAVD FROM LABINS DATABASE.
- EXISTING LOCATIONS ARE APPROXIMATE BASED ON SURVEY BY MILLER LAND SURVEYING, DATED 07/31/2023, 2024 PALM BEACH COUNTY AERIAL, AND ON-SITE OBSERVATIONS.
- SOUNDINGS AND TOE WALL LOCATION BY ISIMINGER & STUBBS ENGINEERING, INC. FIELD WORK PERFORMED 6/7/24 & 9/9/24. SOUNDINGS REDUCED TO MLW BASED ON SURVEYED ELEVATIONS.

SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

6/18/2025

This item has been digitally signed and sealed by Charles Curry Isiminger, Jr., P.E. on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.



SECTIONS A-A & B-B

ISIMINGER & STUBBS ENGINEERING, INC. COASTAL • ENVIRONMENTAL • MARINE REGISTRY NUMBER: 8114 649 U.S. HWY 1, SUITE 9, NORTH PALM BEACH, FL 33408 (561) 681-0003							
PROPOSED SEAWALL AND DOCK REPLACEMENT MAN-MADE CANAL 2002 PELICAN LANE TOWN OF GULF STREAM, PALM BEACH COUNTY, FL APPLICANT: SARAH BARKER							
DATE	8/24	DRAWN	CCJR	CHKD	MDR	APPRVD	CCJR
DWG NO.	24073B4			SHEET			4 OF 5

REV 3 6/25 REVISED PROPOSED SEAWALL ELEV.

