



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	2019-12-10 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	HH. OFFICE OF THE GENERAL COUNSEL
DEPARTMENT	Office of the General Counsel

Special Order Request <input type="radio"/> Yes <input checked="" type="radio"/> No
Time
Open Agenda <input checked="" type="radio"/> Yes <input type="radio"/> No

ITEM No.:

HH-1.

TITLE:

Settlement Agreement between The School Board of Broward County, Florida and Riverlands, LLC.

REQUESTED ACTION:

Approve the Settlement Agreement between The School Board of Broward County, Florida and Riverlands, LLC.

SUMMARY EXPLANATION AND BACKGROUND:

RE: SBBC vs. Riverlands, LLC, Broward County Circuit Court Case No. 16-017813 (08)
 This Settlement Agreement is the result of efforts to resolve differences and disputes between Defendant, RIVERLANDS, LLC ("Riverlands") and The School Board of Broward County, Florida ("SBBC") arising from the encroachment upon the Southeast corner of New River Middle School's property (the "East Encroachment").
 See Supporting Docs for continuation of Summary Explanation and Background.

SCHOOL BOARD GOALS:

Goal 1: High Quality Instruction Goal 2: Safe & Supportive Environment Goal 3: Effective Communication

FINANCIAL IMPACT:

The District shall receive payment in the amount of \$41,000.

EXHIBITS: (List)

(1) Summary Explanation and Background (2) Settlement Agreement between The School Board of Broward County, Florida and Riverlands, LLC

BOARD ACTION:

APPROVED
 (For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Thomas C. Cooney, Esq.	Phone: 754-321-2050
Name: Oscar E. Soto, Esq.	Phone: 754-321-2050

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

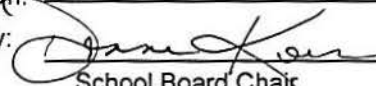
Senior Leader & Title

Barbara J. Myrick - General Counsel

Signature

Barbara J. Myrick
 12/2/2019, 3:48:16 PM

Approved In Open Board Meeting On: **DEC 10 2019**

By: 
 School Board Chair

SUMMARY EXPLANATION AND BACKGROUND

RE: SBBC vs. Riverlands, LLC, Broward County Circuit Court Case No. 16-017813 (08)

This Settlement Agreement is the result of efforts to resolve differences and disputes between Defendant, RIVERLANDS, LLC ("**Riverlands**") and The School Board of Broward County, Florida ("**SBBC**") arising from the encroachment upon the Southeast corner of New River Middle School's property (the "**East Encroachment**"). The East Encroachment includes both upland (above water) and submerged land along the South edge of SBBC property where the school abuts the New River.

After learning of the East Encroachment, the District had a property appraisal performed and ultimately received a recommendation from the Negotiation Parameters Committee to pursue a lease agreement with the owner of the East Encroachment. The District engaged transactional Cadre Counsel Joseph Balocco, Sr. to provide guidance and to communicate the District's offer to lease to the owners of the East Encroachment.

After offers to negotiate a lease were rejected by the owner, the Office of the General Counsel engaged litigation Cadre Counsel, the Soto Law Group ("Soto"), to provide a legal opinion and options for consideration by District administration for both the East Encroachment and a similar encroachment upon the Southwest corner of New River Middle School's property.

Mr. Soto was directed by District administration to issue both encroaching property owners letters demanding that they cease use of the encroached property, remove the docks and return the seawalls to their prior state, or alternatively, that SBBC would be willing to consider the sale of the encroached properties. The letter, which provided the recipients 30 days to accept the offer of sale, was rejected by the encroaching owners.

Unable to resolve its differences and disputes, SBBC approved the initiation of litigation against Riverlands in Broward County Circuit Court Case Number 16-017813 (08), seeking removal of the encroachment. Riverlands answered the Complaint and asserted various defenses to the Lawsuit.

Through settlement negotiations, Riverlands has agreed to pay SBBC \$41,000 to purchase the upland (above water) portion of the encroachment. SBBC is not conveying any of its interest in the submerged lands that the dock(s) are situated on and above. Riverlands and its successors shall be entitled to use and maintain the existing dock(s) and pilings located on the property and SBBC's submerged land and Riverlands agrees that it will not increase the size and/or footprint of the docks and pilings as same exist as of the date of this agreement. The restrictive covenants pertaining to the continuing ability to use the dock and pilings is set forth within the Quit Claim Deed.

Further, Riverlands shall indemnify and hold harmless SBBC, its members, officers, employees and agents from and against any and all liability, claims, causes of action, lawsuits, losses, damage, cost expense and fees that arise from and/or relate to Riverlands use or operation of the subject dock, vessels and/or use of the subject real property, including without limitation, claims, damages, losses or expenses attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property. This indemnification obligation specifically includes, but is not limited to damages caused by dumping, discharge or release of any hazardous waste, chemicals gases, or liquids or the like, by Riverlands, its invitees and/or lessee's, or other vessels docked at Riverlands seawall and/or dock.

SBBC's Cadre Counsel, Oscar Soto and Felena Talbott, with the concurrence of District Staff and the General Counsel's Office, recommend approval of the Settlement Agreement as a fair, reasonable and cost-effective resolution of the dispute between the parties.

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by The School Board of Broward County, Florida ("School Board") and Riverlands, LLC ("Riverlands") on 10 day of December 2019.

WHEREAS, the School Board owns the real property located at 3100 Riverland Road, Fort Lauderdale, Florida. New River Middle School, a Marine Magnet School is located on the property.

WHEREAS, Riverlands own the real property located at, 2671 SW 30 Terrace, Fort Lauderdale Florida, 33312. Riverlands property abuts portions of the School Board property on the East side.

WHEREAS, this matter arises from the School Board alleging portions of Riverlands docks are encroaching upon the School Boards property.

WHEREAS, the School Board has made monetary claims against Riverlands and have demanded removal of the encroachments.

WHEREAS, Riverlands has denied the School Board's allegations and claims, and asserted various defenses thereto.

WHEREAS, the School Board and Riverlands have agreed to resolve all claims asserted in a case styled: *The School Board of Broward County, Florida v. Riverlands, LLC, CASE NO: CACE 16-017813 (08)*.

NOW THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

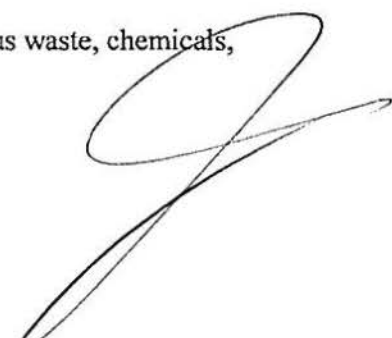
1. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

2. Riverland will pay the sum of Forty-One Thousand Dollars (\$41,000.00) to the School Board within thirty (30) days of approval and execution of this agreement by the School Board, which amount represents a compromised sum as full and final payment of the claims made by the School Board.

3. The School Board will deliver to Riverlands a Quit Claim Deed conveying the School Board's interest in the upland encroachment area to Riverlands. The upland being conveyed is more particularly described as set forth in the Quit Claim Deed attached hereto as **Exhibit "A"** and is incorporated into this settlement agreement as if fully set forth herein. The School Board is not conveying any of its interest in the submerged lands that the dock(s) are situated on and above. However, the School Board agrees that Riverlands and its successors shall be entitled to use and maintain the existing dock(s) and pilings located on the property and the School Board's submerged land and Riverlands agrees that it will not increase the size and/or footprint of the docks and pilings as same exist as of the date of this agreement. The restrictive covenants pertaining to the continuing ability to use the dock and pilings is shall be forth within the Quit Claim Deed.

4. For valuable consideration given and received within this Settlement Agreement, Riverlands hereby agrees, to indemnify and hold harmless The School Board of Broward County, Florida, its' members, officers, employees and agents (herein after "Indemnitees") to the fullest extent provided by Florida law, from and against any and all liability, claims, causes of action, lawsuits, losses, damage, cost expense and fees incurred by "Indemnitees" that arise from and/or relate to Riverlands use or operation of the subject dock, vessels and/or use of the subject real property, including without limitation, claims, damages, losses or expenses attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property.

This indemnification obligation specifically includes, but is not limited to damages incurred by "Indemnitees" caused by dumping, discharge or release of any hazardous waste, chemicals,

A large, stylized handwritten signature in black ink, located in the bottom right corner of the page. The signature is cursive and appears to be a single name, possibly 'J. [unclear]'. It is written over the bottom right portion of the page, partially overlapping the page number.

gases, or liquids or the like, by Riverlands, its invitees and/or lessee's, or other vessels docked at Riverlands seawall and/or dock.

5. Upon payment and delivery of and recordation of the Quit Claim Deed and the restrictive covenant, the parties will file a Joint Stipulation for Dismissal with Prejudice of all set forth in a case styled *The School Board of Broward County, Florida v. Riverlands, LLC, CASE NO: CACE 16-017813 (08)*.

6. In consideration of the undertakings described above, the parties release and forever discharge each other, together with their agents, representatives, present or former employees, officers, insurers, attorneys, predecessors, successors, assigns, heirs, executors, subsidiaries, parents and affiliates, and any of them, from any and all claims, liabilities, demands, obligations, costs, attorneys' fees, arising from the case styled, *The School Board of Broward County, Florida v. Riverlands, LLC, CASE NO: CACE 16-017813 (08)*.

7. The School Board and Riverlands agree to each bear their own attorney's fees and costs associated with this action.

8. If either party is caused to enforce this Settlement Agreement, the prevailing party shall be entitled to its attorney's fees, costs and consultant costs incurred.

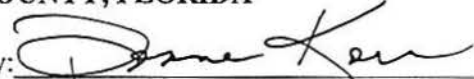
9. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

10. This Settlement Agreement contains the entire agreement between parties, and the terms of the agreement are contractual and not a mere recital. The parties agree that all prior


negotiations and understandings between the parties have been merged herein and that this agreement may not be modified or changed, except by a writing signed by a duly authorized representative of each party.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

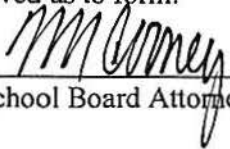
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By: 
Donna P. Korn, Chair

ATTEST:


Robert W. Runcie, Superintendent of Schools

Approved as to form:


The School Board Attorney

RIVERLANDS, LLC

By: 
Title: PRES.

ATTEST:


Witness

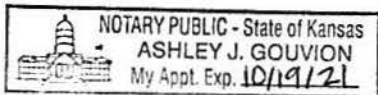

Witness

STATE OF Kansas

COUNTY OF Johnson

The foregoing instrument was acknowledged before me this 28th day of August, 2019, by Joseph Westhoff as President of Riverlands, LLC. He is personally known to me or produced _____ as identification and did/did not first take an oath.

My Commission Expires:



(SEAL)

Ashley J Gouviou
Signature-Notary Public

Ashley J Gouviou
Printed Name of Notary

10/19/21 - 1141437
Notary's Commission

EXHIBIT "A"

Quit Claim Deed

THIS INSTRUMENT PREPARED BY/
RECORD AND RETURN TO:
David C. Hardin, Esq.
Mombach, Boyle, Hardin & Simmons, P.A.
100 NE Third Avenue, Suite 1000
Fort Lauderdale, FL 33301

Property Folio No: 5042 19 19 0010

QUIT-CLAIM DEED

THIS INDENTURE, made as of the _____ day of _____, 2019 by and between The School Board of Broward County, Florida ("Grantor"), whose post office address is 600 SE Third Avenue, Fort Lauderdale, Florida 33301-3125, and Riverlands, LLC, a Florida limited liability company ("Grantee"), whose post office address is 14006 W 107 Street, Lenexa, Kansas 66215.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Grantee, the receipt of which is hereby acknowledged, does hereby remise, release and quit-claim unto Grantee forever, all of the right, title, interest, claim and demand which the Grantor has in and to the following described property, lying and being situate in the County of Broward, State of Florida, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

1. Restrictive Covenants (School Board). The School Board covenants and agrees that Riverlands may continue to use of the area depicted on Exhibit "B" (the Docking Area"), including the dock, pilings and seawall currently constructed and in use by Riverlands for docking a vessel within the Docking Area. The School Board covenants and agrees that it will not interfere with Riverlands use of the Docking Area. The School Board further acknowledges and agrees that Riverlands shall have the right to repair and/or replace the dock, pilings and seawall, but shall not have the right to enlarge the dock.
2. Restrictive Covenants (Riverlands). Riverlands covenants and agrees that it will not increase and/or enlarge the size or footprint of its dock or pilings from the size of same currently and as depicted on Exhibit B.
3. Covenant Running with the Land. The restrictive covenants, created in Paragraphs 1 and 2 above shall be a binding obligation on the School Board and Riverlands, and their heirs,

successors in interests, heirs, legal representatives, agents and assigns, from the date this Quit-Claim Deed is recorded in the Public Records of Broward County, Florida.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining and all the estate, right, title, interest and claim whatsoever of the Grantor, either in law or equity, to the only proper use, benefit and behoove of the Grantee.

IN WITNESS WHEREOF, the said Granter has signed this Quit Claim Deed the day and year first above written.

Signed, sealed, and delivered in our presence:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Mollie Copeland
Witness 1

MOLLIE COPELAND

Printed name

Betty McClary
Witness 2

BETTY MCCLARY

Printed name

by: Donna P. Korn
Donna P. Korn
Chair

ATTEST:

Robert W. Runcie

Robert W. Runcie

Superintendent of Schools

Approved as to form and legal content:

M. Conroy
School Board Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 10th day of December, 2019 by Donna P. Korn, Chair of The School Board of Broward County, Florida, a body corporate and political subdivision of the State of Florida, who is personally known to me or who has produced for identification.



Noemi Gutierrez (SEAL)
My Commission Expires:
Notary Public

EXHIBIT "A"

Legal Description of Property



McLAUGHLIN ENGINEERING COMPANY
LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
 1700 N.W. 64th STREET #400, FORT LAUDERDALE, FLORIDA 33309
 PHONE (954) 763-7611 * FAX (954) 763-7615

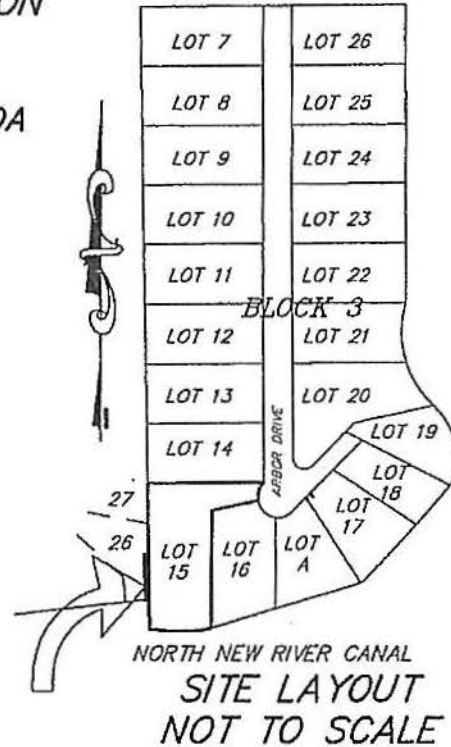
SKETCH AND DESCRIPTION
SEAWALL AREA
2671 ARBOR DRIVE
FORT LAUDERDALE, FLORIDA
SHEET 1 OF 2 SHEETS

LEGAL DESCRIPTION:

A portion of Lot 26, LYNN BROOK, according to the plat thereof, as recorded in Plat Book 44, Page 24, of the public records of Broward County, Florida, all more fully described as follows:

Commencing at the Northwest corner of Lot 15, Block 3, RIVERLAND MANORS, according to the plat thereof, as recorded in Plat Book 27, Page 49, of the public records of Broward County, Florida; thence South 03°33'27" East, on the West line of said Lot 15, being the East line of Lots 27 and 26, of said LYNN BROOK, a distance of 111.61 feet to the Point of Beginning; thence continuing South 03°33'27" East, on said West line of Lot 15 and on the East line of said Lot 26, a distance of 81.37 feet; thence South 81°17'59" West, on the South line of said Lot 26, a distance of 5.26 feet; thence North 04°35'43" West, on the wetface of an existing 2.0 foot seawall cap, a distance of 81.64 feet; thence North 84°35'25" East, on the wetface of an existing 2.0 foot concrete seawall cap and Easterly extension thereof, a distance of 6.72 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 487 square feet or 0.0112 acres more or less.



CERTIFICATION

Certified Correct. Dated at Fort Lauderdale, Florida this 8th day of May, 2019.

NOTES:

- 1) This sketch reflects all easements and rights-of-way, as shown on above referenced record plat(s). The subject property was not abstracted for other easements road reservations or rights-of-way of record by McLaughlin Engineering Company.
- 2) Legal description prepared by McLaughlin Engineering Co.
- 3) This drawing is not valid unless sealed with an embossed surveyors seal.
- 4) THIS IS NOT A BOUNDARY SURVEY.
- 5) Bearings shown assume the West line of Lot 15 (27/49 B.C.R.), as South 03°33'27" East.

McLAUGHLIN ENGINEERING COMPANY

JERALD A. McLAUGHLIN
 Registered Land Surveyor No. 5269
 State of Florida.

FIELD BOOK NO. _____

DRAWN BY: JMMjr

JOB ORDER NO. V-4232

CHECKED BY: _____

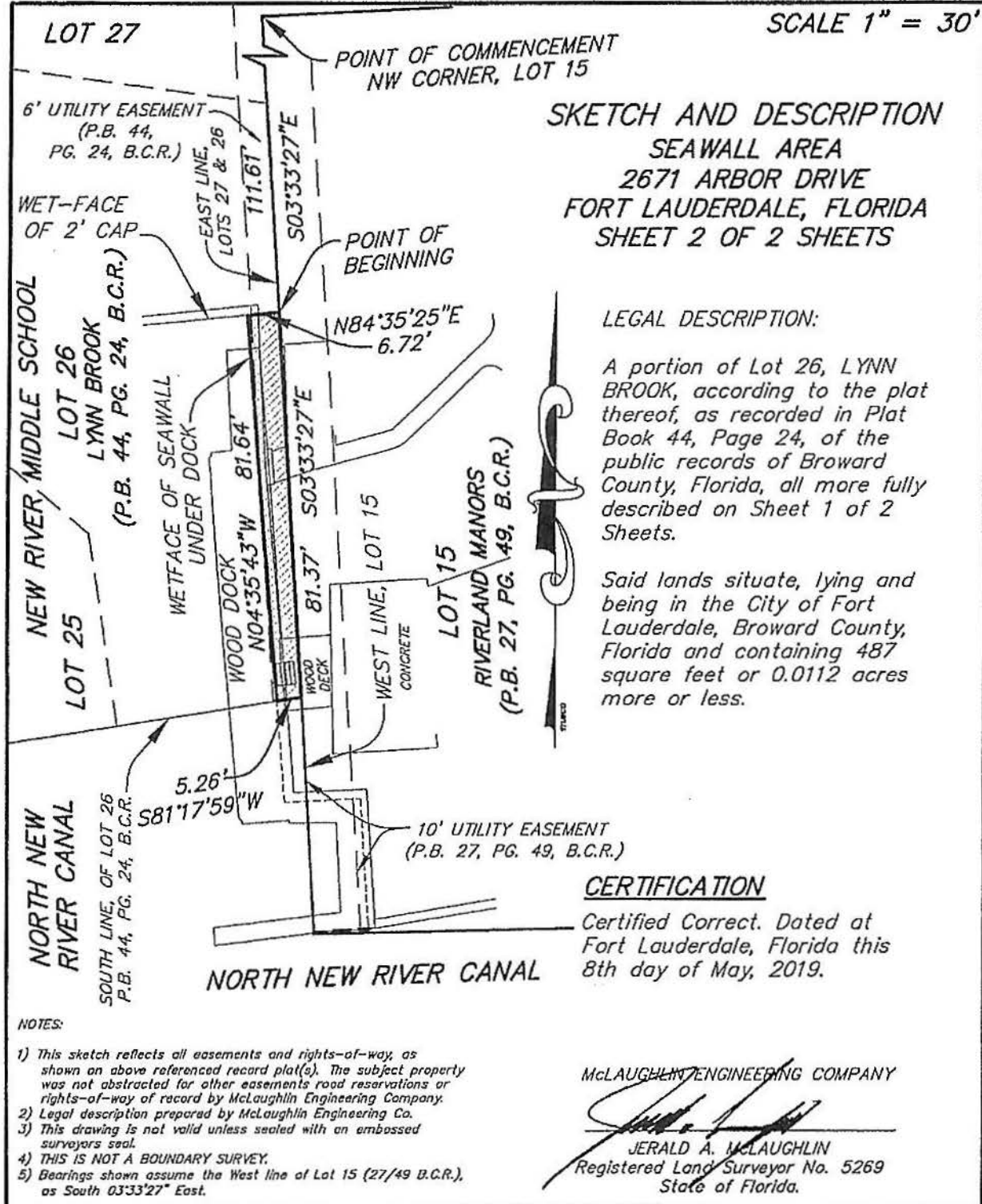
REF. DWG.: 15-2-067

C:\JMMjr\2019\V4232 (SKETCH)



McLAUGHLIN ENGINEERING COMPANY
LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
 1700 N.W. 64th STREET #400, FORT LAUDERDALE, FLORIDA 33309
 PHONE (954) 763-7611 * FAX (954) 763-7615



SCALE 1" = 30'

SKETCH AND DESCRIPTION
SEAWALL AREA
2671 ARBOR DRIVE
FORT LAUDERDALE, FLORIDA
SHEET 2 OF 2 SHEETS

LEGAL DESCRIPTION:

A portion of Lot 26, LYNN BROOK, according to the plat thereof, as recorded in Plat Book 44, Page 24, of the public records of Broward County, Florida, all more fully described on Sheet 1 of 2 Sheets.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 487 square feet or 0.0112 acres more or less.

CERTIFICATION

Certified Correct. Dated at Fort Lauderdale, Florida this 8th day of May, 2019.

McLAUGHLIN ENGINEERING COMPANY

 JERALD A. McLAUGHLIN
 Registered Land Surveyor No. 5269
 State of Florida.

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FIELD BOOK NO. _____

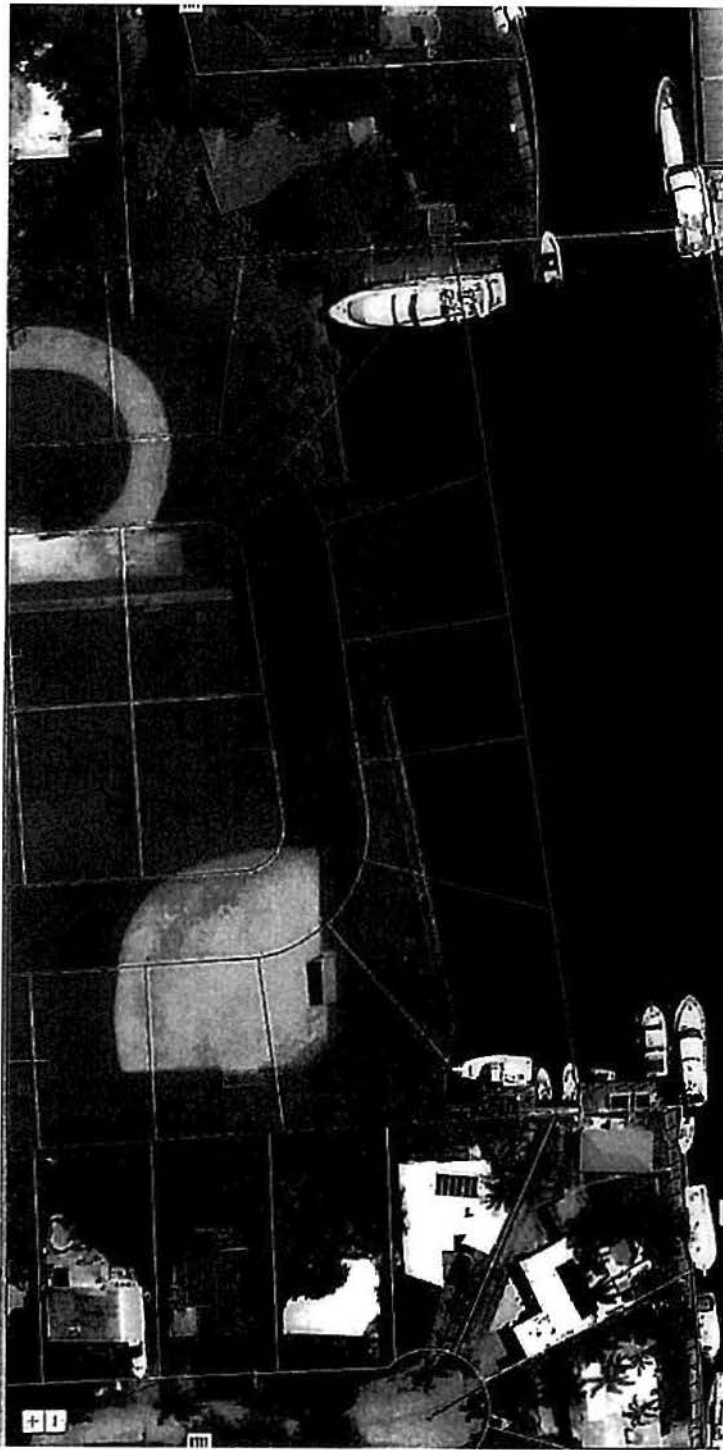
DRAWN BY: JMMjr

JOB ORDER NO. V-4232

CHECKED BY: _____

REF. DWG.: 15-2-067

C: \JMMjr\2019\V4232 (SKETCH)



— Docking Area

EXHIBIT "B"