

## MEMORANDUM

**TO:** South Bay Board of Directors  
**FROM:** David L. Smith  
**DATE:** October 3, 2022 Client-Matter Number: 40242-2  
**SUBJECT:** Agenda Items - Fiscal Year 2022-2023

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Board Members,

This memorandum is for the purpose of summarizing the primary issues that need to be addressed and resolved in the upcoming fiscal year for South Bay CDD prior to turnover of control. (See below.) For your ease of reference, I will consolidate here issues on which you have been briefed, at least in part, via various other memoranda previously.

The point is to resolve these matters while we have a Board, which has the institutional knowledge associated with most of these issues. It is also important to address these issues while we have the District Management, District Counsel and District Engineer with that background knowledge.

These items are identified as follows, with additional information to be provided subsequently so that each can be addressed thoroughly:

### **I. Harborside Suites Issues**

A. Amendment to Settlement Agreement. The original Settlement Agreement with Harborside Suites was dated November 1, 2013. Since then, many of the requirements and conditions have been met or are no longer relevant. In order to provide a clear go-forward basis governing the District's relationship with Harborside Suites, it is important that we revise the Settlement Agreement to reflect the current state of affairs.

B. Harborside Seawall Repairs. Harborside Suites has previously undertaken to repair the seawalls along the eastern and southern edge of its properties contiguous to the Harborside Cove Marina. The question is whether this is part of a District-wide seawall repair obligation or is simply the obligation of Harborside Suites. Both the Settlement Agreement and the Seawall Repair and Assessment Methodology will need to be reviewed in answering this question.

## **II. Global Title and Survey Issues**

A. District Engineer Efforts. The District Engineer has been gathering all available surveys that have been generated in conjunction with transfers and sales of property within the District. It is the goal to consolidate those surveys and get an overall understanding of the exact locations of the various boundaries of the property. It may nonetheless be necessary to incur expense for completion of this survey work. The survey and title work was not done with great care by the Developer and yet those matters have significant ramifications for many of the issues identified in this memorandum and otherwise applicable to the District.

B. Ownership Obligations. Many of the issues discussed herein relate to the actual ownership of the various properties comprising the District and the obligations attendant to that ownership. It is for this reason that the District needs to consider whether it wants to obtain a global title insurance policy to clarify once and for all the exact ownership situation. It could very well be that this title work, if done in conjunction with the above-referenced survey work could be immensely valuable on a go-forward basis. It is, however, not an inexpensive process.

## **III. Pending Litigation**

A. SunTex Marinas. There is existing litigation with the successor-in-interest to Little Harbor Ltd. We need to attempt to resolve this litigation in conjunction with addressing other issues related to the property owned or controlled by SunTex Marinas.

B. SunTex Marinas Access. As per a recent settlement in conjunction with the T-Docks, the District agreed to attempt to assist Little Harbor Ltd. address its access issues. We will need to elaborate exactly what those problems are and what path there may be to their resolution. We do not currently know whether the new owner is fully aware of these issues. Nonetheless, it is in at least their interest to get these matters resolved.

C. Personal Injury Suit on Property Near Pier. There was a claim asserted with regard to a fall by a visitor on the property located near the pier in the Tiki Hut. There is a need to clarify the exact ownership of that property, which has bearing on whose obligation it is to defend and/or pay any associated damages that may become due. As you can see, a lot of these matters are inter-related.

## **IV. Assessment Methodology Review**

A. Changes in Use. We need to evaluate whether the initial development concept has vestigial impact on the Assessment Methodology which should be corrected. That is, there was a resort concept initially. We need to determine whether the allocation of certain expenses was attendant to the resort amenities concept and was included in the Assessment Methodology.

B. Zoning and Land Use Changes. We need to review the various zoning and land use changes associated with the property to determine whether it has altered the potential development on various parcels, thereby possibly altering the allocation of assessments among the parcels.

C. Changes per Settlement Agreements. We need to review each Settlement Agreement and determine whether any of those obligations have been altered by virtue of related subsequent developments.

That then would need to be translated through to any implications it has on the assessment methodology. In all events, it is important that the new Board understand what obligations are still outstanding.

D. Board Action. We need to review the various actions taken by the Board to determine whether they have any impact on the applicable assessment methodology in allocation of assessments, or otherwise impact the District.

E. Seawall Maintenance Decisions. We need to summarize exactly what decisions have been made with regard to seawall maintenance and what that impact has with respect to the allocation of assessments on a go-forward basis, if any.

F. Existing Agreements. There are certain existing agreements that create contractual obligations regarding seawall maintenance and other matters. We need to evaluate those in terms of what impact, if any, they have on a global seawall maintenance approach for governance of the District.

G. Additions, Deletions or Changes to Infrastructure. We need to evaluate whether there have been any changes to the available infrastructure and any associated amenities that create financial obligations that must be assessed against all or portions of the property owners of the District.

## V. Seawall Access Easement Agreement

A. Ownership and Methodology Outcomes. Depending upon the ownership determination and the methodology evaluations described above, we will need to determine exactly what the maintenance obligations are for the District and what they are for private property owners.

B. Execution and Recording of Agreement. Once the items identified in paragraph A above are determined, we need to get the Seawall Access Easement Agreement executed and recorded in the public records so this is established on a go-forward basis clearly for all concerned.

## VI. Notice and Opportunity to be Heard

A. Sufficient Notice. It is important that all property owners receive notice of these pending decisions so that they may have an opportunity to provide input in that process. This summary is a continuing effort to make sure the notice is provided through the agenda process to all concerned in order to meet this goal.

B. Opportunity to be Heard. Part of the due process requirements for the District is that in addition to providing notice there must be a legitimate and sufficient opportunity for the property owners to provide their input and provide any evidence or argument related to the issues to be determined by the Board. Accordingly, we need to set specific time periods for such participation to occur so that all members have that opportunity and the Board has the benefit of all of the information related to the decision the Board must make.

## VII. Turnover of Control

A. Completion of Above Information Gathering. It is in part and parcel in connection with the turnover of control that we complete all of the above-referenced items so that the membership has had an

opportunity to participate and that there is clarity on exactly what will occur on a go-forward basis and what items remain for the new Board to determine.

B. Process. There is a process that must be followed in order to make sure that turnover occurs in a manner consistent with applicable law. Essentially, it is that all relevant parties must have notice and opportunity to be heard before a decision is made. This will be elaborated on as will the other items above.

jsl

October 20, 2022

Richard E. Brylanski, P.E.  
Hole Montes, Inc.  
6200 Whiskey Creek Drive  
Fort Myers, FL 33919  
Email: [RickBrylanski@hmeng.com](mailto:RickBrylanski@hmeng.com)

**Re: Seawall Inspection for Little Harbor East Marina  
3301 Sea Grape Drive, Ruskin, FL 33570**

Dear Mr. Brylanski,

This letter provides a summary of the field inspection performed on October 5, 2022, of the marina basin seawall located at the above referenced address. The seawall system was previously inspected by Reuben Clarson Consulting staff in October 2019. The focus of the inspection was the southern side of the marina basin with movement in the seawall reported after the Hurricane Ian storm event. The following is a summary of findings and recommendations.

### ***Existing Conditions/Construction***

- 1,204 LF +/- of Seawall
- Cast-In-Place Concrete Cap (12" x 20", 18" x 24", 24" x 27", 25" x 44" & 19" x 25")
- Precast Concrete & Vinyl Sheet Pile Seawall Sections
- Seawall Exposed Height = 75-98 inches

Approximately 1,204 linear feet (LF) of a vinyl sheet pile seawall consisting of 12-22 ft long sheets with various concrete cap sizes and PVC encased tiebacks. The exposed height from the top of the cap to the berm (mudline) ranges from 6.25 ft at the southwest end of the marina to 8.2 ft at the eastern end of the marina basin.

The existing vinyl seawall system was replaced during redevelopment of the property around 2012. A vinyl sheet pile seawall and concrete cap was installed in front of the original concrete slab seawall. The marine contractor, Hecker Construction, advised us that the Developer requested the alignment of the new vinyl wall to be constructed more waterward of the existing concrete wall than the engineered plans called for in order to gain upland in areas of the project. Contrary to the design plans, the new vinyl wall was installed as much as 3 ft waterward of the existing wall in some areas. The void space between the vinyl sheets and the older concrete slabs was filled with sand.

Most of the vinyl sheets were observed to be kicking out at the bottom of the wall and the sheets are bowing in areas. The concrete cap is tilted backward in many areas. Significant loss of sediment was also evident in many areas behind the seawall. Since the seawall was installed waterward of the proposed design, the depth of the water and subsequent exposed height of the

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seawall is greater than was anticipated in the vinyl seawall replacement design.

Therefore, the penetration depth in the sediment of the vinyl sheets is less than the adequate and is causing movement of the wall. The sections of the seawall that have kicked out may not be stabilized. In addition, the old concrete wall may be pushing outward on the replaced vinyl wall as sand and not concrete was filled between the two walls.

Wellpoint drains have been installed to relieve hydrostatic pressure or water from behind the seawall. However, the drains have tilted upward in areas where the wall has kicked out and may not be draining most efficiently. In some areas along the south side of the basin the wellpoint drains have become misaligned. Significant sediment loss behind the seawall was observed. Sediment is being lost through misaligned, damaged, or improperly installed wellpoint drains.

Most of the southern portion of the seawall cap is in good condition. Although, structural defects (horizontal cracking) in the front face of the seawall cap were observed by the marina loading area indicating the rebars inside the concrete are rusting from salt intrusion. The rusting causes the rebars to expand and thus crack the concrete. Shear cracking of the concrete cap due to movement of the seawall was also observed along the southern side of the basin.

Provided in the table below is a summary of the field observations at measured stations starting at the southwestern end of the marina basin (0' LF) and ending at the southeast section.



**Table 1: Seawall Inspection Observations**

Note: Station 0' Starts at SW End of Marina Basin Moving to SE end of Marina Basin

<b>Stations</b>	<b>Cap Size</b>	<b>Vertical Wall</b>	<b>Exposed Ht.</b>	<b>Observation/Comment</b>
0' to 12'	12" x 20"	Vinyl	98"	<ul style="list-style-type: none"> <li>Mangroves located in front of the wall.</li> </ul>
0' to 121'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Drains slightly tilted up indicating settlement.</li> </ul>
97' to 115.5'	12" x 20"	Vinyl	109"	<ul style="list-style-type: none"> <li>Cap slopes upward.</li> </ul>
121'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Expansion Joint.</li> </ul>
121' to 242'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Sheets bowing and cap tilted landward heavily.</li> </ul>
121' to 272'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Large void pockets and sediment loss behind the wall.</li> <li>Approximately 5' to 6' of disturbed earth extending back behind the wall.</li> </ul>
121' to 787'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Misaligned, crushed, and missing wellpoint drains.</li> </ul>
135'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Area backfilled with shell extending 6' back.</li> </ul>
138.5' to 143'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>FDC connection.</li> </ul>
145'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Stress crack in the cap.</li> </ul>
182'	12" x 20"	Vinyl	116"	<ul style="list-style-type: none"> <li>Expansion joint.</li> </ul>
186' to 205.5	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Stress cracking in the cap.</li> </ul>
223' to 228'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Stress cracking in the cap.</li> </ul>
242'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Expansion joint.</li> </ul>
242' to 605'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Cap tilting landward (medium tilt) and sheets bowing.</li> </ul>
259'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Stress cracking in the cap.</li> </ul>
303'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Expansion joint.</li> </ul>
357.5' to 361.5'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>FDC Connection.</li> </ul>
364'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Expansion Joint.</li> </ul>
423'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Expansion joint.</li> </ul>
437'	12" x 20"	Vinyl	106"	<ul style="list-style-type: none"> <li>Void pocket was approximately 2' deep.</li> </ul>
484'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Expansion Joint.</li> </ul>
540'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Vegetation growth through the top of the wall.</li> </ul>
544'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>Expansion joint.</li> </ul>
553' to 559'	12" x 20"	Vinyl		<ul style="list-style-type: none"> <li>FDC connection.</li> <li>Sediment loss evident in the right-side drain.</li> </ul>
605'	12" x 30"	Vinyl		<ul style="list-style-type: none"> <li>Cap alignment changes</li> </ul>
605' to 665'	12" x 30"	Vinyl		<ul style="list-style-type: none"> <li>(Heavy) Tilting of cap and bowing of sheets.</li> </ul>
665'	12" x 27"	Vinyl	119"	<ul style="list-style-type: none"> <li>Expansion joint.</li> <li>Cap alignment changes.</li> </ul>

665' to 787'	12" x 27"	Vinyl		<ul style="list-style-type: none"> <li>(Medium) Tilting of cap and bowing of sheets.</li> </ul>
726' to 730'	12" x 27"	Vinyl		<ul style="list-style-type: none"> <li>FDC connection.</li> </ul>
726'	12" x 27"	Vinyl		<ul style="list-style-type: none"> <li>Expansion Joint.</li> </ul>
727'	12" x 27"	Vinyl		<ul style="list-style-type: none"> <li>Cut sheet under FDC.</li> </ul>
732'	12" x 27"	Vinyl		<ul style="list-style-type: none"> <li>Cut sheet under cap.</li> </ul>
748'	12" x 27"	Vinyl		<ul style="list-style-type: none"> <li>Vegetation growth through the sheeting.</li> </ul>
787'	12" x 30"	Vinyl		<ul style="list-style-type: none"> <li>Cap alignment changes.</li> <li>Sheets bowed slightly more for approximately 10' in this area.</li> </ul>
834' to 837'	18" x 24"	Vinyl	116"	<ul style="list-style-type: none"> <li>FDC connection.</li> </ul>
848'	18" x 24"	Vinyl		<ul style="list-style-type: none"> <li>Expansion joint.</li> </ul>
902' to 906'	18" x 24"	Vinyl		<ul style="list-style-type: none"> <li>FDC connection.</li> </ul>
909'	18" x 24"	Vinyl		<ul style="list-style-type: none"> <li>Expansion Joint.</li> <li>Approximately 1' of longitudinal cracking in the top of the cap.</li> </ul>
969'	18" x 24"	Vinyl	113"	<ul style="list-style-type: none"> <li>Expansion joint.</li> </ul>
962' to 972'	18" x 24"	Vinyl	113"	<ul style="list-style-type: none"> <li>Longitudinal cracking in the top of the cap.</li> </ul>
986' to 990'	18" x 24"	Vinyl	123"	<ul style="list-style-type: none"> <li>Longitudinal cracking in the top of the cap.</li> </ul>
1019' to 1021'	18" x 24"	Vinyl	99"	<ul style="list-style-type: none"> <li>FDC connection.</li> </ul>
1026'	24" x 27"	Vinyl	99"	<ul style="list-style-type: none"> <li>Change in cap height to marina loading area 31" below.</li> <li>Longitudinal cracking full length of cap face.</li> <li>Approximately 5' of stress cracking at the end of this wall.</li> <li>No drains evident in this section of wall.</li> </ul>
1086' to 1090'	24" x 27"	Vinyl	102"	<ul style="list-style-type: none"> <li>Cap (Wrap cap) split apart revealing it is a concrete wrap cap over top of a wooden waler with tieback rods running through it.</li> </ul>
1090'	25" x 44"	Vinyl	102"	<ul style="list-style-type: none"> <li>End of lower wall.</li> </ul>
1130'	25" x 44"	Vinyl	102"	<ul style="list-style-type: none"> <li>Piling supported wall.</li> </ul>
1130' to 1204'	25" x 44"	Vinyl	102"	<ul style="list-style-type: none"> <li>Newer secondary anchors installed in this area (8).</li> <li>Wood waler evident.</li> </ul>



### ***Seawall Recommendations***

It should be noted that the useful life of a concrete seawall on saltwater is approximately 50± years. Additional movement in the wall was encountered from our last inspection in 2019. During Hurricane Ian storms the water was pulled out of the bay and in some areas, we experienced a -5 tide resulting very shallow waters within the marina basin adjacent to the seawalls. We experienced a comparable situation after the Hurricane Irma storm in 2017. The walls were not designed to have such low water levels. The water levels on the water side help hold the wall in place.

During Ian storms the ground was saturated behind the wall from accumulated rainfall causing significant forces on the back of the wall from high groundwaters and with lower water pressure on the front of the wall during the extreme low tide condition, the wall and anchoring deadmen moved forward under the extreme unbalanced forces. This action also resulted in soil fissures and depressions behind the wall. The wall is still anchored with tierods from the concrete cap to concrete deadmen buried behind the wall. The wall should not be in eminent danger of collapse at this time barring another similar storm or Act of God occurring. However, we do recommend repairs and structural reinforcement of the existing vinyl seawall system to be completed before the winter low tides this season.

The following are recommended options for maintenance and repairs.

#### **Option 1: Short Term Maintenance and Repairs**

Option 1 includes repairs and structural reinforcement of the existing vinyl seawall system. For additional structural support of the seawall, we recommend adding at Stations 121' to 272' and 605' to 665' approximately 211 LF of a double box beam composite waler approximately 6" above the mean highwater (MHW) line to be anchored with new 1" diameter x 16' long HDG tieback rods to Manta Ray (MR-SR) anchors at 6' on center. The tieback rods should extend past both the existing vinyl wall and the original concrete wall.

All wellpoint drains should be replaced with new PVC slit type wellpoint drains or Jet Filter drains installed through vinyl wall at 6' on center and 5" above the barnacle line to relieve the hydrostatic pressure or aid in removing water from behind the wall. The annular area around the existing wellpoint drains and any holes should be filled with epoxy to limit sediment loss.

All voids behind the seawall should be filled with crushed shell or pea gravel as needed (perhaps more than once) to fill in the existing voids behind the seawall, allowing for drainage, but aid in trapping the sand particles. All cracking in the seawall cap areas should be chipped, cleaned, and filled with hydraulic cement or epoxy. Epoxy repair cut vinyl sheets to prevent sediment loss and aid in structural strength of the sheet pile.

The ballpark cost for this option is approximately \$60,000± with a useful life expectancy of approximately 20-30± years.

**Option 2: Short Term Maintenance and Repairs**

Option 2 includes repairs and structural reinforcement of the existing vinyl seawall system. For additional structural support of the seawall, we recommend adding approximately 930 LF of a double box beam composite waler approximately 6” above the mean highwater (MHW) line to be anchored with new 1” diameter x 16’ long HDG tieback rods to Manta Ray (MR-SR) anchors at 6’ on center. The tieback rods should extend past both the existing vinyl wall and the original concrete wall.

All wellpoint drains installed through vinyl wall at 6’ on center and 5” above the barnacle line to relieve the hydrostatic pressure or aid in removing water from behind the wall. The annular area around the existing wellpoint drains and any holes should be filled with epoxy to limit sediment loss.

All voids behind the seawall should be filled with crushed shell or pea gravel as needed (perhaps more than once) to fill in the existing voids behind the seawall, allowing for drainage, but aid in trapping the sand particles. All cracking in the seawall cap areas should be chipped, cleaned, and filled with hydraulic cement or epoxy. Epoxy repair cut vinyl sheets to prevent sediment loss and aid in structural strength of the sheet pile.

The ballpark cost for this option is approximately \$260,000± with a useful life expectancy of approximately 20-30± years.


**Option 3: Seawall Replacement**

Option 3 includes replacement of the existing vinyl seawall system (930 LF). Recommended specifications for a new seawall would include construction of a new vinyl corrugated seawall system with 14’-20’ sheets and a new concrete cap and 1” diameter HDG PVC encased tieback rods to MR-SR manta ray anchors or deadmen. Wellpoint drains should be installed through both walls at 6’ on center and 5” above the barnacle line to relieve the hydrostatic pressure or aid in removing water from behind the wall. The existing wall would remain. Concrete filler would be applied between the two walls. The ballpark cost for replacement of the seawall in today’s prices is approximately \$465,000± with a useful life expectancy of 50± years.

If you should have any questions or comments, please do not hesitate to contact me. We appreciate the opportunity to provide this report.

Sincerely,

REUBEN CLARSON CONSULTING, INC.



John B. Adams, Jr., PE  
FL Professional Engineer No. 53963

Photo #1- View of Concrete Cap of Vinyl Section Tilting Backward Looking Northeast from Southwest End of Property



Cap Rotated  
Backward

Photo #2 – View Looking Southwest from the Southwest End of property



Photo #3 – Settling in Seawall Causing Disjointing in Cap



Photo #4 – View of Settling and Movement of Seawall.



Movement of Earth  
Behind Seawall

Photo #5 – View of Settling and Movement of Seawall.



Photo #6 – View of Seawall Movement.



Photo #7 – View of Seawall Facing Northeast.



Photo #8 – View of Failing Wellpoint Drainage System.

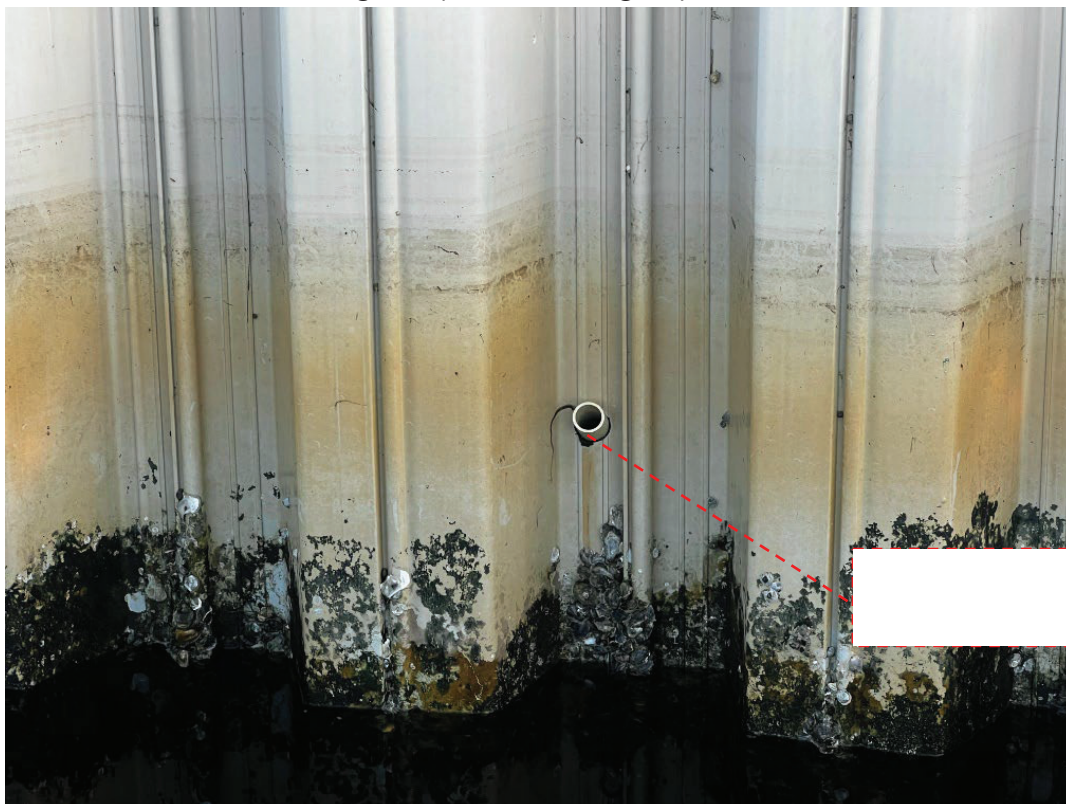


Photo #9 – View of Seawall Facing Southwest.



Photo #10 – Top View of Southwest End of Seawall Movement.



Photo #13 – View of Cut in Vinyl Sheet Pile Below Cap.



Photo #14 – View of Longitudinal Cracking in Seawall Cap.





Photo #15 – Longitudinal Cracking in Seawall Cap.



Photo #16 – View of Seawall on Northeast End of Wall.



Photo #17 – View of Spalling in Wrap Cap.



780 94th Avenue N, Ste 102  
St Petersburg. FL 33702

**Invoice**

Date	Invoice #
10/27/2022	17298

<b>Bill To</b>
Hole Montes, Inc. 6200 Whiskey Creek Drive Fort Myers, FL 33919 rickbrylanski@hmeng.com

**Please pay within 10 Days.  
Thank you.**

Item	Description	Qty	Rate	Amount
Consulting Fees	Professional Services:Seawall Inspection and Reporting for Souther Side of Little Harbor East Marina at  South Bay Community Development District Little Harbor East Marina 3301 Sea Grape Drive Ruskin, FL 33570  PLEASE ADD INVOICE NUMBER TO CHECK. THANK YOU!	1	3,000.00	3,000.00

**Reuben Clarson, P.E.**  
Florida Licensed Engineer #16313  
Certificate of Authorization #9206  
Email: reuben@reubenclarsonconsulting.com  
Fax: 727-578-9542  
Tel: 727-895-4717

<b>Total</b>	\$3,000.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$3,000.00