



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Jamey Tesler, Secretary & CEO
Jonathan L. Gulliver, Highway Administrator



November 18, 2022

606024-120178

ADDENDUM NO. 1

To Prospective Bidders and Others on:

TAUNTON
Federal Aid Project No. STP/HPP/CMQ-0035(015)X
Roadway Reconstruction and Related Work (Including Signals)
on a Section of Route 44 (Dean Street)

THIS PROPOSAL TO BE OPENED AND READ: WEDNESDAY, JANUARY 4, 2023 @ 2:00 P.M.

Transmitting revisions to the Contract Documents as follows:

| | |
|---------------------------------|--|
| <u>QUESTIONS AND RESPONSES:</u> | 2 pages. |
| <u>COVER PAGE:</u> | Revised page 1. |
| <u>DOCUMENT 00010:</u> | Revised pages 1 and 2. |
| <u>DOCUMENT 00104:</u> | Revised page 1. |
| <u>DOCUMENT 00715:</u> | Deleted document in its entirety and inserted new document (12 pages). |
| <u>DOCUMENT 00719:</u> | Deleted document in its entirety and inserted new document (18 pages). |
| <u>DOCUMENT A00801:</u> | Inserted new pages 3.1, 3.2, 12.1, and 12.2. Revised page 13. |
| <u>DOCUMENT A00832:</u> | Inserted new pages 153 through 158. |
| <u>DOCUMENT A00833:</u> | Deleted document in its entirety and inserted new document (34 pages). |

Take note of the above, substitute the revised pages for the originals, delete the documents indicated, insert new documents and pages in proper order, and acknowledge Addendum No. 1 in your Expedite Proposal file before submitting your bid.

Very truly yours,

Eric M. Cardone, P.E.
Construction Contracts Engineer

AB
c: Gregory Mischel, Project Manager

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TAUNTON
Federal Aid Project No. STP/HPP/CMQ-0035(015)X
Roadway Reconstruction and Related Work (Including Signals)
on a Section of Route 44 (Dean Street)
(Proposal No. 606024-120178)

Questions and Responses

Addendum No. 1, November 18, 2022

Cardi Corporation, e-mailed October 26, 2022

Question 1) MassDOT issued Policy directive P-22-001 dated 9/23/22 regarding off-site stockpiling of soil from MassDOT Construction Projects. Please clarify that all excavated soils to be disposed offsite would need to be stockpiled on site, tested and then disposed off-site and paid under Item 181.11 Disposal of Unregulated Soils. The quantity of item 181.11 – 150 tons does not reflect the directive and specification for 181.11

Response 1) Policy directive P-22-001 dated 9/23/22 applies to TEMPORARY stockpiling of soil off-site at storage locations selected by the Contractor subject to MassDOT's approval. The intent of the policy is to protect nearby sensitive receptors from fugitive dust and to establish a procedure for MassDOT approval of off-site temporary storage locations. Prior to moving soil from the project site to a temporary stockpile location, the Contractor and/or their environmental consultant shall assess the soil to be transferred to the temporary storage location for potential contamination. The assessment can be based on several methods including but not limited to: utilizing MassDEP online search tool to evaluate releases within and/or immediate vicinity of the project site, evaluation of historic and current site use, visual and olfactory field observations, PID screening, review of available subsurface exploration logs, laboratory analysis etc. The methods for assessing the soil for off-site temporary storage shall be determined by the Contractor.

Special Provision Items 181.11 – 181.14 address excess soil that needs to be reused or disposed of PERMANENTLY off-site. These Items do not address temporary off-site storage. Soils destined for off-site reuse or disposal (not temporary storage) must be sampled and characterized per these Special Provisions. The results of the chemical characterization will determine where the excess soil can be reused or disposed and which of the Items 181.11–14 will apply for payment. Characterization, including sampling and analysis is considered incidental to these Items. All excess soil requiring permanent off-site reuse/disposal will not necessarily be paid under Item 181.11, depending on the results of the soil characterization. The characterization will determine what item applies.

The quantity for Item 181.11 has been calculated based on the information available from the Massachusetts Department of Environmental Protection of release sites in the vicinity of the project area. The summary of release sites has been included in the special provisions.

TAUNTON
Federal Aid Project No. STP/HPP/CMQ-0035(015)X
Roadway Reconstruction and Related Work (Including Signals)
on a Section of Route 44 (Dean Street)
(Proposal No. 606024-120178)

Questions and Responses

Addendum No. 1, November 18, 2022

Cardi Corporation, e-mailed November 17, 2022

Question 2) 180.03 –A00801-54 last paragraph states that “Laboratory Testing will be reimbursed upon receipt of paid invoices for testing approved by the Engineer.” Does this testing included all the testing to characterize all soils(reused or disposed) as unregulated or regulated.

Response 2) This will be answered in a future addendum.

Question 3) 181.11 A00801-61 states that Measurement for Disposal of Unregulated and Regulated soils includes “additional testing/characterization required by the facility beyond the standard disposal test set” Please clarify that standard disposal test set is paid under 180.03.

Response 3) This will be answered in a future addendum.

COMMONWEALTH OF MASSACHUSETTS



CONTRACT DOCUMENTS AND SPECIAL PROVISIONS

| | |
|--------------|---------------|
| PROPOSAL NO. | 606024-120178 |
| P.V. = | 17,119,000.00 |
| PLANS | YES |

FOR

**Federal Aid Project No. STP/HPP/CMQ-0035(015)X
Roadway Reconstruction and Related Work (Including Signals)
on a Section of Route 44 (Dean Street)**

in the City of**TAUNTON**

In accordance with the STANDARD SPECIFICATIONS
for HIGHWAYS and BRIDGES dated 2022

① This Proposal to be opened and read: **WEDNESDAY, JANUARY 4, 2023 at 2:00 P.M.**

① Addendum No. 1, November 18, 2022

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**NOTICE TO CONTRACTORS**

Electronic proposals for the following project will be received through the internet using Bid Express until the date and time stated below and will be posted on www.bidx.com forthwith after the bid submission deadline. No paper copies of bids will be accepted. All Bidders must have a valid vendor code issued by MassDOT in order to bid on projects. Bidders need to apply for a Digital ID at least 14 days prior to a scheduled bid opening date with Bid Express.

①

WEDNESDAY, JANUARY 4, 2023 at 2:00 P.M.****TAUNTON**

**Federal Aid Project No. STP/HPP/CMQ-0035(015)X
Roadway Reconstruction and Related Work (Including Signals)
on a Section of Route 44 (Dean Street)**

****Date Subject to Change****PROJECT VALUE = \$17,119,000.00**

Bidders must be pre-qualified by the Department in the HIGHWAY CONSTRUCTION category to bid on the above project. An award will not be made to a Contractor who is not pre-qualified by the Department prior to the opening of Proposals.

All prospective Bidders who intend to bid on this project must obtain "Request Proposal Form (R109)". The blank "Request Proposal Form (R109)" can be obtained at:
<https://www.mass.gov/prequalification-of-horizontal-construction-firms>.

All prospective Bidders must complete and e-mail an electronic copy of "Request Proposal Form (R109)" to the MassDOT Director of Prequalification for approval:
prequal.r109@dot.state.ma.us.

Proposal documents for official bidders are posted on www.bidx.com. Other interested parties may receive informational Contract Documents containing the Plans and Special Provisions, free of charge.

Bids will be considered, and the contract awarded in accordance with statutes governing such contracts in accordance with Massachusetts General Laws Chapter 30 § 39M.

The Project Bids File Attachments folder for proposals at www.bidx.com shall be used for submitting at the time of bid required information such as the Bid Bond required document, and other documents that may be requested in the proposal.



SUPPLEMENTAL SPECIFICATIONS

(English Units)

SEPTEMBER 30, 2022

The 2022 *Standard Specifications for Highways and Bridges* are amended by the following modifications, additions and deletions. This Supplemental Specifications prevail over those published in the Standard Specifications.

The Specifications Committee has issued these Supplemental Specifications for inclusion into each proposal until such time as they are updated or incorporated into the next Standard Specifications.

Contractors are cautioned that these Supplemental Specifications are dated and will change as they are updated.

DIVISION I

GENERAL REQUIREMENTS AND COVENANTS

SECTION 1.00: DEFINITION OF TERMS

Subsection 1.03: Defined Terms

(page I.7- I.8) Delete the term Interim Supplemental Specifications.

(page I.9- I.10) Replace the definitions below with the following and add the definition for Standard Specifications.

Special ProvisionsThe special agreements and provisions prepared for proposed work on a specific project. The special provisions shall be included within the general term specifications and are part of the Contract

SpecificationsThe directions, provisions and requirements contained or referenced herein together with all written agreements made or to be made pertaining to the method and manner of performing the work, or the quantities and qualities of materials to be furnished under the Contract.

Standard
SpecificationsThe Standard Specifications for Highways and Bridges issued by the Department.

Supplemental
SpecificationsSpecifications issued by the Department which amend portions of the Standard Specifications.

SECTION 4.00: SCOPE OF WORK

Subsection 4.04 Changed Conditions

(page I.21) Replace the fourth, fifth sixth and seventh paragraphs with the following:

If the Contractor and the Department fail to agree on an equitable adjustment to be made under this Subsection, then the Contractor shall accept as full payment for the work in dispute an amount calculated using actual costs as provided in Subsection 9.03: Payment for Extra Work.

Subsection 4.06 Increased or Decreased Contract Quantities

(pages I.22 and I.23) Replace the sixth, seventh and eighth paragraphs with the following:

To assist the Engineer in the determination of an equitable adjustment for an overrun, the Contractor shall prepare a submission and accept as full payment for work or materials an amount for an equitable adjustment in the Contract Price calculated using actual costs as provided in Subsection 9.03: Payment for Extra Work.

SECTION 5.00: CONTROL OF WORK**Subsection 5.03 Permits and Licenses**

(page I.28) Replace the last two paragraphs with the following;

In the event the Engineer finds the materials or the finished product in which the materials are used or the work performed are not in reasonably close conformity with the plans and specifications and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor. Materials or work that are found not to conform must not be made inaccessible prior to the resolution of the deficiencies.

Deviations from the approved plans and working drawings, that may be required by the need of construction, will be determined by the Engineer and authorized in writing.

Subsection 5.04: Order of Precedence

(page I.28) Delete line 2., d. Interim Supplemental Specifications and re-letter lines e. and f. to d. and e.

SECTION 7.00: LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC**Subsection 7.01 Permits and Licenses**

(page I.39) Delete subsection H. Cargo Preference Act – Use of United States Flagged Vessels

Subsection 7.03 Permits and Licenses

(page I.47) Add the following paragraph after the first paragraph:

For overweight vehicles in excess of 130,000 lbs., the Contractor shall provide a copy of each overweight vehicle permit to the Engineer prior to arrival or delivery of the vehicle to a project site. This requirement is for all Contractors, their subcontractors, equipment suppliers and material suppliers.

SECTION 8.00: PROSECUTION AND PROGRESS**Subsection 8.05: Claim for Delay or Suspension or the Work**

(page I.72) Replace the second paragraph of this subsection with the following:

Provided, however, that if in the judgement of the Engineer it is determined that the performance of all or any major portion of the work is suspended, delayed, or interrupted for an unreasonable period of time by an act of the Department in the administration of the Contract, or by the Department's failure to act as required by the Contract within the time specified in the Contract (or if no time is specified, within a reasonable time) and without the fault or negligence of the Contractor, an adjustment shall be made by the Department for any increase in the actual cost of performance of the Contract (excluding profit and overhead) necessarily caused by the period of such suspension, delay or interruption. No adjustment shall be made if the performance by the Contractor would have been prevented by other causes even if the work had not been so suspended, delayed, or interrupted by the department

(page I.72) Replace the fifth paragraph of this subsection with the following:

Any dispute concerning whether the delay or suspension is unreasonable or any other question of fact arising under this paragraph shall be determined by the Engineer, and such determination and decision, in case any question shall arise, shall be a condition precedent to the right of the Contractor to receive any money hereunder.

Subsection 8.07 Character of Workers, Methods and Equipment

(page 1.73) Add the following paragraph after the second paragraph:

All electrical connections, splicing, grounding, resistance tests, service connections and circuit identification shall be done by a licensed electrician holding a Massachusetts journeyman electrician's license. The Contractor shall provide to the Engineer at least 10 days prior to each work assignment the names and license qualifications of electricians.

Subsection 8.13 Convenience Termination

(page 1.80) Replace B. For Construction Related Costs with the following:

Actual costs as provided in Subsection 9.03: Payment for Extra Work.

SECTION 9.00: MEASUREMENT AND PAYMENT**Subsection 9.03 Payment for Extra Work**

(page 1.84) Replace B. Payment for work or materials for which no price is contained in the contract with the following:

If the Engineer directs, the Contractor shall submit promptly in writing to the Engineer an offer to do the required work on a lump sum or unit price basis, as specified by the Engineer. The stated price, either lump sum or unit price, shall be divided so as to show that it is the sum of:

- (1) The estimated cost of direct labor, materials, and the use of equipment, plus 10 percent of this total for overhead;
- (2) Plus 13 percent of direct labor, for the actual costs of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA) including workforce training and Massachusetts Employer Medical Assistance Contribution, Earned Sick Time (EST) Law (940 CMR 33.00), and Paid Family and Medical Leave (PFML) Act (458 CMR 2.00); or, as an alternative to the above 13 percent, the Contractor may elect to use actual rates for FICA, FUTA, SUTA, EST and PFML provided the actual rates are supported with verifiable documentation and shall be subject to review by Audit Operations;
- (3) Plus the actual cost of Workmen's Compensation and Liability Insurance, Health, Welfare and Pension benefits, and such additional fringe benefits which the Contractor is required to pay as a result of Union Labor Agreements and/or is required by authorized governmental agencies;
- (4) Plus subcontractor or a Public or Private Utility costs;
- (5) Plus 10 percent of the total of (1), (2), (3) and (4);
- (6) Plus the estimated proportionate cost of surety bonds (The Contractor shall provide evidence of revised bonds according to Subsection 3.04).

Unless an agreed lump sum and/or unit price is obtained from above and is so stated in the Extra Work Order the Contractor shall accept as full payment for work or materials for which no price agreement is contained in the Contract an amount equal to the following:

- (1) The actual cost for direct labor, material (less value of salvage, if any) and use of equipment, plus 10 percent of this total for overhead;
- (2) Plus 13 percent of direct labor, for the actual costs of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), including workforce training and Massachusetts Employer Medical Assistance Contribution, Earned Sick Time (EST) Law (940 CMR 33.00), and Paid Family and Medical Leave (PFML) Act (458 CMR 2.00); or, as an alternative to the above 13 percent, the Contractor may elect to use actual rates for FICA, FUTA, SUTA, EST and PFML provided the actual rates are supported with verifiable documentation and shall be subject to review by Audit Operations;

Addendum No. 1, November 18, 2022

- (3) Plus the actual cost of Workmen's Compensation and Liability Insurance, Health, Welfare and Pension benefits, and such additional fringe benefits which the Contractor is required to pay as a result of Union Labor Agreements and/or is required by authorized governmental agencies;
- (4) Plus subcontractor or a Public or Private Utility costs;
- (5) Plus 10 percent of the total of (1), (2), (3) and (4);
- (6) Plus the estimated proportionate cost of surety bonds (The Contractor shall provide evidence of revised bonds according to Subsection 3.04).

Costs incurred for traffic police, railroad flagging and permits will be reimbursed without markup for overhead or profit.

The Subcontractor is bound by the same criteria for the determination of an equitable adjustment as the Contractor.

No separate payment will be made for general superintendence and the use of small tools, and manual equipment. The costs of general superintendence as well as use of small tools and manual equipment will be considered included in field and/or home office overhead. General superintendence is that next level above the working foreman.

The Contractor shall, when requested by the Engineer, furnish itemized statements of the cost of the work ordered and give the Engineer access to all accounts, bills and vouchers relating thereto, and unless the Contractor shall furnish such itemized statements, access to all accounts, bills and vouchers, the Contractor shall not be entitled to payment for any items of extra work for which such information is sought by the Engineer.

DIVISION II

CONSTRUCTION DETAILS

SUBSECTION 230: CULVERTS, STORM DRAINS, AND SEWER PIPES

Subsection 230.40 General

(page II.62) Replace this subsection with the following:

Materials shall meet the requirements specified in the following Subsections of Division III, Materials:

| | |
|--|----------|
| Mortar for Pipe Joints | M4.02.15 |
| Jointing Materials for Pipes | M5.01.0 |
| Reinforced Concrete Pipe | M5.02.1 |
| Reinforced Concrete Pipe. Flared Ends | M5.02.2 |
| Corrugated Metal Pipe | M5.03.0 |
| Metal End Sections | M5.03.6 |
| Polymeric Precoated Corrugated Metal Pipe | M5.03.8 |
| Corrugated Plastic Pipe | M5.03.10 |
| Corrugated Plastic Flared Ends | M5.03.10 |
| Corrugated Metal Pipe-Arch | M5.04.0 |
| Structural Plate for Pipe and Pipe-Arch | M5.04.2 |
| Smooth Steel Liner Helically Corrugated Shell Metal Pipe | M5.04.3 |
| Ductile Iron Pipe | M5.05.3 |

Subsection 230.62 Pipe Joints

(page II.62) Replace this subsection with the following:

The joints of concrete pipe shall be formed by caulking a gasket of jute or oakum into the bell and then filling the remainder of the joint with cement mortar. The invert shall be kept smooth and free of any obstructions. In the case of concrete pipe, the surfaces to be joined shall be thoroughly cleaned and wetted with water before the joint is made. Corrugated metal pipe and corrugated plastic pipe shall be firmly joined with an approved coupling. The interior surfaces of abutting pipes shall form a smooth grade when pipe laying is completed.

Where watertight joints are required, concrete pipe shall be joined using flexible water tight rubber gaskets conforming to M5.01.0. The pipe ends shall be designed so that the gasket will be confined on all sides and will not support the weight of the pipe. Any alternative joint design must be pre-approved by the Engineer.

In designated areas, as directed, certain joints may be left open to allow for entrance of underground water into the pipeline.

Subsection 230.82 Payment Items

(page II.67) Replace this subsection with the following:

| | | |
|---------|---|------|
| *230. | -Inch Corrugated Metal Pipe __ Gage | Foot |
| *230.7- | -Inch Corrugated Metal Pipe End Section | Each |
| *232. | __ x __ Inch ACCM Pipe-Arch __ Gage | Foot |
| *234.- | -Inch Drainage Pipe-Option | Foot |
| *238. | Ductile Iron Pipe | Foot |
| *239. | Structural Plate Pipe | Foot |
| *240. | Structural Plate Pipe-Arch, __ Gage | Foot |
| *241.- | -Inch Reinforced Concrete Pipe Class III | Foot |
| *242.- | -Inch Reinforced Concrete Pipe Flared End | Each |
| *243.- | -Inch Reinforced Concrete Pipe Class IV | Foot |
| *244.- | -Inch Reinforced Concrete Pipe Class V | Foot |
| *252.- | -Inch Corrugated Plastic Pipe | Foot |
| *252.1- | -Inch Corrugated Plastic Pipe Flared End | Each |
| *255.- | Polymeric Precoated Corrugated Metal Pipe | Foot |

SUBSECTION 301: WATER SYSTEMS

Subsection 301.40 General

(page II.76) Replace this subsection with the following:

Materials shall meet the requirements specified in the following Subsections of Division III, Materials:

| | |
|--|---------|
| Thrust Blocks | |
| Cement Concrete..... | M4.02.0 |
| Jointing Materials for Pipes..... | M5.01.0 |
| Water Pipe and Fittings | |
| Copper Tubing | M5.06.0 |
| Ductile Iron Pipe and Fittings | M5.05.3 |
| Insulation and Waterproof Jackets..... | M9.11.0 |
| Cellular Glass..... | M9.11.1 |
| Fiber Glass | M9.11.2 |
| Expanded Polystyrene | M9.11.3 |
| Urethane..... | M9.11.4 |
| Waterproof Jackets..... | M9.11.5 |

SECTION 800: TRAFFIC CONTROL DEVICES

SUBSECTION 813: WIRING, GROUNDING AND SERVICE CONNECTIONS

Subsection 813.20 General

(page II.385) Delete the third paragraph.

Subsection 813.60 Wire and Cable

(page II.387) Under C. Splicing, delete the first paragraph.

SUBSECTION 815: TRAFFIC CONTROL SIGNALS

Subsection 815.20 General

(page II.394) Replace the 9th paragraph of this subsection with the following:

All work within the traffic control cabinet shall be done by an IMSA Certified Traffic Signal Level II Technician. The Contractor shall provide to the Engineer names and certification qualifications of all persons who will be working within the traffic control cabinet at least 10 days prior to the start of any traffic control cabinet work.

SUBSECTION 820: HIGHWAY LIGHTING

Subsection 820.20 General

(page II.406) Delete TRAFFIC CONTROL DEVICES at the top of the page and delete the 7th paragraph of the subsection.

SUBSECTION 840: SIGN SUPPORTS

Subsection 840.20 General

(page II.427) Replace the paragraph at the top of the page beginning with Before fabricating ... with the following:

Before fabricating the sign support structures, the Contractor shall submit erection plans and shop drawings for approval of the Engineer.

Shop drawings shall be in accordance with Subsection 960.60: Shop Drawings and Subsection 5.02: Plans and Detail Drawings and include span lengths, post heights, vertical and horizontal clearances, material specifications (grade and/or alloy), anchor bolt layout, and any other pertinent information. Provisions for cambering shall also be shown to ensure that horizontal cross beams will not deflect below the horizontal.

Erection procedures shall be in accordance with Subsection 960.61 Design, Fabrication and Erection.

SUBSECTION 850: TRAFFIC CONTROLS FOR CONSTRUCTION AND MAINTENANCE OPERATIONS**Subsection 850.29 Temporary Barrier and Temporary Barrier Removed and Reset**

(page II.432) Replace the first paragraph of this subsection with the following:

Temporary Barrier consists of furnishing, installing, maintaining and final removal of temporary barriers, including delineation, for traffic control or work zone protection in construction zones.

Subsection 850.30 Temporary Restrained Barrier and Temporary Restrained Barrier Removed and Reset

(page II.432) Delete this subsection.

Subsection 850.50 Temporary Restrained Barrier

(page II.435) Delete this subsection.

Subsection 850.70 Temporary Restrained Barrier and Temporary Restrained Barrier Removed and Reset

(page II.440) Delete this subsection.

Subsection 850.80 Method of Measurement

(page II.443) Delete the fifth paragraph up from the end of this subsection.

Subsection 850.81 Basis of Payment

(page II.445) Delete the 12th, 13th and 14th paragraph of this subsection.

SUBSECTION 860: REFLECTORIZED PAVEMENT MARKINGS**Subsection 860.40 General**

(page II.447) Replace White Thermoplastic ReflectORIZED Pavement Markings ...M7.01.03 and Yellow Thermoplastic ReflectORIZED Pavement Markings ...M7.01.04 with the following:

Liquid Thermoplastic Striping Material..... M7.01.3

Subsection 860.62 Application of Markings

(page II.448) Replace Table 860.62-1 with the following:

Table 860.62-1: Pavement Marking Application Requirements

| Material | Application Temperature | Line Thickness Above Roadway Surface | Glass Bead Application |
|----------|-------------------------|--------------------------------------|-------------------------------------|
| M7.01.3 | 400°F to 425°F | 125 to 188 mils | Drop-on 1 lb per 10 ft ² |
| M7.01.23 | 135°F to 150°F | 15 mils | 6 lb per gal |
| M7.01.24 | 135°F to 150°F | 15 mils | 6 lb per gal |

DIVISION III MATERIALS SPECIFICATIONS

SECTION M4: CEMENT AND CEMENT CONCRETE MATERIALS

Subsection M4.02.02: Aggregates

(page III.50) Replace this Subsection with the following:

Aggregate shall exhibit acceptable quality characteristics and material properties, including particle size distribution, shape, surface texture, absorption, compressibility, effect on modulus of elasticity of concrete, moisture-related volume changes, coefficient of thermal expansion, wetting and drying, and resistance to abrasion, alkali aggregate reaction, and d-cracking, popouts, and sulfate attack due to freezing, thawing, and de-icing. Aggregate shall be sufficiently limited of potentially deleterious amounts of constituents that may negatively affect cement concrete performance, including workability, setting, hardening, aggregate-cement bond, strength, color, long-term durability, and other properties.

Aggregate sources with limited historical field and test data shall be subjected to ASTM C295 Petrographic Examination for Potential Alkali Aggregate Reactive Constituents and Deleterious Materials in Aggregate. Examinations and reporting shall be conducted by accredited independent laboratories. The Producer shall submit ASTM C295 examination reports to the Department for review.

A. Fine Aggregates

Fine aggregate shall meet AASHTO M 6 Standard Specification for Fine Aggregate for Hydraulic Cement Concrete.

B. Coarse Aggregates

Coarse aggregate shall meet AASHTO M 80 Standard Specification for Coarse Aggregate for Hydraulic Cement Concrete and AASHTO M 43 Sizes of Aggregate for Road and Bridge Construction.

Subsection M4.02.06: Proportioning

(page III.55) Replace B, 4. Air Content with the following:

4. Air Content.

The air void system shall contain a stabilized air bubble distribution and promote quality concrete properties, including enhanced workability, cohesion, strength, and resistance to freezing, thawing, de-icing, and sulfate reaction. Cement concrete shall meet the air content targets identified in Table M4.02.06-1. A tolerance of $\pm 1.5\%$ in the percentages will be allowed.

Table M4.02.06-1: Air Content Target

| Nominal Maximum Aggregate Size (in.) | Reinforced Concrete (%)^[1] | Non- Reinforced Concrete (%)^[1] |
|---|--|---|
| 3/8 | 7.5 | 7.5 |
| 1/2 | 7.0 | 7.0 |
| 3/4 | 6.0 | 7.0 |
| 1 | 6.0 | 6.5 |
| 1 1/2 | 5.5 | 6.5 |

^[1]A 1.0% reduction from the air content target is permitted for $f'_c \geq 5000$ psi.

SECTION M5: PIPE, CULVERT SECTIONS AND CONDUIT**Subsection M5.01.0 Jointing Materials for Pipes**

(page III.77) Add this new subsection:

- A. Jute or oakum furnished for use in pipe joints shall be of an accepted grade approved for common usage.
- B. Mortar shall conform to the requirements of M4.02.15: Cement Mortar.
- C. Rubber ring or plastic gaskets shall be of tough, flexible, chemical-resistant material, and of such size and shape as to ensure satisfactory pipe joints when incorporated in the work and shall conform to ASTM C443.
- D. Mechanical joints shall conform to the requirements of the ASA Specifications A21.11.
- E. The yarning material for cast iron bell-and-spigot pipe joints shall be sterilized braided hemp or untarred twisted jute, clean and dry and free from oil, grease, or any other deleterious matter.

Subsection M5.02.1 Reinforced Concrete Pipe

(page III.77) Replace this subsection with the following:

Reinforced concrete pipe shall conform to the requirements of AASHTO M 170 for the class of pipe specified in the contract documents.

- All pipe 24 in. in diameter or smaller shall be of the bell-and-spigot type.
- Pipes larger than 24 in. in diameter shall be tongue and groove or bell and spigot.

Subsection M5.02.2 Reinforced Concrete Pipe Flare Ends

(page III.77) Replace this subsection with the following:

Flared end sections shall be fabricated to comply with the current construction standard for this item. The method of fabrication and materials used shall conform to the requirements of AASHTO M 170, Class III, except that the three edge bearing tests shall not be required. The flare shall be of the same thickness and materials as the barrel and have steel reinforcement equaling or exceeding the amount shown on the table for AASHTO M 170, Class III, except that a double row of steel will not be required.

SECTION M7: PAINTS, PROTECTIVE COATINGS AND PAVEMENT MARKINGS**M7.00.0 General Requirements for Paints and Protective Coatings**

(page III.92) Delete the second occurrence of M7.01: Pavement Markings in the last paragraph.

M7.01 Pavement Markings

(page III.92) Change the subsection number from M7.01 to M7.01.0. and delete M7.01.03 and M7.01.04.

M7.01.3 Liquid Thermoplastic Striping Material

(page III.93) Add this new subsection.

M7.01.3 Liquid Thermoplastic Striping Material**A. General.**

This specification covers a reflectorized thermoplastic pavement striping material that is extruded onto the pavement in a molten state by mechanical means with the application of glass beads. When applied properly and at the designated thickness and width the stripe shall, upon cooling, be reflectorized and be able to resist deformation by traffic. The material shall be placed on bare pavement or existing thermoplastic markings.

1. Materials

Prequalified batches of acceptable thermoplastic materials are listed on the QCML.

All thermoplastic material shall meet the requirements of AASHTO M 249 and tested in accordance with AASHTO T 250 and the following:

- 1) Glass Beads (Pre-Mix) used in the manufacture of thermoplastic shall be uncoated and meet the requirements of AASHTO M 247, Type I and M7.01.07 and have a minimum of 80% true spheres.
- 2) The resin shall be alkyd or hydrocarbon and meet the requirements of table M7.01.3-1.

Table M7.01.3-1 Thermoplastic Resin Requirements

| Properties | Hydrocarbon | Alkyd |
|---|-------------|----------------------|
| % Binder, Minimum | 22 | 20 |
| Indentation Resistance @ 115°F, ASTM D7735 | -- | 40-75 units (Type A) |
| Bond Strength, Minimum, psi | 180 | 200 |

The material manufacturer shall have the option of formulating a hydrocarbon resin-based or an alkyd resin-based system. However, the physical and chemical properties contained in this specification shall apply regardless of the type of formulation used. The binder must consist of a mixture of resins, at least one of which is a solid at room temperature, and high boiling point plasticizers. At least one third of the binder composition of an alkyd-based system must be maleic-modified glycerol ester of rosin and must be no less than 8% of the entire material formulation. Material of either binder type upon heating to the application temperature shall not evolve fumes which are toxic, or injurious to persons or property. The pigment, beads and filler shall be well dispersed in the resin. The material shall be free from all skins, dirt, and foreign objects.

The thermoplastic pavement marking material may be supplied in block or granular form. Block material shall be packaged in suitable containers to which it will not adhere to during shipment or storage. The blocks shall be approximately 12" X 36" X 2". Granular material shall be packaged in bags that when introduced to the mix hopper of the application equipment, it will become part of the mix with no adverse effect to the performance of the thermoplastic material. The packages of either type shall weigh approximately 50 pounds. Each container label shall designate the color, manufacturer's name, batch number and date of manufacture. Each batch manufactured shall have its own separate number. The label shall warn the user that the material shall be heated in the range of 400-425°F during application.

B. Sampling and Testing

1. Sampling

Provide one bag of thermoplastic material for verification testing per batch. A batch is a unit of production that is consistent in appearance, formulation, proportions and can be identified by a unique number known as a Batch Number. Each batch shall consist of a minimum of 3,000 lbs. and a maximum of 44,000 lbs.

2. Testing

Tests on White and Yellow Thermoplastic Striping Material shall be reported by an Independent Testing Laboratory and performed in accordance with these Specifications and AASHTO M 249.

Addendum No. 1, November 18, 2022

The Independent Test Results shall be for each batch and shall identify the material by manufacturer including name and address, batch number(s), date and place of manufacture and any other information that will assist in identifying the product. It shall also note the test method used for each test. The report shall include the date tested and shall be signed by a person responsible for authenticating the veracity of the test. Below the signature shall be the person's printed name and title.

Request for prequalification for each thermoplastic material batch shall be submitted to RMS, accompanied by:

- a) Certificate of Compliance stating that the material complies with AASHTO M 249, AASHTO T 250, this specification and all applicable MassDOT requirements.
- b) Independent Lab test results; and
- c) One bag of thermoplastic striping material per batch in sample bags meeting the specifications above for verification testing. The bag shall be sent to the attention of the Director of Research & Materials, MassDOT/Highway, 5 Macadam Road, Hopkinton, MA 01748.

SUBSECTION M8: METALS AND RELATED MATERIALS

Subsection M8.01.5 Anchor Bolts, Nuts and Washers

(page III.98) Replace this subsection with the following:

All bolts, nuts and washers, with the exception of those with weathering characteristics, shall be galvanized in accordance with AASHTO M 232M/M 232.

Used For Anchoring Bridge Railing Base Plates to Concrete

Bolts, nuts, and washers shall conform to the requirements of ASTM F1554 Grade 105.

Used For Anchoring Bridge Bearings to Concrete

Bolts, nuts, and washers shall conform to the requirements of ASTM F1554 Grade 105.

Used For Anchoring Signal Lighting and Sign Structures

Bolts, nuts, and washers shall conform to the applicable requirements of one of the following:

- AASHTO M 31 Type W Grade 60
- AASHTO M 314 Grade 36
- AASHTO M 314 Grade 55
- AASHTO M 314 Grade 105
- ASTM F1554 Grade 55
- ASTM F1554 Grade 105

Notes: (1) Nuts and washers for the above shall be suited to the approved bolts.
(2) Hooked smooth bars and anchor bolts shall not exceed 55 ksi.

High Strength Bolts

High strength bolts, where specified, shall conform to Subsection M8.04.3. A galvanized hexagon nut, leveling nut and flat washer shall be furnished with each bolt.

Addendum No. 1, November 18, 2022

M8.01.9 Mechanical Reinforcing Bar Splicer

(page III.95) Replace Table M8.01.9 – with the following.

Table M8.01.9-1: Requirements for Mechanical Reinforcing Bar Splicers

| Description | Test Method | Requirement |
|--|--|---|
| Ultimate Tensile Strength of Mechanical Splicer System | ASTM A1034 (Monotonic Tension Test) | 100% of ultimate tensile strength of reinforcement bars per AASHTO M31. |
| Allowable Slip | California Test No. 670 – Slip Test | 0.01 in., maximum for #14 and smaller bars, 0.03 in. maximum for #18 bars |

SECTION M9: MISCELLANEOUS MATERIALS

Subsection M9.10.0 Jointing Materials for Pipe

(page II.136) Delete this entire subsection.

[illegible]

END OF SUPPLEMENTAL SPECIFICATIONS

DOCUMENT 00719

(Revised October 12, 2022 – for all Federally Aided Projects)

**SPECIAL PROVISIONS FOR PARTICIPATION BY
DISADVANTAGED BUSINESS ENTERPRISES**
(IMPLEMENTING TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, PART 26)

Section:

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POLICY

The Massachusetts Department of Transportation (MassDOT) receives Federal financial assistance from the Federal Highway Administration (FHWA), United States Department of Transportation (U.S. DOT), and as a condition of receiving this assistance, has signed an assurance that it will comply with 49 CFR Part 26 (Participation By Disadvantaged Business Enterprises In Department Of Transportation Financial Assistance Programs). The U.S. DOT Disadvantaged Business Enterprise Program is authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”), as amended, at Title 23, United States Code, § 1101.

Accordingly, MassDOT has established a Disadvantaged Business Enterprise (DBE) Program in accordance with 49 CFR Part 26. It is the policy of MassDOT to ensure that DBEs have an equal opportunity to receive and participate in U.S. DOT assisted Contracts, without regard to race, color, national origin, or sex. To this end, MassDOT shall not directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the program objectives stated below:

- ◆ To ensure nondiscrimination in the award and administration of U.S. DOT assisted Contracts;
- ◆ To create a level playing field on which DBEs can compete fairly for U.S. DOT assisted Contracts;
- ◆ To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- ◆ To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- ◆ To help remove barriers to the participation of DBEs in U.S. DOT assisted Contracts; and
- ◆ To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Director of Civil Rights of MassDOT has been designated as the DBE Liaison Officer. The DBE Liaison Officer is responsible for implementing all aspects of the DBE Program. Other MassDOT employees are responsible for assisting the Office of Civil Rights in carrying out this obligation. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by MassDOT in its financial assistance agreements with each operating administration of the U.S. DOT. Information on the Federal requirements and MassDOT’s policies and information can be found at:

| <i>Type of Info</i> | <i>Website</i> | <i>Description</i> |
|---|---|----------------------------------|
| MassDOT Highway Division Policies and Info | https://www.mass.gov/disadvantaged-business-enterprise-goals-2019-2022 | MassDOT– Highway Div’n Page |
| For copies of the Code of Federal Regulations | http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR | FDsys – US Gov’t Printing Office |
| For information about the U.S.DOT DBE Program | https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise | U.S. DOT/ FHWA page |

1. DEFINITIONS

As used in these provisions, the terms set out below are defined as follows:

“Broker”, for purposes of these provisions, shall mean a DBE Entity that has entered into a legally binding relationship to provide goods or services delivered or performed by a third party. A broker may be a DBE Entity that arranges or expedites transactions but performs no work or installation services.

“Contractor”, “General” or “Prime” Contractor, “Bidder,” and “DB Entity” shall mean a person, firm, or other entity that has contracted directly with MassDOT to provide contracted work or services.

“Contract” shall mean the Contract for work between the Contractor and MassDOT.

“DBB” or “Design-Bid-Build” shall mean the traditional design, bid and project delivery method consisting of separate contracts between awarding authority and a designer resulting in a fully designed project; and a separate bidding process and Contract with a construction Contractor or Bidder.

“DB” or “Design-Build” shall mean an accelerated design, bid and project delivery method consisting of a single contract between the awarding authority and a DB Entity, consisting of design and construction companies that will bring a project to full design and construction.

“Disadvantaged Business Enterprise” or “DBE” shall mean a for-profit, small business concern:

- (a) that is at least fifty-one (51%) percent owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of any corporation, in which at least fifty-one (51%) percent of the stock is owned by one or more such individuals; and
- (b) where the management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

“FHWA” shall mean the Federal Highway Administration,” an agency within U.S. DOT that supports State and local governments in the design, and maintenance of the Nation’s highway system (Federal Aid Highway Program).

“Good faith efforts” shall mean efforts to achieve a DBE participation goal or other requirement of these Special Provisions that, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Such efforts must be deemed acceptable by MassDOT.

“Joint Venture” shall mean an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the Contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

“Approved Joint Venture” shall mean a joint venture, as defined above, which has been approved by MassDOT’s Prequalification Office and Office of Civil Rights for DBE participation on a particular Contract.

Addendum No. 1, November 18, 2022

"Manufacturer" shall mean a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described by the specifications.

"Regular Dealer" shall mean a DBE firm that owns, operates, or maintains a store, warehouse, or other establishment in which materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

- (a) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business, and under its own name, in the purchase and sale of the products in question.
- (b) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided above if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by long term lease agreement and not on an ad hoc or contract by contract basis.
- (c) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this definition.

"Responsive" and "Responsible" refers to the bidder's submittal meeting all of the requirements of the advertised request for proposal. The term responsible refers to the ability of the Contractor to perform the work. This ability can be determined prior to bid invitations.

"Small Business or Small Business Concern" shall mean a small business concern or company as defined in Section 3 of the Small Business Act and SBA regulations implementing it (13 CFR Part 121); and is a business that does not exceed the cap on annual average gross receipts established by the U.S. Secretary of Transportation pursuant to 49 CFR Part 26.65; see also 49 CFR Part 26.39.

"SDO" shall mean the Massachusetts Supplier Diversity Office, formerly known as the State Office of Minority and Women Business Assistance (SOMWBA). In 2010, SOMWBA was abolished and the SDO was established. See St. 2010, c. 56. The SDO has assumed all the functions of SOWMBA. SDO is an agency within the Commonwealth of Massachusetts Executive office of Administration and Finance (ANF) Operational Services Division (OSD). The SDO mandate is to help promote the development of business enterprises and non-profit organizations owned and operated by minorities and women.

"Socially and economically disadvantaged individuals" shall mean individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are:

- (a) Individuals found by SDO to be socially and economically disadvantaged individuals on a case by case basis.
- (b) Individuals in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

- (1) "Black Americans" which includes persons having origin in any of the Black racial groups of Africa; (2) "Hispanic Americans" which include persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race; (3) "Native Americans" which include persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; (4) "Asian Pacific Americans" which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong; (5) "Subcontinent Asian Americans" which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; (6) Women; or (7) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective.

Other terms and definitions applicable to the U.S. DOT DBE Program may be found at 49 CFR Part 26 and related appendices and guidance pages.

2. DBE PARTICIPATION

a. Goal

On this Contract, MassDOT has established the following goal(s) for participation by firms owned and controlled by socially and economically disadvantaged persons. At least half of the goal must be met in the form of DBE Subcontractor construction activity as opposed to material supplies or other services. The applicable goal remains in effect throughout the life of the contract regardless of whether pre-identified DBE Subcontractors remain on the Project or under Contract.

☒ Design-Bid-Build Projects: DBE Participation Goal 16 %
(One half of this goal shall be met in the form of Subcontractor construction activity)

☐ Design-Build Projects: DBE Design Participation Goal ____% and DBE Construction Participation Goal ____%
(One half of the Construction Goal shall be met in the form of Subcontractor construction activity)

b. Bidders List

Pursuant to the provisions of 49 CFR Part 26.11(c), Recipients such as MassDOT, must collect from all Bidders who seek work on Federally assisted Contracts the firm full company name(s), addresses and telephone numbers of all firms that have submitted bids or quotes to the Bidders in connection with this Project. All bidders should refer to the Special Provision Document "A00801" of the Project proposal for this requirement.

In addition, MassDOT must provide to U.S. DOT, information concerning contractors firm status as a DBE or non-DBE, the age of the firm, and the annual gross receipts of the firm within a series of brackets (e.g., less than \$500,000; \$500,000–\$1 million; \$1–2 million; \$2–5 million, etc.). The status, firm age, and annual gross receipt information will be sought by MassDOT regularly prior to setting its DBE participation goal for submission to U.S. DOT. MassDOT will survey each individual firm for this information directly.

Failure to comply with a written request for this information within fifteen (15) business days may result in the suspension of bidding privileges or other such sanctions, as provided for in Section 9 of this provision, until the information is received.

3. CONTRACTOR ASSURANCES

No Contractor or any Subcontractor shall discriminate on the basis of race color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in all respects and as applicable prior to, or subsequent to, award of U.S. DOT assisted Contracts. The Contractor agrees to affirmatively seek out and consider DBE firms as Contractors, Subcontractors, and/or suppliers of materials and services for this Contract. No Contract will be approved until MassDOT has reviewed Bidders'/Contractors' affirmative actions concerning DBEs. Failure to carry out these requirements is a material breach of this Contract which may result in the termination of the Contract or such other remedy as MassDOT or FHWA deem appropriate.

4. REQUIRED SUBCONTRACT PROVISIONS

The Prime Contractor shall include the provisions of Section 3 above in every subcontract, making those provisions binding on each Subcontractor; in addition, the Prime Contractor shall include a copy of this Special Provision, in its entirety, in every subcontract with a DBE firm which is, or may be, submitted for credit toward the Contract participation goal.

5. ELIGIBILITY OF DBES

Only firms that have been certified by SDO and confirmed by MassDOT as eligible in accordance with 49 CFR Part 26 to participate as DBEs on federally aided MassDOT Contracts may be used on this Contract for credit toward the DBE participation goal.

a. Massachusetts DBE Directory

MassDOT makes available to all bidders the most current Massachusetts Disadvantaged Business Enterprise Directory. This directory is made available for Contractors' convenience and is informational only. The Directory lists those firms that have been certified as eligible in accordance with the criteria of 49 CFR Part 26 to participate as DBEs on federally aided MassDOT contracts. The Directory also lists the kinds of work each firm is certified to perform but does not constitute an endorsement of the quality of performance of any business and does not represent MassDOT Subcontractor approval.

Contractors are encouraged to make use of the DBE Directory maintained by SDO on the Internet. This listing is updated daily and may be accessed at the SDO's website at:

<https://www.diversitycertification.mass.gov/BusinessDirectory/BusinessDirectorySearch.aspx>

b. DBE Certification

A firm must apply to SDO, currently acting as certification agent for MassDOT, for DBE certification to participate on federally aided MassDOT Contracts. A DBE application may be made in conjunction with a firm's application to SDO for certification to participate in state-funded minority and women business enterprise programs or may be for DBE certification only. An applicant for DBE certification must identify the area(s) of work it seeks to perform on U.S. DOT funded projects.

c. Joint Venture Approval

To obtain recognition as an approved DBE Joint Venture, the parties to the joint venture must provide to MassDOT's Office of Civil Rights and Prequalification Office, at least fourteen (14) business days before the bid opening date, an Affidavit of DBE/Non-DBE Joint Venture in the form attached hereto, and including, but not limited to the following:

1. a copy of the Joint Venture Agreement;
2. a description of the distinct, clearly defined portion of the contract work that the DBE will perform with its own forces; and,
3. all such additional information as may be requested by MassDOT for the purpose of determining whether the joint venture is eligible.

6. COUNTING DBE PARTICIPATION TOWARDS DBE PARTICIPATION GOALS

In order for DBE participation to count toward the Contract participation goal, the DBE(s) must have served a commercially useful function in the performance of the Contract and must have been paid in full for acceptable performance.

a. Commercially Useful Function

- (1) In general, a DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. With respect to materials and supplies used on the Contract, the DBE must be responsible for negotiating price, determining quality and quantity, ordering the material, installing (where applicable) and paying for the material itself.
- (2) To determine whether a DBE is performing a commercially useful function, MassDOT will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.
- (3) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, MassDOT will examine similar transactions, particularly those in which DBEs do not participate.

b. Counting Participation Toward The Contract Participation Goal

DBE participation which serves a commercially useful function shall be counted toward the DBE participation goal in accordance with the Provisions of 49 CFR Part 26.55(a) to (h), as follows:

- (1) When a DBE participates in a construction Contract, MassDOT will count the value of the work performed by the DBE's own forces. MassDOT will count the cost of supplies and materials obtained by the DBE for the work of its contract, including supplies purchased or equipment leased by the DBE. Supplies, labor, or equipment the DBE Subcontractor uses, purchases, or leases from the Prime Contractor or any affiliate of the Prime Contractor will not be counted.

- (3) MassDOT will count the entire amount of fees or commissions charged by a DBE firm for providing bona fide services, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a U.S. DOT assisted Contract, toward DBE participation goals, provided it is determined that the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
- (4) When a DBE performs as a participant in a joint venture, MassDOT will count toward DBE participation goals a portion of the total dollar value of the contract that is equal to the distinct, clearly defined portion of the work of the Contract that the DBE performs with its own forces.
- (5) MassDOT will use the following factors in determining whether a DBE trucking company is performing a commercially useful function:
 - (i) the DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract; there cannot be a contrived arrangement for the purpose of meeting DBE participation goals.
 - (ii) the DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Contract.
 - (iii) the Contractor will receive DBE credit for the total value of the transportation services the DBE provides on the Contract using trucks owned, insured, and operated by the DBE itself and using drivers the DBE employs alone.
 - (iv) the DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The Contractor who has a contract with a DBE who leases trucks from another DBE will receive credit for the total value of the transportation services of the lease.
 - (v) the DBE may also lease trucks from a non-DBE firm, including an owner-operator. The Contractor who has a Contract with a DBE who leases trucks from a non-DBE is entitled to credit for the total value of the transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the Contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement, fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
 - (vi) the lease must indicate that the DBE has exclusive use of, and control over, the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

Addendum No. 1, November 18, 2022

- (6) MassDOT will count the Prime Contractor's expenditures with DBEs for materials or supplies toward DBE participation goals as follows:
- (i) if the materials or supplies are obtained from a DBE manufacturer, as defined in Section 1 above, MassDOT will count one hundred (100%) percent of the cost of the materials or supplies toward DBE participation goals, provided the DBE meets the other requirements of the regulations.
 - (ii) if the materials or supplies are purchased from a DBE regular dealer, as defined in Section 1 above, MassDOT will count sixty (60%) percent of the cost of the materials or supplies toward the Contract participation goal, provided the DBE meets the other requirements of the regulations.
 - (iii) for materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, MassDOT will count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site toward the Contract participation goal, provided that MassDOT determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services; the cost of the materials and supplies themselves will not be counted; and provided the DBE meets the other requirements of the regulations.

c. Joint Check Policy

MassDOT recognizes that the use of joint checks may be a business practice required by material suppliers and vendors in the construction industry. A joint check is a two-party check issued by a/the Prime Contractor to a DBE third party such as a regular dealer of material or supplies. The Prime Contractor issues the check as payor to the DBE and the third party jointly as payees to guarantee payment to the third party for materials or supplies obtained or to be used by the DBE. FHWA has established criteria to ensure that DBEs are in fact performing a commercially useful function ("CUF") while using a joint check arrangement. Contractors and DBEs must meet and conform to these conditions and criteria governing the use of joint checks.

In the event that a Contractor or DBE Subcontractor desires to use a joint check, MassDOT will require prior notice and will closely monitor the arrangement for compliance with FHWA regulations and guidance. MassDOT may allow a joint check arrangement and give credit to a Contractor for use of the DBE where one or more of the following conditions exist:

- The use of a joint check is in fact required by this type of vendor or supplier as a standard industry practice that applies to all Contractors (DBEs and non-DBEs); or is required by a specific vendor or supplier;
- Payment for supplies or materials would be delayed for an unreasonably extended period without the joint check arrangement;
- The DBE (or any of its Subcontractors) has a pattern or history of not paying a vendor or supplier within a reasonable time or has not established enough of a credit history with the supplier or vendor; and/or
- The presence of severe adverse economic conditions, where credit resources may be limited and such practices may be necessary or required to effect timely payments.

Other factors MassDOT may consider:

- Whether there is a requirement by the Prime Contractor that a DBE should use a specific vendor or supplier to meet their Subcontractor specifications;
- Whether there is a requirement that a DBE use the Prime Contractor's negotiated price;
- The independence of the DBE;
- Whether approval has been sought prior to use of a joint check arrangement; and
- Whether any approved joint check arrangement has exceeded a reasonable period of use;
- The operation of the joint check arrangement; and
- Whether the DBE has made an effort to establish alternate arrangements for following periods (i.e., the DBE must show it can, or has, or why it has not, established or increased a credit line with the vendor or supplier).

Even with the use of a Joint Check, both the Contractor and DBE remain responsible for compliance with all other elements under 49 CFR § 26.55 (c) (1), and must still be able to prove that a commercially useful function is being performed for the Contractor.

d. Joint Check Procedure(s)

- The DBE advises its General or Prime Contractor that it will have to use a Joint Check and provide proof of such requirement.
- The General or the Prime Contractor submits a request for approval to MassDOT, using MassDOT's approved Joint Check Request form (Document B00855) and by notification on the DBE Letter of Intent (Document B00854), and any other relevant documents. Requests that are not initiated during the bid process should be made in writing and comply with the procedure.
- The MassDOT Office of Civil Rights will review the request and render a decision as part of the approval process for DBE Schedules and Letters of Intent.
- Review and Approval will be project specific and relevant documents will be made part of the project Contract file.
- Payments should be made in the name of both the DBE and vendor or supplier. Payments should be issued and signed by the Contractor as only the guarantor for prompt payment of purchases to the vendor or supplier. The payment to the vendor or supplier should be handled by the DBE (i.e. if possible, funds or the joint check should be processed by the DBE and sent by the DBE to the vendor or supplier).
- MassDOT may request copies of cancelled checks (front and back) and transmittal information to verify any payments made to the DBE and vendor or supplier.
- MassDOT may request other information and documents, and may ask questions of the Contractor, Subcontractor and vendor or supplier prior to, during, and after the project performance to ascertain whether the Subcontractor is performing a commercially useful function and all parties are complying with DBE Program policies and procedures as part of the Subcontractor approval process.

7. AWARD DOCUMENTATION AND PROCEDURES

- a. The two lowest bidders shall submit, by the close of business on the third (3rd) business day after the bid opening, a completed Schedule of Participation by DBEs (Document B00853) which shall list:
- (1) The full company name, address and telephone number of each DBE with whom the bidder intends to make a commitment;
 - (2) The contract item(s), by number(s) and quantity(ies), if applicable, or specific description of other business activity to be performed by each DBE as set forth in the Letters of Intent. The Bidder shall list only firms which have the capacity to perform, manage and supervise the work proposed in accordance with the requirements of 49 CFR Part 26 and Section **6.b** of these Special Provisions.
 - (3) The total dollar amount to be paid to each DBE. (Bidders are cautioned that at least one half of the participation goal must be met with construction activity work.)
 - (4) The total dollar amount to be paid to each DBE that is eligible for credit toward the DBE participation goal under the counting rules set out in Section **6.b**.
 - (5) The total creditable DBE participation as a percentage of the total bid price.
- b. All firms listed on the Schedule must be currently certified.
- c. The two lowest bidders shall each submit, with their Schedules of Participation, fully completed, signed Letters of Intent (Document B00854) from each of the DBEs listed on the Schedule. The Letters of Intent shall be in the form attached and shall identify specifically the contract activity the DBE proposes to perform, expressed as contract item number, if applicable, description of the activity, NAICS code, quantity, unit price and total price. In the event of discrepancy between the Schedule and the Letter of Intent, the Letter of Intent shall govern.
- d. Evidence of good faith efforts will be evaluated by MassDOT in the selection of the lowest responsible bidder.

All information requested by MassDOT for the purpose of evaluating the Contractor's efforts to achieve the participation goal must be provided within three (3) calendar days and must be accurate and complete in every detail. The apparent low bidder's attainment of the DBE participation goal or a satisfactory demonstration of good faith efforts is a prerequisite for award of the Contract.

- e. Failure to meet, or to demonstrate good faith efforts to meet, the requirements of these Special Provisions shall render a bid non-responsive. Therefore, in order to be eligible for award, the bidder (1) must list all DBE's it plans to employ on the Schedule of Participation; and provide the required Letters of Intent for, DBE participation which meets or exceeds the Contract goal in accordance with the terms of these Special Provisions or (2) must demonstrate, to the satisfaction of MassDOT, that good faith efforts were made to achieve the participation goal. MassDOT will adhere to the guidance provided in Appendix A to 49 CFR Part 26 on the determination of a Contractor's good faith efforts to meet the DBE participation goal(s) set forth in Section 2 herein.

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- f.** If MassDOT finds that the percentage of DBE participation submitted by the bidder on its Schedule does not meet the Contract participation goal, or that Schedule and Letters of Intent were not timely filed, and that the bidder has not demonstrated good faith efforts to comply with these requirements, it shall propose that the bidder be declared ineligible for award. In that case, the bidder may request administrative reconsideration. Such requests must be sent in writing within three (3) calendar days of receiving notice of proposed ineligibility to: The Office of the General Counsel, Massachusetts Department of Transportation, 10 Park Plaza, Boston, MA, 02116.
- g.** If, after administrative reconsideration, MassDOT finds that the bidder has not shown that sufficient good faith efforts were made to comply with the requirements of these Special Provisions, it shall reject the bidder's proposal and may retain the proposal guaranty.
- h.** Actions which constitute evidence of good faith efforts to meet a DBE participation goal include, but are not limited to, the following examples, which are set forth in 49 CFR Part 26, Appendix A:
- (1) Soliciting through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the Contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
 - (2) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE participation goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Prime Contractor might otherwise prefer to perform these work items with its own forces.
 - (3) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - (4) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE Subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE Subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone number of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

A bidder using good business judgment would consider a number of factors in negotiating with Subcontractors, including DBE Subcontractors, and would take a firm's price and capabilities as well as Contract participation goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the Contract DBE participation goal, as long as such costs are reasonable. Also, the ability or desire of a Prime Contractor to perform the work of a Contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime Contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

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- (5) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. Contractors should be careful of adding additional requirements of performance that would in effect limit participation by DBEs or any small business. The Contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. nonunion employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to meet the Contract participation goal.
- (6) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- (7) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (8) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case by case basis to provide assistance in the recruitment and placement of DBEs.

8. COMPLIANCE

- a. All activity performed by a DBE for credit toward the Contract participation goal must be performed, managed and supervised by the DBE in accordance with all commercially useful function requirements of 49 CFR Part 26. The Prime Contractor shall not enter into, or condone, any other arrangement.
- b. The Prime Contractor shall not perform with its own organization, or assign to any other business, an activity designated for the DBE(s) named on the Schedule(s) submitted by the Prime Contractor under Section 7 or under paragraph 8.f of this section, without the approval of MassDOT in accordance with the requirements of paragraphs 8.f and 8.j of this section.
- c. MassDOT may suspend payment for any activity that was not performed by the DBE to whom the activity was committed on the approved Schedule of Participation, or that was not performed in accordance with the requirements of Section 6.
- d. MassDOT retains the right to approve or disapprove of any or all Subcontractors. Requests by the Prime Contractor for approval of participation by a DBE Subcontractor for credit toward the Contract participation goal must include, in addition to any other requirements for Subcontractor approval, the following:
 - (1) A copy of the proposed subcontract. The subcontract must be for at least the dollar amount, and for the work described, in the Bidder's Schedule of Participation.
 - (2) A resume stating the qualifications and experience of the DBE Superintendent and/or foreperson who will supervise the on-site work. A new resume will be required for any change in supervisory personnel during the progress of the work.
 - (3) A Schedule of Operations indicating when the DBE is expected to perform the work.
 - (4) A list of (1) equipment owned by the DBE to be used on the Project, and (2) equipment to be leased by the DBE for use on the Project.

- (5) A list of: (1) all projects (public and private) which the DBE is currently performing; (2) all projects (public and private) to which the DBE is committed; and (3) all projects (public and private) to which the DBE intends to make a commitment. For each Contract, list the contracting organization, the name and telephone number of a contact person for the contracting organization, the dollar value of the work, a description of the work, and the DBE's work schedule for each project.
- e. If, pursuant to the Subcontractor approval process, MassDOT finds that a DBE Subcontractor does not have sufficient experience or resources to perform, manage and supervise work of the kind proposed in accordance with the requirements of 49 CFR Part 26, approval of the DBE Subcontractor may be denied. In the event of such denial, the Prime Contractor shall proceed in accordance with the requirements paragraphs **8.f** and **8.j** of this section.
- If, for reasons beyond its control, the Prime Contractor cannot comply with its DBE participation commitment in accordance with the Schedule of Participation submitted under Section 7, the Prime Contractor shall submit to MassDOT the reasons for its inability to comply with its obligations and shall submit, and request approval for, a revised Schedule of Participation. If approved by MassDOT, the revised Schedule shall govern the Prime Contractor's performance in meeting its obligations under these Special Provisions.
- f. A Prime Contractor's compliance with the participation goal in Section 2 shall be determined by reference to the established percentage of the total contract price, provided, however, that no decrease in the dollar amount of a bidder's commitment to any DBE shall be allowed without the approval of MassDOT.
- g. If the contract amount is increased, the Prime Contractor may be required to submit a revised Schedule of Participation in accordance with paragraphs **8.f** and **8.j** of this section.
- h. In the event of the decertification of a DBE scheduled to participate on the Contract for credit toward the participation goal, but not under subcontract, the Contractor shall proceed in accordance with paragraphs **8.f** and **8.j** of this section.
- i. The Prime Contractor shall notify MassDOT immediately of any facts that come to its attention indicating that it may or will be unable to comply with any aspect of its DBE obligation under this Contract.
- j. Any notice required by these Special Provisions shall be given in writing to: (1) the Resident Engineer; (2) the District designated Compliance Officer; and (3) the DBE Liaison Officer, MassDOT Office of Civil Rights, 10 Park Plaza, – 3rd Floor - West, Boston, MA, 02116 and cc'd to the Deputy Chief of External Programs.
- k. The Prime Contractor and its Subcontractors shall comply with MassDOT's Electronic Reporting System Requirements (MassDOT Document 00821) and submit all information required by MassDOT related to the DBE Special Provisions through the Equitable Business Opportunity Solution ("EBO"). MassDOT reserves the right to request reports in the format it deems necessary anytime during the performance of the Contract.
- l. Termination of DBE by Prime Contractor
- (1) A Prime Contractor shall not terminate a DBE Subcontractor or an approved substitute DBE firm without the prior written consent of MassDOT. This includes, but is not limited to, instances in which a Prime Contractor seeks to perform work originally designated for a DBE Subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

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- (3) MassDOT may provide such written consent only if MassDOT agrees, for reasons stated in its concurrence document, that the Prime Contractor has good cause to terminate the DBE firm.
- (4) For purposes of this paragraph, good cause includes the following circumstances:
 - (i) The DBE Subcontractor fails or refuses to execute a written contract;
 - (ii) The DBE Subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Good cause, however, does not exist if the failure or refusal of the DBE Subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Prime Contractor;
 - (iii) The DBE Subcontractor fails or refuses to meet the Prime Contractor's reasonable, nondiscriminatory bond requirements.
 - (iv) The DBE Subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
 - (v) The DBE Subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable State law;
 - (vi) (vii) MassDOT has determined that the listed DBE Subcontractor is not a responsible contractor;
 - (vii) The listed DBE Subcontractor voluntarily withdraws from the Project and provides written notice of its withdrawal;
 - (viii) The listed DBE is ineligible to receive DBE credit for the type of work required;
 - (ix) A DBE owner dies or becomes disabled with the result that the listed DBE Contractor is unable to complete its work on the Contract;
 - (x) Other documented good cause that MassDOT determines compels the termination of the DBE Subcontractor. Good cause, however, does not exist if the Prime Contractor seeks to terminate a DBE it relied upon to obtain the Contract so that the Prime Contractor can self-perform the DBE work or substitute another DBE or non-DBE Contractor after Contract Award.
- (5) Before transmitting to MassDOT a request to terminate and/or substitute a DBE Subcontractor, the Prime Contractor must give notice in writing to the DBE Subcontractor, with a copy to MassDOT, of its intent to request to terminate and/or substitute, and the reason for the request.
- (6) The Prime Contractor must give the DBE five (5) business days to respond to the Prime Contractor's notice. The DBE must advise MassDOT and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why MassDOT should not approve the Prime Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), MassDOT may provide a response period shorter than five (5) business days.
- (7) In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms.

m. Prompt Payment.

Contractors are required to promptly pay Subcontractors under this Prime Contract within ten (10) business days from the receipt of each payment the Prime Contractor receives from MassDOT. Failure to comply with this requirement may result in the withholding of payment to the Prime Contractor until such time as all payments due under this provision have been received by the Subcontractor(s) and/or referral to the Prequalification Committee for action which may affect the Contractor's prequalification status.

9. SANCTIONS

If the Prime Contractor does not comply with the terms of these Special Provisions and cannot demonstrate to the satisfaction of MassDOT that good faith efforts were made to achieve such compliance, MassDOT may, in addition to any other remedy provided for in the Contract, and notwithstanding any other provision in the Contract:

- a. Retain, in connection with final acceptance and final payment processing, an amount determined by multiplying the total contract amount by the percentage in Section 2, less the amount paid to approved DBE(s) for work performed under the Contract in accordance with the provisions of Section 8.
- b. Suspend, terminate or cancel this Contract, in whole or in part, and call upon the Prime Contractor's surety to perform all terms and conditions in the Contract.
- c. In accordance with 720 CMR 5.05(1)(f), modify or revoke the Prime Contractor's Prequalification status or recommend that the Prime Contractor not receive award of a pending Contract. The Prime Contractor may appeal the determination of the Prequalification Committee in accordance with the provisions of 720 CMR 5.06.
- d. Initiate debarment proceedings pursuant to M.G.L. c. 29 §29F and, as applicable, 2 CFR Parts 180, 215 and 1,200.
- e. Refer the matter to the Massachusetts Attorney General for review and prosecution, if appropriate, of any false claim or pursuant to M.G.L. c. 12, §§ 5A to 5O (the Massachusetts False Claim Act).
- f. Refer the matter to the U.S. DOT's Office of the Inspector General or other agencies for prosecution under Title 18, U.S.C. § 1001, 49 CFR Parts 29 and 31, and other applicable laws and regulations.

10. FURTHER INFORMATION; ENFORCEMENT, COOPERATION AND CONFIDENTIALITY.

- a. Any proposed DBE, bidder, or Contractor shall provide such information as is necessary in the judgment of MassDOT to ascertain its compliance with the terms of this Special Provision. Further, pursuant to 49 CFR, Part 26.107:

- (1) If you are a firm that does not meet the eligibility criteria of 49 CFR, Parts 26.61 to 26.73 (“subpart D”), that attempts to participate in a DOT- assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, MassDOT or FHWA may initiate suspension or debarment proceedings against you under 49 CFR Part 29.
 - (2) If you are a firm that, in order to meet DBE Contract participation goals or other DBE Program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D, FHWA may initiate suspension or debarment proceedings against you under 49 CFR Part 29.
 - (3) In a suspension or debarment proceeding brought either under subparagraph a.(1) or b.(2) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude FHWA from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE participation goals, should be suspended or debarred.
 - (4) FHWA may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE Program whose conduct is subject to such action under 49 CFR Part 31.
 - (5) FHWA may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.
- b. Pursuant to 49 CFR Part 26.109, the rules governing information, confidentiality, cooperation, and intimidation or retaliation are as follows:
 - (1) Availability of records.
 - (i) In responding to requests for information concerning any aspect of the DBE Program, FHWA complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). FHWA may make available to the public any information concerning the DBE Program release of which is not prohibited by Federal law.
 - (ii) MassDOT shall safeguard from disclosure to unauthorized persons information that may reasonably be considered as confidential business information, consistent with Federal and Massachusetts General Law (M.G.L. c. 66, § 10, M.G.L. c. 4, §7 (26), 950 CMR 32.00).
 - (2) Confidentiality of information on complainants. Notwithstanding the provisions of subparagraph b.(1) of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing.

- (3) Cooperation. All participants in FHWA's DBE Program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and Contractors using DBE firms to meet Contract participation goals) are required to cooperate fully and promptly with U.S. DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a Contractor which uses DBE firms to meet participation goals, findings of non-responsibility for future Contracts and/or suspension and debarment).
- (4) Intimidation and retaliation. No recipient, Contractor, or any other participant in the program, may intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If any recipient or contractor violates this prohibition, that entity is in noncompliance with this 49 CFR Part 26.

11. LIST OF ADDITIONAL DOCUMENTS.

- a. The following documents shall be completed and signed by the bidder and designated DBEs in accordance with Section 7 - Award Documentation and Procedures. These documents must be returned by the bidder to MassDOT's Bid Document Distribution Center:
- ☐ Schedule of DBE Participation (Document B00853)
 - ☐ Letter of Intent (Document B00854)
 - ☐ DBE Joint Check Arrangement Approval Form (Document B00855), if Contractor and DBE plan, or if DBE is required to use a Joint Check
- b. The following document shall be signed and returned by Contractor and Subcontractors/DBEs to the MassDOT District Office overseeing the Project, as applicable:
- ☐ Contractor/Subcontractor Certification Form (Document No. 00859) (a checklist of other documents to be included with every subcontract (DBEs and non-DBEs alike)).
- c. The following document shall be provided to MassDOT's Office of Civil Rights and Prequalification Office at least fourteen (14) business days before the bid opening date, if applicable:
- ☐ Affidavit of DBE/Non-DBE Joint Venture (Document B00856)
- d. The following document shall be provided to MassDOT's District Office of Civil Rights within 30 calendar days after the work of the DBE is completed, or no later than 30 calendar days after the work of the DBE is on a completed and processed CQE. This document shall be completed and submitted by the Prime Contractor:
- ☐ Certificate of Completion by a Minority/Women or Disadvantaged Business Enterprise (M/W/DBE) (Form No. CSD-100)

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SECTION 6.00: CONTROL OF MATERIALS**Subsection 6.01: Source of Supply and Quality***Replace this subsection with the following:*

The Engineer may approve material at the source of supply before delivery to the project.

The Department reserves the right to require approval of the source of supply for any material to be incorporated into the work prior to delivery or manufacture.

The Engineer reserves the right to prohibit the use of materials, products, or components which, in their opinion, may be supplied in a manner not reasonably consistent with contract requirements.

The determination of the Engineer shall be final upon all questions which pertain to supplier approval.

Fabricators of structural steel, miscellaneous steel and aluminum products, and producers of precast concrete and prestressed concrete must be on the Department's approved fabricators list on the date the bids are opened. Only approved fabricators will be allowed to perform work for the Department.

The Contractor shall furnish all materials required for the work specified in the Contract. Said materials shall meet the requirements of the specifications for the kind of work involving their use. For any materials named or described in these specifications, an approved equivalent to that named or described in the said specifications, may be furnished.

Chapter 7, Section 22, Clause 17, of the General Laws, as amended, shall apply to the purchase by the Contractor of supplies and materials to be used in the execution of this Contract.

The rules referred to require a preference in the purchase of supplies and materials, other considerations being equal, in favor first, of supplies and materials manufactured and sold within the Commonwealth, and second, of supplies and materials manufactured and sold within the United States.

All iron and steel products, manufactured products, and construction materials shall comply with all Federal Buy America and Federal Build America Buy America (BABA) requirements, where applicable.

In Contracts requiring structural steel, precast, or prestress concrete, the Contractor shall furnish approved shop drawings, and fabrication procedures to the Department's inspector at the supply source or fabrication site. Materials for permanent construction shall be new, shall conform to the requirements of these specifications, and shall be approved by the Engineer.

Materials for temporary structures or supports adjacent to traveled ways, the failure of which would compromise the safety of the public or the traveled ways, need not be new but the Contractor shall be required to submit certification by a Structural Professional Engineer that the material meets the requirements for the intended use and shall be approved by the Engineer. Any fabrication shall conform to the requirements of these specifications. These requirements shall not apply to gantry systems and supports as well as other mechanized systems.

If testing finds that an approved supplier does not furnish a uniform product, or if the product from such source proves unacceptable at any time, the Contractor shall, at their own expense, take any and all steps necessary to furnish approved materials.

SECTION 6.00 (Continued)

The Contractor shall submit to the Department for approval a notarized Certificate of Compliance (COC) from the Manufacturer or Supplier for each kind of manufactured or fabricated material furnished.

The COC shall certify compliance with the specifications and shall contain the following information:

1. Contract Number, City or Town, Name of Road and Federal Aid Number;
2. Name of the Contractor to which the material is supplied;
3. Kind of material supplied;
4. Quantity of material represented by the certificate;
5. Means of definitively identifying the consignment, such as invoice number, lot number, bill of lading number, label, marking, etc.;
6. Date and method of shipment;
7. Statement indicating that the material has been tested and found in conformity with the pertinent parts of the Contract;
8. Statement indicating that the material meets the requirements of Buy America and BABA, where applicable;
9. Results of all required tests including the chemical analysis in the case of metal: or in lieu of furnishing the results a statement that results of all required tests pertinent to the certificate and not submitted shall be maintained available by the undersigned for a period of not less than three years from date of final acceptance or not less than three years from date of final payment (whichever period is the longest shall apply).
10. Signature of a person having legal authority to bind the supplier.

These COCs shall be delivered to the contract site at the same time that the materials are delivered and before such materials are incorporated into the work. The Contractor shall attach to the COC a document listing the contract bid item number(s), sub item(s), or lump sum breakdown item number(s), as applicable, under which the material will be compensated. Payment for the item in which the materials are incorporated may be withheld until these COCs are received in a form that meets the contract requirements.

If the Contractor has new materials purchased for use on a previous Department Contract which have never been used and which comply with the specifications, these materials may be furnished and used. The Contractor shall submit their own sworn statement certifying that such materials were purchased for use on a previous Contract (naming and identifying such Contract) and shall attach the original COC.

Any cost involved in furnishing the certificate shall be borne by the Contractor.

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BUILD AMERICA BUY AMERICA PREFERENCE

On Federally-aid projects the Buy America (23.CFR § 635.410) and Build America, Buy America Act (Pub. L. No. 117-58, §§ 70901-52). requires the following,

- (1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, must occur in the United States. Foreign steel and iron can be used if the cost of the materials does not exceed 0.1% of the total Contract cost or \$2,500, whichever is greater. The action of applying a coating to a covered material (i.e., steel and iron) is deemed a manufacturing process subject to Buy America. Coating includes epoxy coating, galvanizing, painting and any other coating that protects or enhances the value of a material subject to requirements of Build America, Buy America. Steel used for temporary support of excavation, including H piles, soldier piles, and sheeting when the steel is required to be left in place is subject to requirements of Build America, Buy America. Temporary steel, shall remain in place when it falls within the influence zone of the soil supporting any structure or railroad tracks.
- (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. “Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:
 - non-ferrous metals,
 - plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables),
 - glass (including optic glass),
 - lumber; or
 - drywall.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

NOTE: The requirements for manufactured products indicated in paragraph (2) above are not in effect for this contract.

Addendum No. 1, November 18, 2022

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① Addendum No. 1, November 18, 2022

BIDDERS LIST

Pursuant to the provisions of 49 CFR Part 26.11 all official bidders will be required to report the names, addresses and telephone numbers of all firms that submitted bids or quotes in connection with this project. Failure to comply with a written request for this information within 15 business days may result in a recommendation to the Prequalification Committee that prequalification status be suspended until the information is received.

The Department will survey all firms that have submitted bids or quotes during the previous year prior to setting the annual goal and shall request that each firm report its age and gross receipts for the year.

①

**MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION FILE
NUMBER SIGN**

This project is subject to Massachusetts General Laws, Chapter 131, Section 40 as amended. Signs shall be in accordance with the latest MassDOT Construction Standards. All costs for the manufacture, erection, maintenance, moving, and removal of the signs shall be absorbed by the contractor with no additional compensation other than the contract unit prices.

For this project the Massachusetts Department of Environmental Protection File Number is SE 073-2998 .

NOTICE TO OWNERS OF UTILITIES
(Supplementing Subsection 7.13)

Written notice shall be given by the Contractor to all public service corporations or municipal and State officials owning or having charge of publicly or privately owned utilities of his intention to commence operations affecting such utilities at least one week in advance of the commencement of such operations. The Contractor shall, at the same time, file a copy of such notice with the Engineer.

A list of public and private utilities can be found on the MassDOT website at:
<https://www.mass.gov/info-details/utility-contacts-by-district-and-municipality>

Select District 5,
Select the Town of **TAUNTON** and then locate the utility.



Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs

Department of Environmental Protection

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Karyn E. Polito
Lieutenant Governor

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Secretary

Martin Suuberg
Commissioner

Proof of Signature for WW14 - Nonwater-Dependent License/Permit Application

Permittee Information

Name: Melissa Lenker
Phone: (978) 429-1772
Address: 10 PARK PLAZA, ROOM 4260
BOSTON, MA 02116

Permittee Company Information

Name: Massachusetts Department of Transportation
Melissa Lenker
Phone: (978) 429-1772
Address: 10 PARK PLAZA ROOM 4260
BOSTON, MA 02116

Application Submitter Information

Name: SAMUEL A CAMPBELL
Phone: (781) 467-9667, (781) 467-9667
Address: 181 BALLARDVALE STREET, SUITE 202
WILMINGTON, MA 01887

Location Information

Taunton River
0 DEAN STREET (ROUTE 44) TAUNTON, MA 02780
Latitude: 41.90557
Longitude: -71.07129



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List of Abutters

| Full Legal Name | Abutting Property Address |
|---------------------|---|
| City of Taunton | 60 Williams Street, Taunton, MA 02780 |
| SVRE Taunton SP LLC | 0 Dean Street, Taunton, MA 02780 Parcel ID 56-104 |

Additional Contacts Information

Please provide the Name of the Permittee(s) exactly as it should be listed in the license/permit that will be recorded at the Registry of Deeds (the name(s) listed here need to match the name(s) listed on the plans or the license may be rejected by the Registry of Deeds)

Massachusetts Department of Transportation, Highway Division

I hereby attest that I have listed all the Permittees in the Application Contacts section (each Permittee entered as a separate contact - do not list 2 names in 1 field)

Yes

Is the project site within a right of way?

Yes

Are you the sole owner of right of way?

Yes

Are you submitting evidence of legal authority to apply in lieu of the Property Owner's Signature? If yes, please attach a document 'Evidence of Legal Authority' in the document section

No

I hereby attest that I have listed all the Property Owners in the Application Contacts section

Yes

I hereby attest that I have listed all the Abutters in the above Contact table section

Yes

Application Type

Please select the application type you are applying for

Other

Project Information



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Brief Description of Project (e.g., dock, seawall, boat ramp, Harborwalk – if a longer narrative is to be provided, please upload a separate document)

MassDOT Project File No. 606024 to be Processed Under MassDOT / MassDEP ISA - The Massachusetts Department of Transportation, Highway Division (MassDOT) proposes the reconstruction of Dean Street (Route 44) in Taunton, MA. The project includes capacity, geometric, safety, and accessibility improvements to the existing Route 44 - Hon. Gordon M. Owen Riverway - Longmeadow Road intersection. In order to facilitate these improvements, and ensure the stability and integrity of Route 44 which is currently sinking / slumping towards the Taunton River due to poor underlying soil conditions, the project proposes to remove an existing granite block retaining wall and construct a new retaining wall adjacent to and within the Taunton River. Please see the attached project narrative for additional information.

Brief Description of Project Location - Non-Traditional Address (e.g., "west end Toronto Avenue right-of-way at Gloucester Harbor" DO NOT complete this field if your project has a traditional address - enter N/A)

The project location within Chapter 91 jurisdiction is on the south side of Dean Street (Route 44) at the intersection of Disamar Road.

Proposed Use/Activity description

The proposed activity includes the demolition of an existing granite block retaining wall within the Taunton River and construction of a new soldier pile and lagging wall which will be adjacent to and in some locations, within (below MHW) the Taunton River. The proposed retaining wall will support Route 44 and facilitate proposed roadway, pedestrian, and bicycle improvements.

Is this site subject to 21E?

No

Does the project exceed the MEPA review thresholds for Waterways standards?

Yes

If yes, please provide MEPA Certification number

16483

If yes, please provide the date of the secretary certificate

12/22/2021

Is the Project site in an Environmental Justice Community?

Yes

Which Wetlands Protection Act process document are you attaching?

WPA Notice of Intent

Has there ever been a waterways jurisdictional determination issued for this project site?

No

Does your project require a 401 water quality certificate? If yes, please attach if currently available, a copy of '401 Water Quality Certificate' in the document section.

No

Does the project comply with in 310 CMR 9.51?

Yes



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| | |
|---|-----|
| Does the project comply with in 310 CMR 9.52? | Yes |
| Does the project comply with in 310 CMR 9.53? | Yes |
| Are you seeking a Variance? If yes, please attach a supporting evidence of compliance with 310 CMR 9.21, 'Variance Supplement' in the document section. | No |
| Are you proposing a Supporting Designated Port Area Use? If yes, please attach a document 'Supporting Designated Port Area Use Statement' in the document section | No |
| Are you are proposing a Temporary Use in a Designated Port Area? If yes, please attach a document 'Supporting Designated Port Area Use Statement' in the document section | No |
| Are you proposing a Facility of Limited Accommodation per 310 CMR 9.56? If yes, please attach a document 'FLA Supplement' in the document section | No |
| Are you seeking a CWD (consolidated written determination) in accordance with 310 CMR 9.14(4)? If yes, please attach a document 'CWD Supplement' in the document section. | No |
| Does your project involve dredging? | No |

Additional Information

| | |
|---|-----|
| Total area of project site (in square feet, measured to mean low water mark)? | 46 |
| Is any part of the project site located on Filled Tidelands? | No |
| Is any part of the project site located in/on Flowed Tidelands? | Yes |
| Total amount of project site located in/on Flowed Tidelands | 46 |
| Is any part of the project site located on flowed Private Tidelands? | No |
| Is any part of the project site located on flowed Commonwealth Tidelands? | Yes |
| Total amount of project site located in/on Flowed Commonwealth Tidelands | 46 |



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Is any part of the project site located outside of Chapter 91 Jurisdiction? Yes

Total area of the project site located outside of Chapter 91 Jurisdiction 455,397

Documents

Documents

Required Documents:

1. Chapter 91 Plans
2. List of Environmental Regulatory Programs
3. MEPA Certificate
4. Project Compliance Statement
5. WPA Notice of Intent

Special Fee Provision

Exemption Yes

Exemption Type State Agency (only applicable if fee < or = to \$100)

Exclusion (special agreement or policy)

Substitution (ASP/IRP)

Double Fee for Enforcement

Hardship payment extension request

Application Contacts

| Name | Organization Name | Contact Person | Telephone # | Contact Type | Email |
|------------------|-------------------|----------------|----------------|-------------------------|----------------------|
| Samuel, Campbell | n/a | n/a | (978) 570-2989 | Application Prepared By | scampbell@gpinet.com |



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Proof of Signature

Primary Permittee Certification

Re: Chapter 91 Waterways Regulation Program Nonwater Dependent License Application No: 22-WW14-0008-APP submitted by SAMUEL A CAMPBELL

I hereby make application for a permit or license to authorize the activities described herein. Upon my signature, I agree to allow the duly authorized representatives of the Massachusetts Department of Environmental Protection and the Massachusetts Coastal Zone Management Program to enter upon the premises of the project site at reasonable times for the purpose of inspection.

I hereby certify under the pains and penalties of perjury that the information submitted in this application is true and accurate to the best of my knowledge. I understand and acknowledge that issuance of a Waterways License shall constitute an agreement by the Licensee and Property Owner to conform with all terms and conditions stated therein.

Name: **Melissa Lenker**

Signature: Melissa Lenker

Date: 7/15/2022

WRITTEN DETERMINATION PURSUANT TO MASSACHUSETTS GENERAL LAW CHAPTER 91

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September 21, 2022

Massachusetts Department of Transportation Highway Division, Melissa Lenker
c/o Samuel Campbell, Greenman-Pedersen, Inc.
181 Ballardvale Street, Suite 202
Wilmington, MA 01887

Re: Written Determination Pursuant to M.G.L. Chapter 91

Waterways License/Permit Application №: 22-WW14-0008-APP
Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road
Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

Dear Ms. Lenker:

The Department of Environmental Protection Waterways Regulation Program (the “Department”) hereby issues this Written Determination, pursuant to Massachusetts General Law (M.G.L.) Chapter 91, the Public Waterfront Act, and the Waterways Regulations at 310 CMR 9.00, and its intent to approve the referenced application, subject to the attached conditions.

The Massachusetts Department of Transportation Highway Division (the “Applicant”) requests authorization pursuant to M.G.L. Chapter 91 and applicable provisions of 310 CMR 9.00 to construct a new retaining wall with associated filling to support a section of the road expansion over the Taunton River, and dredging and filling for the construction of an outfall with scour protection located within flowed tidelands of the Taunton River at the south side of Route 44/Dean Street and Disamar Road, Taunton, Bristol County (the “project site”). The proposed project will result in roadway, pedestrian, bicycle, and stormwater improvements.

The project site subject to Chapter 91 jurisdiction comprises approximately 100 square feet of flowed tidelands. The scour protection will result in filling within flowed tidelands in the amount of approximately 94 square feet, approximately 27 square feet of structures, and improvement dredging of approximately 80 square feet of submerged bottom.

Findings:

- 1) The Department determines that the proposed project will be located within an area of approximately 100 square feet of flowed Commonwealth tidelands, as delineated by the High Water Mark, which is subject to Chapter 91 jurisdiction pursuant to 310 CMR 9.04(1).

This information is available in alternate format. Contact Glynis Bugg at 617-348-4040.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

Written Determination and Draft License with Special Conditions

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Waterways Application №: 22-WW14-0008-APP

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

- 2) The Department determines that the use of flowed Commonwealth Tidelands for a roadway is a nonwater-dependent use pursuant to 310 CMR 9.12(2)(f)(8). The Department also determines that the use of flowed Commonwealth Tidelands for conveyance of stormwater is a water-dependent use pursuant to 310 CMR 9.12(2)(a)(13). Given the project does not consist entirely of water-dependent uses, the Department has processed the application as a nonwater-dependent use project in accordance with 310 CMR 9.12(1).
- 1) The Department finds that the public was properly notified and given opportunity to comment on this application. The required Public Notice was published in *The Taunton Daily Gazette* and in *The Environmental Monitor* on July 22, 2022. The required Public Hearing was held remotely utilizing Zoom (an online video- and audio-conferencing platform) on August 1, 2022 at 2:00PM. The Department received written comments during the public comment period from the Massachusetts Division of Marine Fisheries. The comments received during the public comment period were adequately responded to by the Applicant and/or addressed by the Department as conditioned herein.
- 2) The Applicant has submitted relevant documentation regarding compliance with other regulatory requirements, including but not limited to, the Massachusetts Environmental Policy Act (EEA No. 16483) pursuant to the Environmental Notification Form (ENF) Certificate issued by the Secretary of Energy and Environmental Affairs (the "Secretary") on December 22, 2021; the Wetlands Protection Act Superseding Order of Conditions (DEP File No. 073-2998) issued by the Massachusetts Department of Environmental Protection on September 1, 2022; Municipal Planning Board Notification signed by the City of Taunton Planning Board Chairman on December 7, 2021; and Municipal Zoning Certificate signed by the City of Taunton Planning and Conservation Director on December 6, 2021.
- 3) The Department determines that the project as conditioned serves a proper public purpose that provides greater benefit than detriment to the rights of the public in tidelands in accordance with 310 CMR 9.31(2)(b).3.
- 4) The Department determines that the proposed project shall meet the applicable Engineering and Construction Standards at 310 CMR 9.37.
- 5) The Department determines that the proposed project complies with the standards at 310 CMR 9.55, as the project minimizes detriments to the water-related interests to the public. Although open space for passive recreation is not feasible within the limited project area subject to Chapter 91 jurisdiction without interfering with the function of the infrastructure facility, the roadway expansion will include improvements to public pedestrian and bicycle access.
- 6) The Department is not required to make a Section 61 Finding pursuant to M.G.L. Chapter 30 § 61, MEPA, because the Secretary did not require the preparation of an Environmental Impact Report (EIR) in the ENF Certificate (EEA No. 16483) dated December 22, 2021.
- 7) The Department presumes that the proposed project is consistent with all applicable Massachusetts Office of Coastal Zone Management (CZM) policies, in accordance with M.G.L. Chapter 91 § 18 and 310 CMR 9.13(2)(a).

Written Determination and Draft License with Special Conditions

Page 3 of 11

Waterways Application №: 22-WW14-0008-APP

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

Conclusion:

On the basis of the foregoing analysis, the Department will approve the proposed structures, fill, and uses described herein, as shown on the Draft License Plans and as shall be delineated on the Final License Plans in accordance with the terms of this Determination. This Determination is subject to the attached Special Conditions to be carried out by the referenced Applicant (hereinafter the "Licensee"). These Special Conditions will be included, in substantially the same form, along with the Standard Conditions, with the final Chapter 91 Waterways License/Permit to be issued pursuant hereto. This Determination, including the attached Special Conditions, is subject to appeal as described in more detail in the Notice of Appeal Rights section. The Department will grant the Chapter 91 Waterways License/Permit if no appeals are filed within twenty-one (21) days of the issuance of this Determination and upon receipt of any requisite fees and the final Mylar License Plans.

No construction or alteration in or to any portion of the project site within jurisdiction pursuant to M.G.L. Chapter 91 is authorized until a license has been issued and duly recorded at the applicable County Registry of Deeds. If you have any further questions, please contact Ryan Morrison, Waterways Regulation Program, at ryan.morrison@mass.gov.

THIS DETERMINATION IS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION ON THE 21st DAY OF September IN THE YEAR 2022.



Daniel J. Padien
Program Chief
Waterways Regulation Program

cc: Melissa Lenker, Massachusetts Department of Transportation
City of Taunton, Office of the Mayor
City of Taunton, Planning Board
City of Taunton, Conservation Commission
City of Taunton, Harbormaster (or applicable municipal Harbormaster)

Encl: Notice of Appeal Rights
Draft Waterways License and Special Conditions
MassDEP Communication for Non-English Speaking Parties

Written Determination and Draft License with Special Conditions

Page 4 of 11

Waterways Application №: 22-WW14-0008-APP

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

NOTICE OF APPEAL RIGHTS

Who has the right to appeal?

The following persons shall have the right to an adjudicatory hearing concerning this decision by the Department to grant or deny a license or permit, in accordance with 310 CMR 9.17(1): (a) an applicant who has demonstrated property rights in the lands in question, or which is a public agency; (b) any person aggrieved by the decision of the Department to grant a license or permit who has submitted written comments within the public comment period; (c) ten (10) residents of the Commonwealth who, pursuant to M.G.L. Chapter 30A, § 10A, have submitted comments within the public comment period with at least 5 of the 10 residents residing in the municipality(s) in which the license or permitted activity is located. The appeal shall clearly and specifically state the facts and grounds for the appeal and the relief sought, and each appealing resident shall file an affidavit stating the intent to be part of the group and to be represented by its authorized representative; (d) the municipal official in the affected municipality who has submitted written comments within the public comment period; and (e) CZM, for any project identified in 310 CMR 9.13(2)(a) for CZM participation or 310 CMR 9.13(2)(b) for DCR participation, if it has filed a notice of participation within the public comment period.

How can I request an adjudicatory hearing?

A person requesting an adjudicatory hearing must submit a "Notice of Claim" to the Department, with a copy of the MassDEP Adjudicatory Hearing Fee Transmittal Form and include the details specified below, within twenty-one (21) days of the date of issuance of this decision. The Fee Transmittal Form is available at the following website: <https://www.mass.gov/doc/adjudicatory-hearing-fee-transmittal-form/download> The Notice of Claim must be made in writing and sent by certified mail or hand delivery to:

MassDEP
Case Administrator
One Winter Street, 2nd Floor
Boston, MA 02108

A copy of the complete Notice of Claim must be sent at the same time by certified mail or hand delivery to: (1) the Applicant, (2) the municipal official of the city or town where the project is located, and (3) the issuing office of the MassDEP, which in this case is located at:

MassDEP
Waterways Regulation Program
One Winter Street, 5th Floor
Boston, MA 02108

The MassDEP Adjudicatory Hearing Fee Transmittal Form and a valid check payable to "The Commonwealth of Massachusetts" in the amount of one hundred dollars (\$100) must be mailed to:

MassDEP
Commonwealth Master Lockbox
P.O. Box 4062
Boston, MA 02211

What information must be included in the hearing request?

Pursuant to 310 CMR 9.17(3), any Notice of Claim requesting an adjudicatory hearing must include the following information:

- (a) the MassDEP Waterways Application File Number;
- (b) the complete name, address, fax number and telephone number of the Applicant;

Written Determination and Draft License with Special Conditions

Page 5 of 11

Waterways Application №: 22-WW14-0008-APP

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

- (c) the address of the project;
- (d) the complete name, address, fax number, and telephone number of the party filing the request and, if represented by counsel, the name, address, fax number, and phone number of the attorney;
- (e) if claiming to be a person aggrieved, the specific facts that demonstrate that the party satisfies the definition of “aggrieved person” found in 310 CMR 9.02;
- (f) a clear statement that a formal adjudicatory hearing is being requested;
- (g) a clear statement of the facts which are the grounds for the proceedings, the specific objections to the MassDEP’s written decision, and the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written decision; and
- (h) a statement that a copy of the request has been sent to the Applicant and the municipal official of the city or town where the project is located.

Dismissal of request

The request for appeal will be dismissed if the filing fee is not paid unless the appellant is exempt or is granted a waiver.

Exemptions

The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority.

Waiver

The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

Written Determination and Draft License with Special Conditions

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Waterways Application №: 22-WW14-0008-APP

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

DRAFT WATERWAYS LICENSE AND SPECIAL CONDITIONS

Massachusetts Department of Transportation Highway Division

of -- Taunton -- in the County of -- Bristol -- and Commonwealth aforesaid -- has applied to the Department of Environmental Protection for license to -- construct a section of the Route 44 road expansion and install stormwater infrastructure within and over the Taunton River, as further detailed below -----

and has submitted plans of the same; and whereas due notice of said application, and of the time and place fixed for a hearing thereon, has been given, as required by law, to the -- Municipal Official -- of the -- City of Taunton; -----

Now, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses the said --

Massachusetts Department of Transportation -- subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, is hereby licensed to -- construct and maintain an expansion of Dean Street (Route 44) including the following activities: demolish the existing retaining wall, install 12.7 linear feet of a new soldier pile and lagging wall with a cantilevered section of roadway, pedestal wall, and railing, and install a 24-inch Reinforced Concrete Pipe (RCP) outfall with a stone apron, resulting in a total of approximately 80 square feet of improvement dredging, 94 square feet of fill, and 27 square feet of structures within flowed tidelands -----

on flowed tidelands of -- the Taunton River -- South Side of Dean Street (Route 44) at the intersection with Disamar Street -- in the -- City of Taunton -- and in accordance with the locations shown and details indicated on the accompanying Draft License Plan No. 22-WW14-0008-APP (5 Sheets), dated [TO BE PROVIDED IN FINAL LICENSE] .

No prior Licenses or Legislative Acts have been identified for the project site.

Written Determination and Draft License with Special Conditions
Waterways Application №: 22-WW14-0008-APP

Page 7 of 11

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

The fill and structures authorized hereby shall be limited to the following uses: roadway improvements and public stormwater infrastructure.

This License is valid for an unlimited term pursuant to 310 CMR 9.15(1)(c).

The Dredge Permit incorporated within this License is valid for a term of five (5) years from the date of issuance.

This Determination is subject to the following Special Conditions and Standard Conditions. These Special Conditions will be included, in substantially the same form, along with the Standard Conditions, with the Chapter 91 Waterways License to be issued pursuant hereto.

SPECIAL WATERWAYS LICENSE CONDITIONS

1. Any structural alteration, change in use, or any other modification to that explicitly authorized herein and contained on said License Plans, shall require the prior review of the Department to determine whether additional licensing is required pursuant to M.G.L. Chapter 91 and the Waterways Regulations at 310 CMR 9.00.
2. In accordance with any license condition, easement, or other public right of lateral passage that exists in the area of the subject property lying below the high-water mark, the Licensee shall allow the public in the exercise of such rights for all lawful purposes to pass freely from the either side of property lines, and over/around all structures within such area.
3. All structures authorized herein shall be constructed to meet the Engineering and Construction Standards pursuant to 310 CMR 9.37.
4. The Licensee shall allow agents of the Department to enter the project site to verify compliance with the conditions of this License.
5. The use by the public of the publicly accessible areas at the project site shall be considered a permitted use, to which the limited liability provisions of M.G.L. Chapter 21, §17c shall apply.
6. All work authorized herein shall be completed within five (5) years of the date of License issuance. Said construction period may be extended by the Department for one (1) or more one- (1) year periods without public notice, provided that the Licensee submits to the Department no later than thirty (30) days prior to the expiration of said construction period a written request to extend the period and provides an adequate justification for said extension.

Written Determination and Draft License with Special Conditions

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Waterways Application №: 22-WW14-0008-APP

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

7. The Licensee shall request in writing that the Department issue a Certificate of Compliance within sixty (60) days completion of the licensed project, but in no event later than five (5) year from the date of license issuance, or any extension thereof, in accordance with 310 CMR 9.19(1). The request shall be accompanied by a certification by a registered professional engineer licensed to do business in the Commonwealth that the project was completed in accordance with the plans, specifications, and conditions of this License.
8. The Written Determination shall remain valid for up to one (1) year after issuance. Said term may be extended for one (1) or more one (1) year periods, provided that the Licensee submits to the Department, thirty (30) days prior to the expiration of said term, a written request to extend the term and provides adequate justification for said extension. This condition shall expire upon issuance of the License to be issued pursuant hereto.

SPECIAL WATERWAYS DREDGE CONDITIONS

1. Dredging and dredged material disposal activity shall not occur between March 15 and June 15 of any year unless specifically authorized in writing by the Massachusetts Division of Marine Fisheries.
2. The Licensee shall inform the Department in writing a minimum of three (3) days prior to commencement of any dredging activities authorized herein.
3. After completion of the dredging authorized herein, no maintenance dredging is permitted.

Please see Pages 9 and 10 for additional conditions to this License

Duplicate of said plan, License Number (to be assigned) is on file in the office of said Department, and original of said plan accompanies this License, and is to be referred to as a part hereof.

Written Determination and Draft License with Special Conditions

Page 9 of 11

Waterways Application №: 22-WW14-0008-APP

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

STANDARD WATERWAYS LICENSE CONDITIONS

1. Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform to all terms and conditions stated herein.
2. This License is granted upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured by the Licensee prior to the commencement of any activity or use authorized pursuant to this License.
3. Any change in use or any substantial structural alteration of any structure or fill authorized herein shall require the issuance by the Department of a new License in accordance with the provisions and procedures established in Chapter 91 of the Massachusetts General Laws. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure or fill authorized herein shall render this License void.
4. This License shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This License may be revoked after the Department has given written notice of the alleged noncompliance to the Licensee and those persons who have filed a written request for such notice with the Department and afforded them a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render this License void and the Commonwealth may proceed to remove or cause removal of any structure or fill authorized herein at the expense of the Licensee, its successors and assigns as an unauthorized and unlawful structure and/or fill.
5. The structures and/or fill authorized herein shall be maintained in good repair and in accordance with the terms and conditions stated herein and the details indicated on the accompanying license plans.
6. Nothing in this License shall be construed as authorizing encroachment in, on, or over property not owned or controlled by the Licensee, except with the written consent of the owner or owners thereof. The Licensee stated that Massachusetts Department of Transportation was the property owner at the time the application was submitted.
7. This License is granted subject to all applicable Federal, State, County, and Municipal laws, ordinances, and regulations including but not limited to a valid final Order of Conditions issued pursuant to the Wetlands Protection Act, M.G.L. Chapter 131, §40.
8. This License is granted upon the express condition that the use of the structures and/or fill authorized hereby shall be in strict conformance with all applicable requirements and authorizations of the MassDEP.
9. This License authorizes structure(s) and/or fill on:

_____ Private Tidelands - In accordance with the public easement that exists by law on private tidelands, the Licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, and the natural derivatives thereof.

X

_____ Commonwealth Tidelands - The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. Said lands are held in trust by the Commonwealth for the benefit of the public.

_____ a Great Pond of the Commonwealth - The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.

_____ Navigable River or Stream - The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, in the waterway.

No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this License.

10. Unless otherwise expressly provided by this License, the Licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon.

Written Determination and Draft License with Special Conditions

Page 10 of 11

Waterways Application №: 22-WW14-0008-APP

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

STANDARD WATERWAYS DREDGING CONDITIONS

1. Acceptance of this Waterways Permit shall constitute an agreement by the Permittee to conform to all terms and conditions stated herein.
2. Any modification from that explicitly authorized herein and contained on the Waterways Permit Plans shall require prior review of the Department to determine whether additional authorization is required pursuant to M.G.L. Chapter 91, the Public Waterfront Act, and the Waterways Regulations at 310 CMR 9.00.
3. The Permittee shall inform the Department in writing at least three (3) days before commencing any authorized dredging or dredge material disposal.
4. This Waterways Permit is issued upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured by the Permittee prior to the commencement of any activity hereby authorized.
5. This Waterways Permit shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This Permit may be revoked after the Department has given written notice of the alleged noncompliance to the Permittee, or his agent, and those persons who have filed a written request, with the Department, for such notice and have afforded the Permittee a reasonable opportunity to correct said noncompliance. Failure to correct noncompliance after the issuance of a written notice by the Department shall render this Permit void.
6. This Waterways Permit is issued subject to all applicable federal, state, county, and municipal laws, ordinances, bylaws, and regulations, including but not limited to, a valid Order of Conditions issued pursuant to the Wetlands Protection Act, M.G.L. Chapter 131, §40 and a valid Water Quality Certification issued pursuant 314 CMR 9.00.
7. This Waterways Permit is issued upon the express condition that dredging, transportation, and disposal of dredge material shall be in strict conformance with all applicable requirements and authorizations of the Department. Any subsequent maintenance dredging and transportation and disposal of dredge material during the term of this Waterways Permit shall be in strict conformance with all applicable requirements and authorizations of the Department.
8. Unless otherwise authorized in accordance with a Special Condition of this Waterways Permit, no maintenance dredging beyond the time authorized herein is permitted.
9. The dredging under this Permit shall be conducted as to cause no unnecessary obstruction of the free passage of vessels.
10. In conducting the dredging authorized, care shall be taken to cause no shoaling. If, however, any shoaling is caused, the Permittee shall, at his expense, remove the shoal areas. The Permittee shall pay all costs of supervision, and if at any time the Department deems necessary a survey or surveys of the area dredged, the Permittee shall pay all costs associated with such work.
11. Nothing in this Permit shall be construed as to impair the legal rights of any persons or authorize dredging on land not owned by the Permittee without consent of the owner(s) of such property.
12. The Permittee shall assume and pay all claims and demands arising in any manner from the work authorized herein and shall save harmless and indemnify the Commonwealth of Massachusetts, its officers, employees, and agents from all claims, audits, damages, costs and expenses incurred by reason thereof.
13. Whosoever violates any provisions of this Permit shall be subject to a fine of twenty-five thousand dollars and zero cents (\$25,000.00) per day for each day such violation occurs or continues, or by imprisonment for not more than one year, or both such fine and imprisonment; or shall be subject to civil penalty not to exceed twenty-five thousand dollars and zero cents (\$25,000.00) for each day such violation occurs or continues.
14. In the event of any conflict between the Special Conditions and the Standard Conditions, the Special Conditions shall prevail.

Written Determination and Draft License with Special Conditions

Page 11 of 11

Waterways Application №: 22-WW14-0008-APP

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed Tidelands of the Taunton River, Taunton, Bristol County

The amount of tidewater displaced by the work hereby authorized has been ascertained by said Department, and compensation thereof has been made by the said -- Massachusetts Department of Transportation -- by paying into the treasury of the Commonwealth -- two dollars and zero cents (\$2.00) -- for each cubic yard so displaced, being the amount hereby assessed by said Department -- *exempt pursuant to 310 CMR 9.16(4)(a)*.

Nothing in this License shall be so construed as to impair the legal rights of any person.

This License shall be void unless the same and the accompanying Mylar Plan are recorded within the chain of title for the affected property within sixty (60) days from the date hereof, at the appropriate Registry of Deeds for -- the County of -- Bristol.

~~In witness where~~as, said Department of Environmental Protection have hereunto set their

hands this _____ day of _____ in the year _____.

Commissioner _____

*Department of
Environmental Protection*

Program Chief _____

THE COMMONWEALTH OF MASSACHUSETTS

This License is approved in consideration of the payment into the treasury of the Commonwealth by the said -- Massachusetts Department of Transportation -- the further sum of -- *exempt pursuant to 310 CMR 9.16(4)(a)* -- the amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

BOSTON,

Approved by the Governor.

Governor



Massachusetts Department of Environmental Protection

One Winter Street, Boston, MA 02108 • Phone: 617-292-5751

Communication For Non-English Speaking Parties - 310 CMR 1.03(5)(a)



1. English:

This document is important and should be translated immediately. If you need this document translated, please contact MassDEP's Diversity Director at the telephone numbers listed below.



2. Español (Spanish):

Este documento es importante y debe ser traducido inmediatamente. Si necesita este documento traducido, por favor póngase en contacto con el Director de Diversidad MassDEP a los números de teléfono que aparecen más abajo.



3. Português (Portuguese):

Este documento é importante e deve ser traduzida imediatamente. Se você precisa deste documento traduzido, por favor, entre em contato com Diretor de Diversidade da MassDEP para os números de telefone listados abaixo.



4(a). 中國（傳統）(Chinese Traditional):

本文件非常重要，應立即翻譯。如果您需要翻譯這份文件，請用下面列出的電話號碼與MassDEP的多樣性總監聯繫。



4(b). 中国（简体中文）(Chinese Simplified):

本文件非常重要，应立即翻译。如果您需要翻译这份文件，请用下面列出的电话号码与MassDEP的多样性总监联系。



5. Ayisyen (franse kreyòl) (Haitian) (French Creole):

Dokiman sa-a se yon bagay enpòtan epi yo ta dwe tradui imedyatman. Si ou bezwen dokiman sa a tradui, tanpri kontakte Divèsite Direktè MassDEP a nan nimewo telefòn ki nan lis pi ba a.



6. Việt (Vietnamese):

Tài liệu này là rất quan trọng và cần được dịch ngay lập tức. Nếu bạn cần dịch tài liệu này, xin vui lòng liên hệ với Giám đốc MassDEP đã dạng tại các số điện thoại được liệt kê dưới đây.



7. ប្រទេសកម្ពុជា (Kmer (Cambodian):

ឯកសារនេះគឺមានសារៈសំខាន់និងគួរត្រូវបានបកប្រែភ្លាមៗ ប្រសិនបើអ្នកត្រូវបានបកប្រែឯកសារនេះ សូមទំនាក់ទំនងឆ្នោតជាតិ MassDEP នៅលេខទូរស័ព្ទដែលបានរាយនាមខាងក្រោម។



8. Kriolu Kabuverdianu (Cape Verdean):

Es documento é importante e deve ser traduzido imidiatamente. Se bo precisa des documento traduzido, por favor contacta Director de Diversidade na MassDEP's pa es numero indicode li d'boche.



9. Русский язык (Russian):

Этот документ является важным и должно быть переведено сразу. Если вам нужен этот документ переведенный, пожалуйста, свяжитесь с директором разнообразия MassDEP по адресу телефонных номеров, указанных ниже.

**10. العربية (Arabic):**

هذه الوثيقة الهامة وينبغي أن تترجم على الفور. إذا كنت بحاجة إلى هذه الوثيقة المترجمة، يرجى الاتصال مدير التنوع في MassDEP على أرقام الهواتف المدرجة أدناه.

**11. 한국어 (Korean):**

이 문서는 중요하고 즉시 번역해야 합니다. 당신이 번역이 문서가 필요하면 아래의 전화 번호로 MassDEP의 다양성 감독에 문의하시기 바랍니다.

**12. հայերեն (Armenian):**

Այս փաստաթուղթը շատ կարևոր է եւ պետք է թարգմանել անմիջապես. Եթե Ձեզ անհրաժեշտ է այս փաստաթուղթը թարգմանվել դիմել MassDEP բազմազանությունը տնօրեն է հեռախոսահամարների թվարկված են ստորև.

**13. فارسی (Farsi (Persian):**

این سند مهم است و باید فوراً ترجمه شده است. اگر شما نیاز به این سند ترجمه شده، لطفاً با ما تماس تنوع مدیر MassDEP در شماره تلفن های ذکر شده در زیر.

**14. Français (French):**

Ce document est important et devrait être traduit immédiatement. Si vous avez besoin de ce document traduit, s'il vous plaît communiquer avec le directeur de la diversité MassDEP aux numéros de téléphone indiqués ci-dessous.

**15. Deutsch (German):**

Dieses Dokument ist wichtig und sollte sofort übersetzt werden. Wenn Sie dieses Dokument übersetzt benötigen, wenden Sie sich bitte Diversity Director MassDEP die in den unten aufgeführten Telefonnummern.

**16. Ελληνική (Greek):**

Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως. Αν χρειάζεστε αυτό το έγγραφο μεταφράζεται, παρακαλούμε επικοινωνήστε Diversity Director MassDEP κατά τους αριθμούς τηλεφώνου που αναγράφεται πιο κάτω.

**17. Italiano (Italian):**

Questo documento è importante e dovrebbe essere tradotto immediatamente. Se avete bisogno di questo documento tradotto, si prega di contattare la diversità Direttore di MassDEP ai numeri di telefono elencati di seguito.

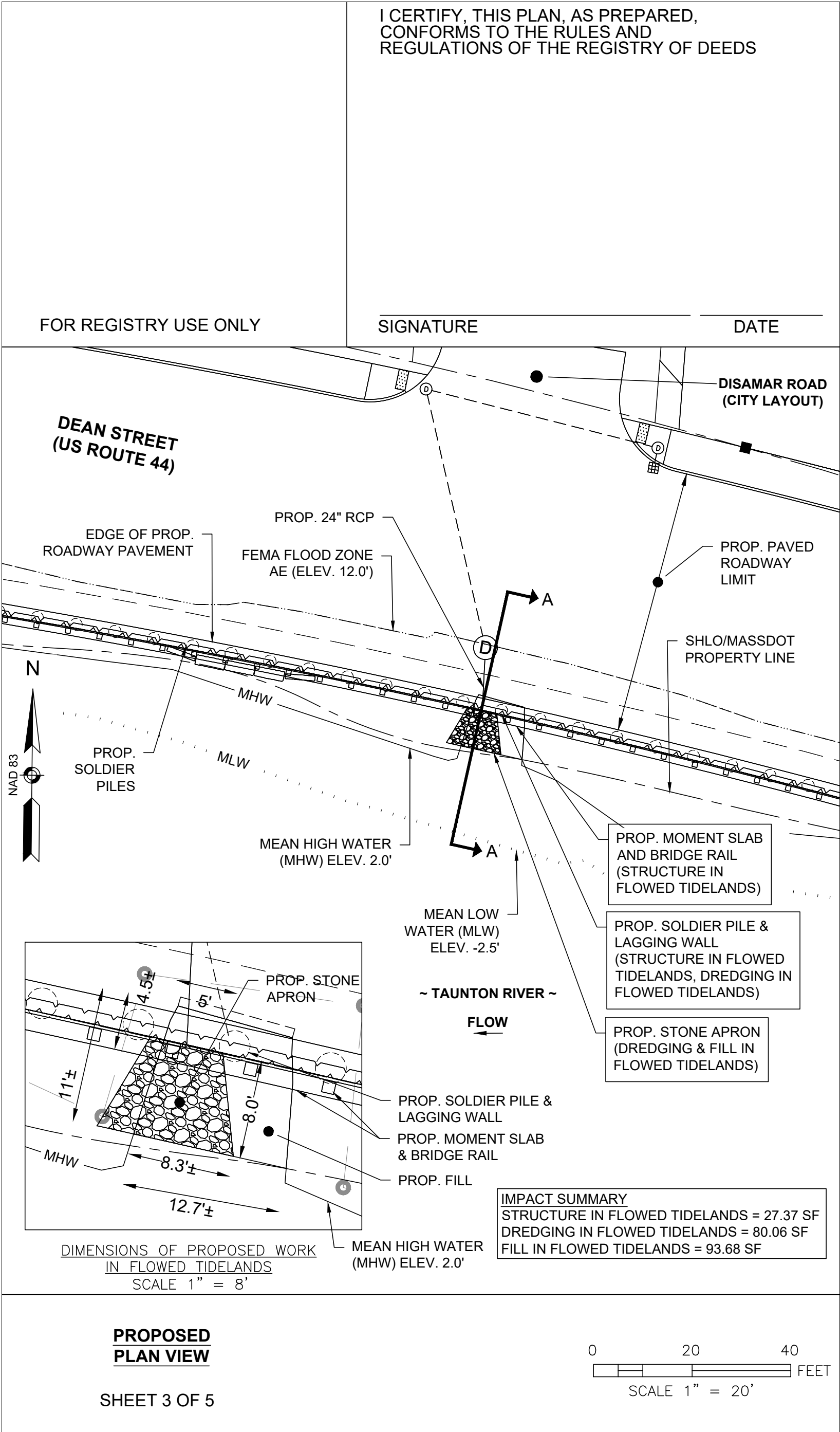
**18. Język Polski (Polish):**

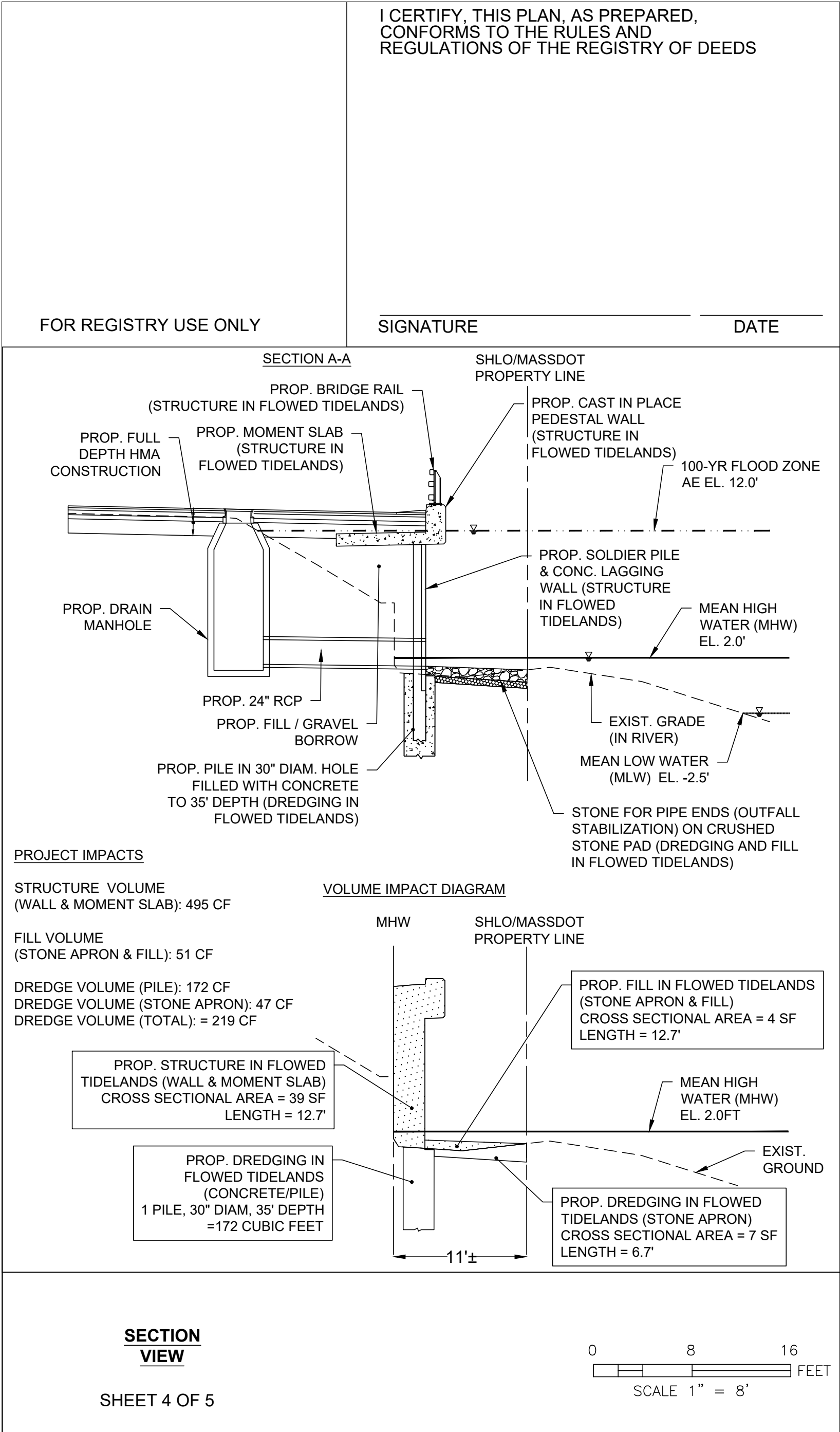
Dokument ten jest ważny i powinien być natychmiast przetłumaczony. Jeśli potrzebujesz tego dokumentu tłumaczone, prosimy o kontakt z Dyrektorem MassDEP w różnorodności na numery telefonów wymienionych poniżej.

**19. हिन्दी (Hindi):**

यह दस्तावेज महत्वपूर्ण है और तुरंत अनुवाद किया जाना चाहिए. आप अनुवाद इस दस्तावेज़ की जरूरत है, नीचे सूचीबद्ध फोन नंबरों पर MassDEP की विविधता निदेशक से संपर्क करें.

| | | I CERTIFY, THIS PLAN, AS PREPARED, CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS | | | | | | | | | | | | | | | |
|--|---------------------|---|--|-----------|------|---|-------------|---|--------------------|---|--------------------|---|--------------|---|---------------------|---|--|
| FOR REGISTRY USE ONLY | | SIGNATURE _____ DATE _____ | | | | | | | | | | | | | | | |
| <div><div><div>N</div><div>NAD 83</div><div></div></div><div><table><tr><th>DRAWING LIST</th><th></th></tr><tr><th>SHEET NO.</th><th>NAME</th></tr><tr><td>1</td><td>LOCUS SHEET</td></tr><tr><td>2</td><td>EXISTING PLAN VIEW</td></tr><tr><td>3</td><td>PROPOSED PLAN VIEW</td></tr><tr><td>4</td><td>SECTION VIEW</td></tr><tr><td>5</td><td>ABUTTER INFORMATION</td></tr></table></div></div> <td colspan="2"><div><div>PLAN VIEW AREA (SHEETS 2 AND 3)</div><div>PROPOSED RETAINING WALL AND STONE APRON IN FLOWED TIDELANDS</div></div></td> | | DRAWING LIST | | SHEET NO. | NAME | 1 | LOCUS SHEET | 2 | EXISTING PLAN VIEW | 3 | PROPOSED PLAN VIEW | 4 | SECTION VIEW | 5 | ABUTTER INFORMATION | <div><div>PLAN VIEW AREA (SHEETS 2 AND 3)</div><div>PROPOSED RETAINING WALL AND STONE APRON IN FLOWED TIDELANDS</div></div> | |
| DRAWING LIST | | | | | | | | | | | | | | | | | |
| SHEET NO. | NAME | | | | | | | | | | | | | | | | |
| 1 | LOCUS SHEET | | | | | | | | | | | | | | | | |
| 2 | EXISTING PLAN VIEW | | | | | | | | | | | | | | | | |
| 3 | PROPOSED PLAN VIEW | | | | | | | | | | | | | | | | |
| 4 | SECTION VIEW | | | | | | | | | | | | | | | | |
| 5 | ABUTTER INFORMATION | | | | | | | | | | | | | | | | |
| <div><div>LEGEND</div><div><div>SHLO/MASSDOT PROPERTY LINE</div><div>LIMIT OF PROPOSED WALL</div><div>MEAN HIGH WATER (MHW) ELEV. 2.0'</div><div>MEAN LOW WATER (MLW) ELEV. -2.5'</div><div>100-YEAR FLOOD ZONE (AE) ELEV. 12.0'</div></div></div> | | <div><div><div>0</div><div>200</div><div>400</div></div><div>FEET</div><div>SCALE 1" = 200'</div></div> | | | | | | | | | | | | | | | |
| <div><div>LOCUS SHEET</div><div>PLANS ACCOMPANYING PETITION OF MASSACHUSETTS DEPARTMENT OF TRANSPORTATION TO LICENSE AND MAINTAIN FILL AND STRUCTURES IN THE TAUNTON RIVER IN TAUNTON, MA.</div></div> | | | | | | | | | | | | | | | | | |





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|-----------------------|---|------|
| | I CERTIFY, THIS PLAN, AS PREPARED, CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS | |
| FOR REGISTRY USE ONLY | SIGNATURE | DATE |

N

NAD 83

DEAN STREET (US ROUTE 44)

DISAMAR ROAD

RIVER ROAD

SHLO

~ TAUNTON RIVER ~

FLOW

PROJECT AREA
WITHIN CH. 91
JURISDICTION
(FLOWED
TIDELANDS)

ABUTTER INFORMATION

| | | | | |
|---|-------------------------------|-----------------|----------------|---------------------|
| 1 | PB&C SERIES, LLC | 113 DEAN STREET | MAP 56 LOT 103 | BOOK 13194 PAGE 233 |
| 2 | COMMONWEALTH OF MASSACHUSETTS | | | |

**ABUTTER
INFORMATION**

SHEET 5 OF 5

0 200 400
FEET
SCALE 1" = 200'



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Bethany A. Card
Secretary

Martin Suuberg
Commissioner

NOV 08 2022

Massachusetts Department of Conservation and Recreation
c/o Samuel Campbell, Greenman-Pedersen, Inc
181 Ballardvale Street, Suite 202
Wilmington, MA 01887

RE: ISSUANCE OF CHAPTER 91 WATERWAYS LICENSE No. WW14-0000013

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection,
Flowed Tidelands of the Taunton River, Taunton, Bristol County

Dear Mr. Campbell:

The Department of Environmental Protection hereby issues the above-referenced Waterways license, enclosed, authorizing the Licensee to perform certain activities pursuant to M.G.L. c. 91, the Public Waterfront Act and its regulations 310 CMR 9.00. Any change in use or alteration of any structure or fill not authorized by this license shall render this license void.

No work shall be undertaken until the License and accompanying Mylar plans have been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property.

RECORDING OF THE LICENSE

This License must be recorded within the chain of title for all affected properties at the appropriate Registry of Deeds or, if registered land, with the Land Registration Office within sixty (60) days from the date of license issuance. In the case of recorded land, the License shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the project is located. In the case of the registered land, the License shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the project is located. **Failure to properly record this license within the chain of title for all affected properties within sixty (60) days of the date of issuance will render this license void pursuant to 310 CMR 9.18.**

This information is available in alternate format. Contact Glynis Bugg at 617-348-4040.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

Waterways License No. WW14-0000013

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed
Tidelands of the Taunton River, Taunton, Bristol County

Upon recording the License and Mylar Plan, you must notify the Department by accessing your Authorization record at <https://eplace.eea.mass.gov/citizenaccess> and entering the recording information. Instructions for entering recording information may be found at: <https://www.mass.gov/doc/eplace-waterways-recording-information-amendment/download> Failure to notify the Department of the recording of this License is a violation of 310 CMR 9.00.

CERTIFICATE OF COMPLIANCE

Pursuant to 310 CMR 9.19, once the licensed project is complete, the Licensee must file a Request for a Certificate of Compliance form, BRP WW05, within sixty (60) days of completion but in no event later than five (5) years from the License issuance date, or any extension thereof, in accordance with 310 CMR 9.19(1). The license for any project for which such a request is not filed and certificate issued may be revoked pursuant to 310 CMR 9.26.

Please contact the Ryan Morrison at Ryan.Morrison@mass.gov if you have any questions.

Sincerely,



Daniel J. Padien
Program Chief
Waterways Regulation Program

cc: Melissa Lenker, Massachusetts Department of Transportation

City of Taunton Office of the Mayor

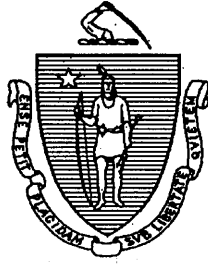
City of Taunton Planning Board

City of Taunton Conservation Commission

City of Taunton Harbormaster

Enclosures: Waterways License # WW14-0000013

The Commonwealth of Massachusetts



No. WW14-0000013

Whereas, Massachusetts Department of Transportation

of -- the Commonwealth aforesaid, has applied to the Department of Environmental Protection for license to -- construct a section of the Route 44 road expansion and install stormwater infrastructure within and over the Taunton River, as further described below -----

and has submitted plans of the same; and whereas due notice of said application, ~~and of the time and place fixed for a hearing thereon,~~ has been given, as required by law, to the -- Municipal Official -- of the -- City of Taunton -----

Now, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses the said

Massachusetts Department of Transportation -- subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, is hereby licensed to -- construct and maintain an expansion of Dean Street (Route 44) including the following activities: demolish the existing retaining wall, install 12.7 linear feet of a new soldier pile and lagging wall with a cantilevered section of roadway, pedestal wall, and railing, and install a 24-inch Reinforced Concrete Pipe outfall with a stone apron, resulting in a total of approximately 80 square feet of improvement dredging, 94 square feet of fill, and 27 square feet of structures within flowed tidelands -----

in flowed tidelands of -- the Taunton River -- South Side of Dean Street (Route 44) at the intersection with Disamar Street -- in the -- City of Taunton -- and in accordance with the locations shown and details indicated on the accompanying License Plan No. WW14-0000013 (5 Sheets), prepared by Timothy Letton, P.E. #53308 and signed and sealed on October 13, 2022.

No prior Licenses or Legislative Acts have been identified for the project site.

Waterways License/Permit №: WW14-0000013

Page 2 of 6

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed
Tidelands of the Taunton River, Taunton, Bristol County

The fill and structures hereby authorized shall be limited to the following uses: roadway improvements and public stormwater infrastructure.

This License is valid for an unlimited term pursuant to 310 CMR 9.15(1)(c).

The Dredge Permit incorporated within this License is valid for a term of five (5) years from the date of issuance.

This License is subject to the following Special Conditions and Standard Conditions.

SPECIAL WATERWAYS LICENSE CONDITIONS

1. Any structural alteration, change in use, or any other modification to that explicitly authorized herein and contained on said License Plans, shall require the prior review of the Department to determine whether additional licensing is required pursuant to M.G.L. Chapter 91 and the Waterways Regulations at 310 CMR 9.00.
2. In accordance with any license condition, easement, or other public right of lateral passage that exists in the area of the subject property lying below the high-water mark, the Licensee shall allow the public in the exercise of such rights for all lawful purposes to pass freely from the either side of property lines, and over/around all structures within such area.
3. All structures authorized herein shall be constructed to meet the Engineering and Construction Standards pursuant to 310 CMR 9.37.
4. The Licensee shall allow agents of the Department to enter the project site to verify compliance with the conditions of this License.
5. The use by the public of the publicly accessible areas at the project site shall be considered a permitted use, to which the limited liability provisions of M.G.L. Chapter 21, §17c shall apply.
6. All work authorized herein shall be completed within five (5) years of the date of License issuance. Said construction period may be extended by the Department for one (1) or more one- (1) year periods without public notice, provided that the Licensee submits to the Department no later than thirty (30) days prior to the expiration of said construction period a written request to extend the period and provides an adequate justification for said extension.
7. The Licensee shall request in writing that the Department issue a Certificate of Compliance within sixty (60) days completion of the licensed project, but in no event later than five (5) year from the date of license issuance, or any extension thereof, in accordance with 310 CMR 9.19(1). The request shall be accompanied by a certification by a registered professional engineer licensed to do business in the Commonwealth that the project was completed in accordance with the plans, specifications, and conditions of this License.

Waterways License/Permit No: WW14-0000013

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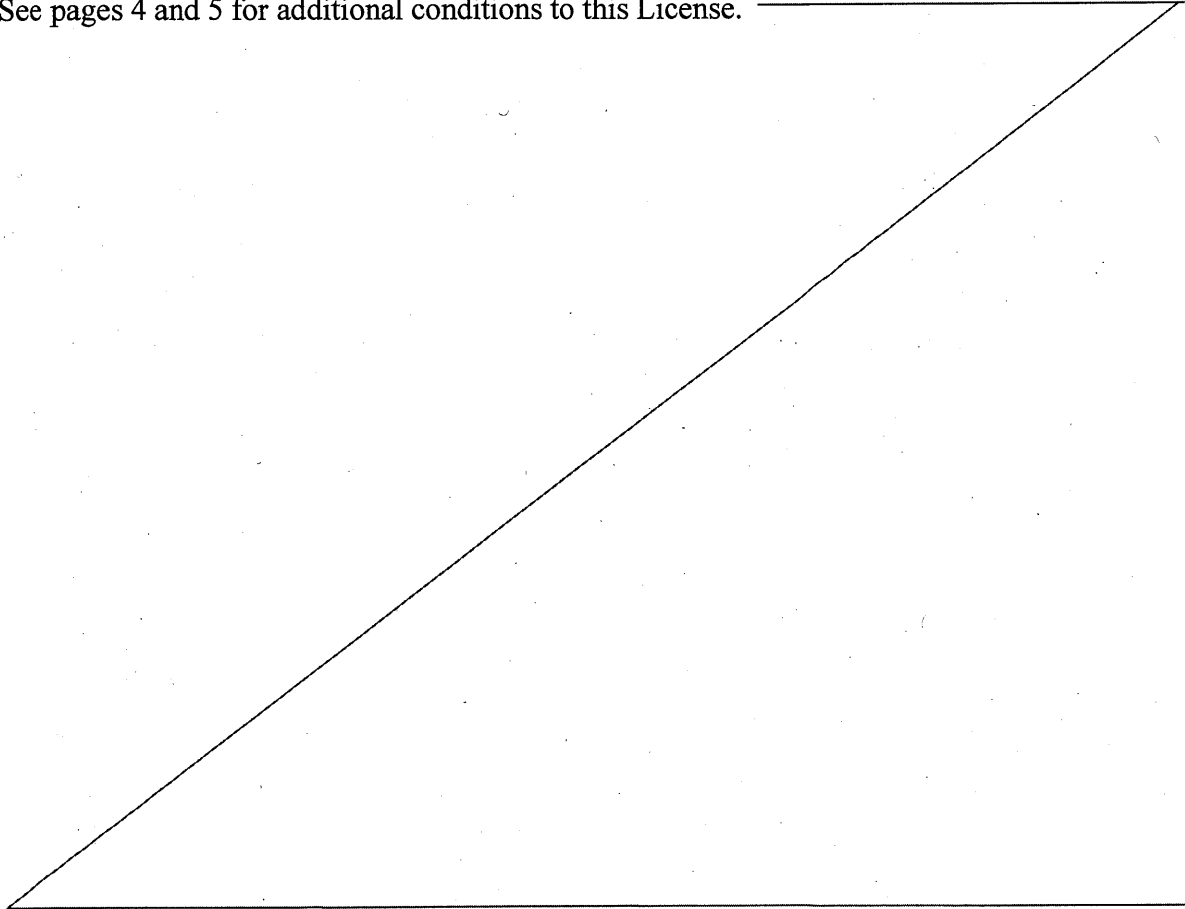
Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed
Tidelands of the Taunton River, Taunton, Bristol County

8. The Written Determination shall remain valid for up to one (1) year after issuance. Said term may be extended for one (1) or more one (1) year periods, provided that the Licensee submits to the Department, thirty (30) days prior to the expiration of said term, a written request to extend the term and provides adequate justification for said extension. This condition shall expire upon issuance of the License to be issued pursuant hereto.

SPECIAL WATERWAYS DREDGE CONDITIONS

1. Dredging and dredged material disposal activity shall not occur between March 15 and June 15 of any year unless specifically authorized in writing by the Massachusetts Division of Marine Fisheries.
2. The Licensee shall inform the Department in writing a minimum of three (3) days prior to commencement of any dredging activities authorized herein.
3. After completion of the dredging authorized herein, no maintenance dredging is permitted.

See pages 4 and 5 for additional conditions to this License.



Duplicate of said plan, Waterways License/Permit No. WW14-0000013 is on file in the office of said Department, and original of said plan accompanies this License/Permit and is to be referred to as a part hereof.

Waterways License/Permit №: WW14-0000013

Page 4 of 6

Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed
Tidelands of the Taunton River, Taunton, Bristol County

STANDARD WATERWAYS LICENSE CONDITIONS

1. Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform with all terms and conditions stated herein.
2. This License is granted upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured by the Licensee prior to the commencement of any activity or use authorized pursuant to this License.
3. Any change in use or any substantial structural alteration of any structure or fill authorized herein shall require the issuance by the Department of a new License in accordance with the provisions and procedures established in Chapter 91 of the Massachusetts General Laws. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure or fill authorized herein shall render this License void.
4. This License shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This License may be revoked after the Department has given written notice of the alleged noncompliance to the Licensee and those persons who have filed a written request for such notice with the Department and afforded them a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render this License void and the Commonwealth may proceed to remove or cause removal of any structure or fill authorized herein at the expense of the Licensee, its successors and assigns as an unauthorized and unlawful structure and/or fill.
5. The structures and/or fill authorized herein shall be maintained in good repair and in accordance with the terms and conditions stated herein and the details indicated on the accompanying license plans.
6. Nothing in this License shall be construed as authorizing encroachment in, on, or over property not owned or controlled by the Licensee, except with the written consent of the owner or owners thereof. The Licensee stated that Massachusetts Department of Transportation was the property owner at the time the application was submitted.
7. This License is granted subject to all applicable Federal, State, County, and Municipal laws, ordinances and regulations including but not limited to a valid final Order of Conditions issued pursuant to the Wetlands Protection Act, M.G.L. Chapter 131, §40.
8. This License is granted upon the express condition that the use of the structures and/or fill authorized hereby shall be in strict conformance with all applicable requirements and authorizations of the MassDEP.
9. This License authorizes structure(s) and/or fill on:

_____ Private Tidelands - In accordance with the public easement that exists by law on Private Tidelands, the Licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, and the natural derivatives thereof.

X _____ Commonwealth Tidelands - The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. Said lands are held in trust by the Commonwealth for the benefit of the public.

_____ Great Pond of the Commonwealth - The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.

_____ Navigable River or Stream - The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, in the waterway.

No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this License.

10. Unless otherwise expressly provided by this License, the Licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon.

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Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed
Tidelands of the Taunton River, Taunton, Bristol County

STANDARD WATERWAYS DREDGING CONDITIONS

1. Acceptance of this Waterways Permit shall constitute an agreement by the Permittee to conform to all terms and conditions stated herein.
2. Any modification from that explicitly authorized herein and contained on the Waterways Permit Plans shall require prior review of the Department to determine whether additional authorization is required pursuant to M.G.L. Chapter 91, the Public Waterfront Act, and the Waterways Regulations at 310 CMR 9.00.
3. The Permittee shall inform the Department in writing at least three (3) days before commencing any authorized dredging or dredge material disposal.
4. This Waterways Permit is issued upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured by the Permittee prior to the commencement of any activity hereby authorized.
5. This Waterways Permit shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This Permit may be revoked after the Department has given written notice of the alleged noncompliance to the Permittee, or his agent, and those persons who have filed a written request, with the Department, for such notice and have afforded the Permittee a reasonable opportunity to correct said noncompliance. Failure to correct noncompliance after the issuance of a written notice by the Department shall render this Permit void.
6. This Waterways Permit is issued subject to all applicable federal, state, county, and municipal laws, ordinances, bylaws, and regulations, including but not limited to, a valid Order of Conditions issued pursuant to the Wetlands Protection Act, M.G.L. Chapter 131, §40 and a valid Water Quality Certification issued pursuant 314 CMR 9.00.
7. This Waterways Permit is issued upon the express condition that dredging, transportation, and disposal of dredge material shall be in strict conformance with all applicable requirements and authorizations of the Department. Any subsequent maintenance dredging and transportation and disposal of dredge material during the term of this Waterways Permit shall be in strict conformance with all applicable requirements and authorizations of the Department.
8. Unless otherwise authorized in accordance with a Special Condition of this Waterways Permit, no maintenance dredging beyond the time authorized herein is permitted.
9. The dredging under this Permit shall be conducted as to cause no unnecessary obstruction of the free passage of vessels.
10. In conducting the dredging authorized, care shall be taken to cause no shoaling. If, however, any shoaling is caused, the Permittee shall, at his expense, remove the shoal areas. The Permittee shall pay all costs of supervision, and if at any time the Department deems necessary a survey or surveys of the area dredged, the Permittee shall pay all costs associated with such work.
11. Nothing in this Permit shall be construed as to impair the legal rights of any persons or authorize dredging on land not owned by the Permittee without consent of the owner(s) of such property.
12. The Permittee shall assume and pay all claims and demands arising in any manner from the work authorized herein and shall save harmless and indemnify the Commonwealth of Massachusetts, its officers, employees, and agents from all claims, audits, damages, costs and expenses incurred by reason thereof.
13. Whosoever violates any provisions of this Permit shall be subject to a fine of twenty-five thousand dollars and zero cents (\$25,000.00) per day for each day such violation occurs or continues, or by imprisonment for not more than one year, or both such fine and imprisonment; or shall be subject to civil penalty not to exceed twenty-five thousand dollars and zero cents (\$25,000.00) for each day such violation occurs or continues.
14. In the event of any conflict between the Special Conditions and the Standard Conditions, the Special Conditions shall prevail.

Waterways License/Permit No: WW14-0000013

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Expansion of Route 44 (Dean Street), South Side of Dean Street at Disamar Road Intersection, Flowed
Tidelands of the Taunton River, Taunton, Bristol County

The amount of tidewater displaced by the work hereby authorized has been ascertained by said Department, and compensation thereof has been made by the said -- Massachusetts Department of Transportation -- by paying into the treasury of the Commonwealth -- two dollars (\$2.00) -- for each cubic yard so displaced, being the amount hereby assessed by said Department -- *exempt pursuant to 310 CMR 9.16(4)(a)*.

Nothing in this License shall be so construed as to impair the legal rights of any person.

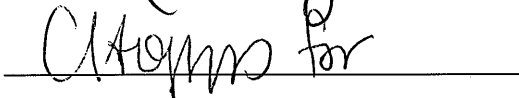
This License shall be void unless the same and the accompanying Mylar plans are recorded within the chain of title for all affected properties subject to the license within sixty (60) days from the date hereof, in the Registry of Deeds for -- the County of -- Bristol --

In witness wherefore, said Department of Environmental Protection have hereunto set their hands this 8th day of November in the year 2022.

Commissioner



Program Chief



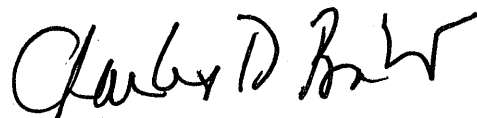
Department of
Environmental Protection

THE COMMONWEALTH OF MASSACHUSETTS

This License is approved in consideration of the payment into the treasury of the Commonwealth by the said -- Massachusetts Department of Transportation -- the further sum of -- *exempt pursuant to 310 CMR 9.16(4)(a)* -- the amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

BOSTON,


Approved by the Governor.



Governor

I CERTIFY, THIS PLAN, AS PREPARED,
CONFORMS TO THE RULES AND
REGULATIONS OF THE REGISTRY OF DEEDS


FOR REGISTRY USE ONLY


SIGNATURE

10.13.2022
DATE

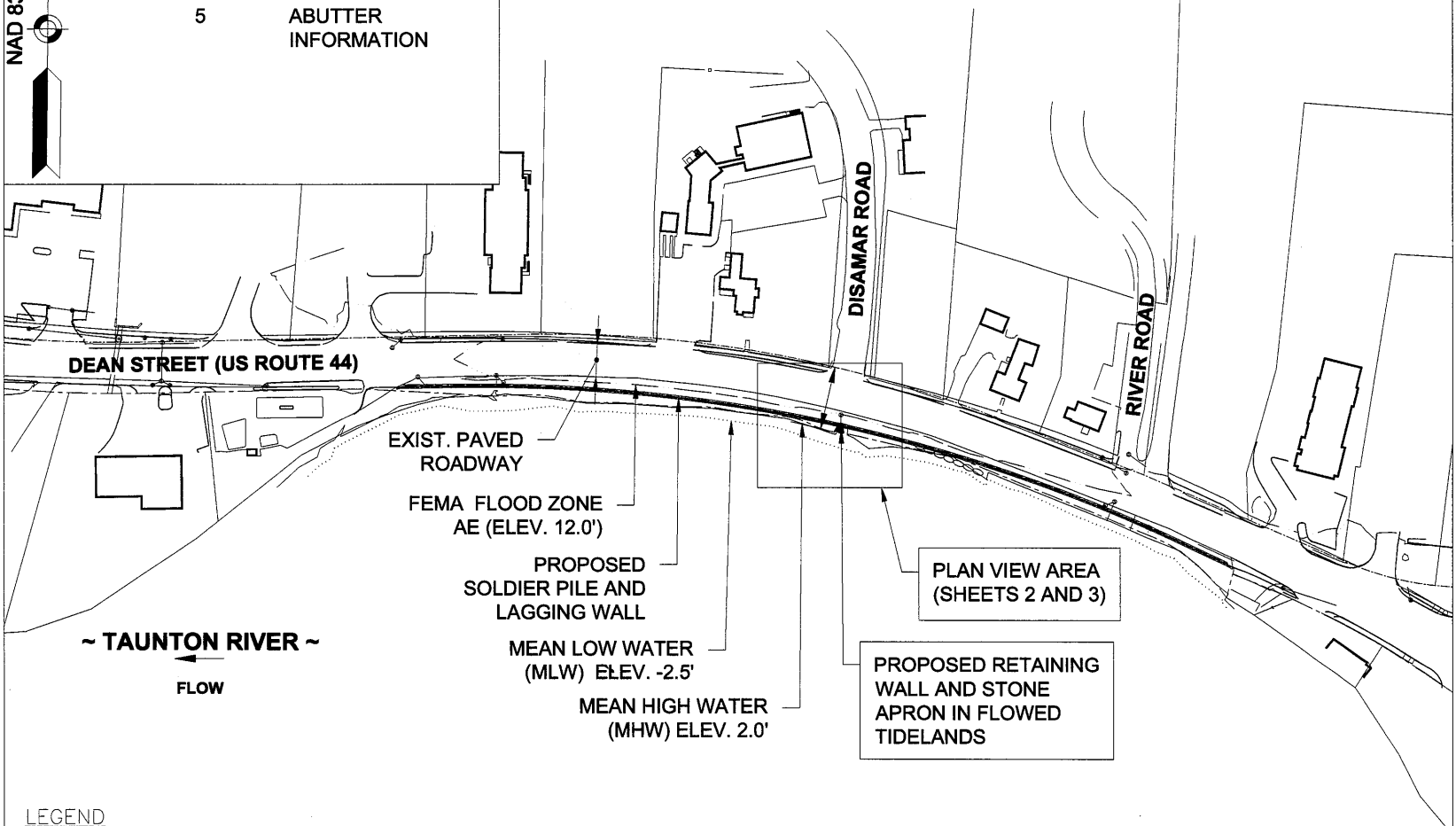
N

NAD 83



DRAWING LIST

| SHEET NO. | NAME |
|-----------|---------------------|
| 1 | LOCUS SHEET |
| 2 | EXISTING PLAN VIEW |
| 3 | PROPOSED PLAN VIEW |
| 4 | SECTION VIEW |
| 5 | ABUTTER INFORMATION |



DEAN STREET (US ROUTE 44)

EXIST. PAVED ROADWAY

FEMA FLOOD ZONE AE (ELEV. 12.0')

PROPOSED SOLDIER PILE AND LAGGING WALL

MEAN LOW WATER (MLW) ELEV. -2.5'

MEAN HIGH WATER (MHW) ELEV. 2.0'

PLAN VIEW AREA (SHEETS 2 AND 3)

PROPOSED RETAINING WALL AND STONE APRON IN FLOWED TIDELANDS

DISAMAR ROAD

RIVER ROAD

~ TAUNTON RIVER ~

FLOW

LEGEND

SHLO/MASSDOT PROPERTY LINE

LIMIT OF PROPOSED WALL

MEAN HIGH WATER (MHW) ELEV. 2.0'

MEAN LOW WATER (MLW) ELEV. -2.5'

100-YR FLOOD ZONE (AE) ELEV. 12.0'

GENERAL NOTES

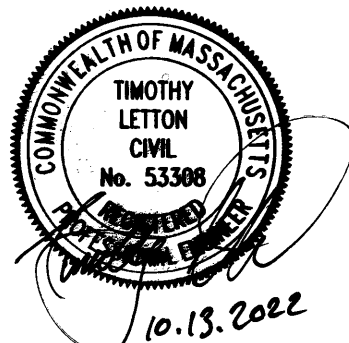
1. PLAN PREPARED BY GREENMAN-PEDERSEN, INC. JUNE 2022

2. TIDAL ELEVATIONS DERIVED FROM NOAA TIDAL DATUMS AND SURVEYED BENCHMARK ELEVATIONS ALONG THE TAUNTON RIVER.

3. NO DATA AVAILABLE RELATIVE TO HISTORIC HIGH WATER MARK.

3. VERTICAL DATUM IS BASED ON NAVD88. SURVEY PERFORMED BY CCR ASSOCIATES AND SUPPLEMENTED BY GREENMAN-PEDERSEN, INC.

4. 100-YR FLOOD ZONE AE, EL. 12.0FT (FEMA FIRM MAP NUMBER 25005C0164G)



0200400

FEET

SCALE 1" = 200'

DATE: 09/22/2022

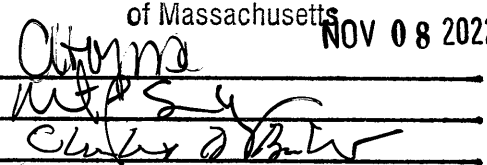
LOCUS SHEET

PLANS ACCOMPANYING PETITION OF
MASSACHUSETTS DEPARTMENT OF
TRANSPORTATION TO LICENSE AND MAINTAIN
FILL AND STRUCTURES IN THE TAUNTON
RIVER IN TAUNTON, MA.

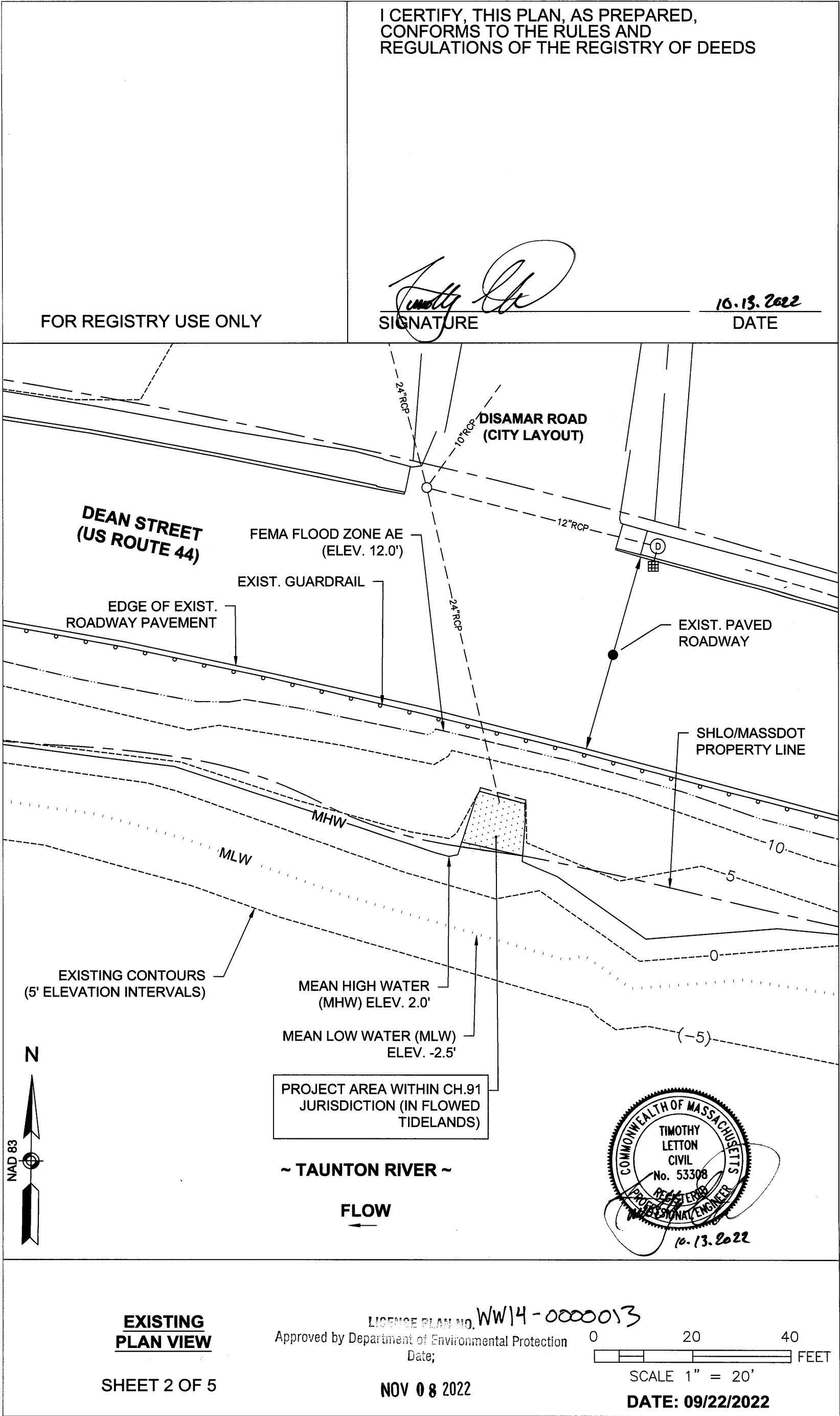
SHEET 1 OF 5

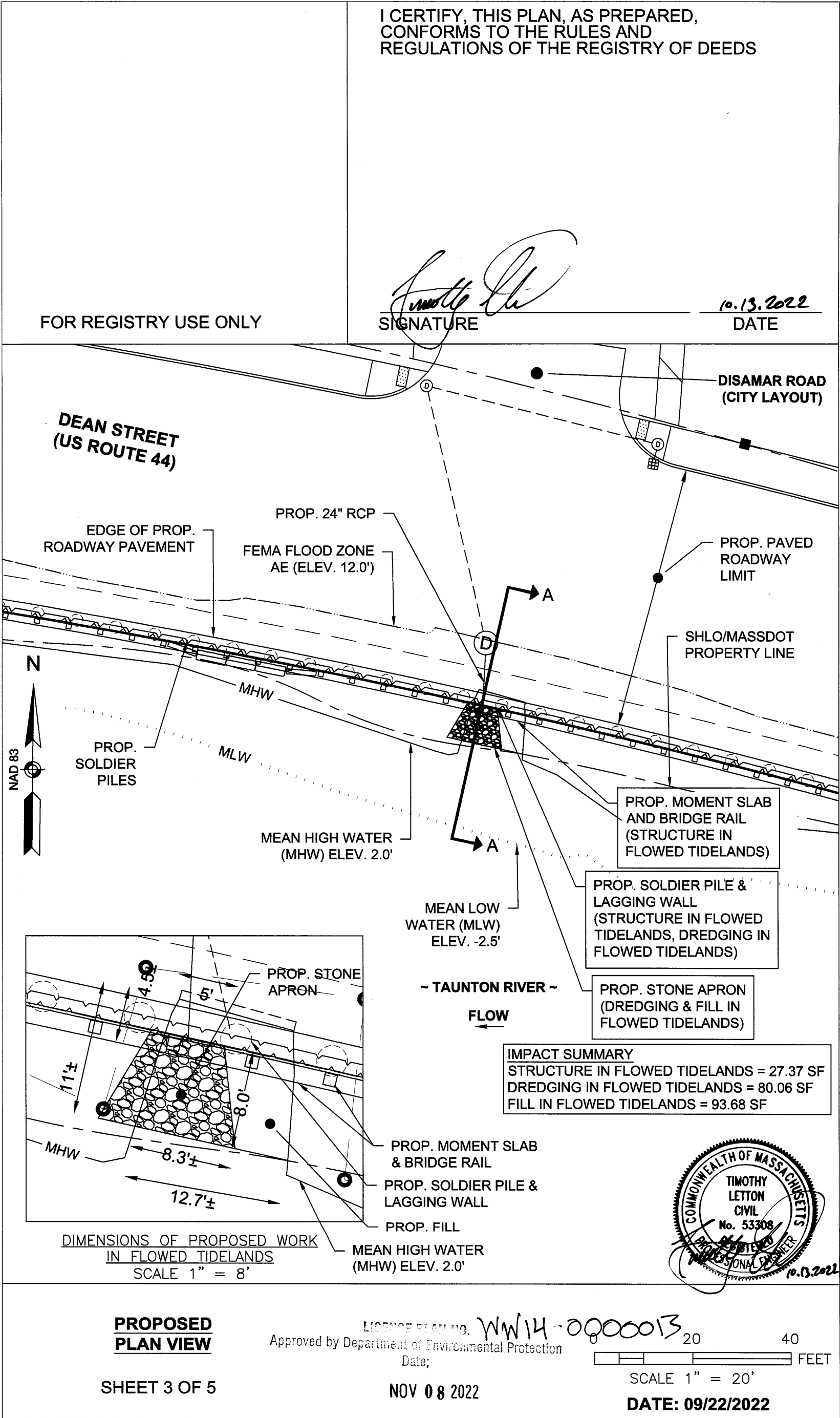
LICENSE PLAN NO. WW 14-0000013

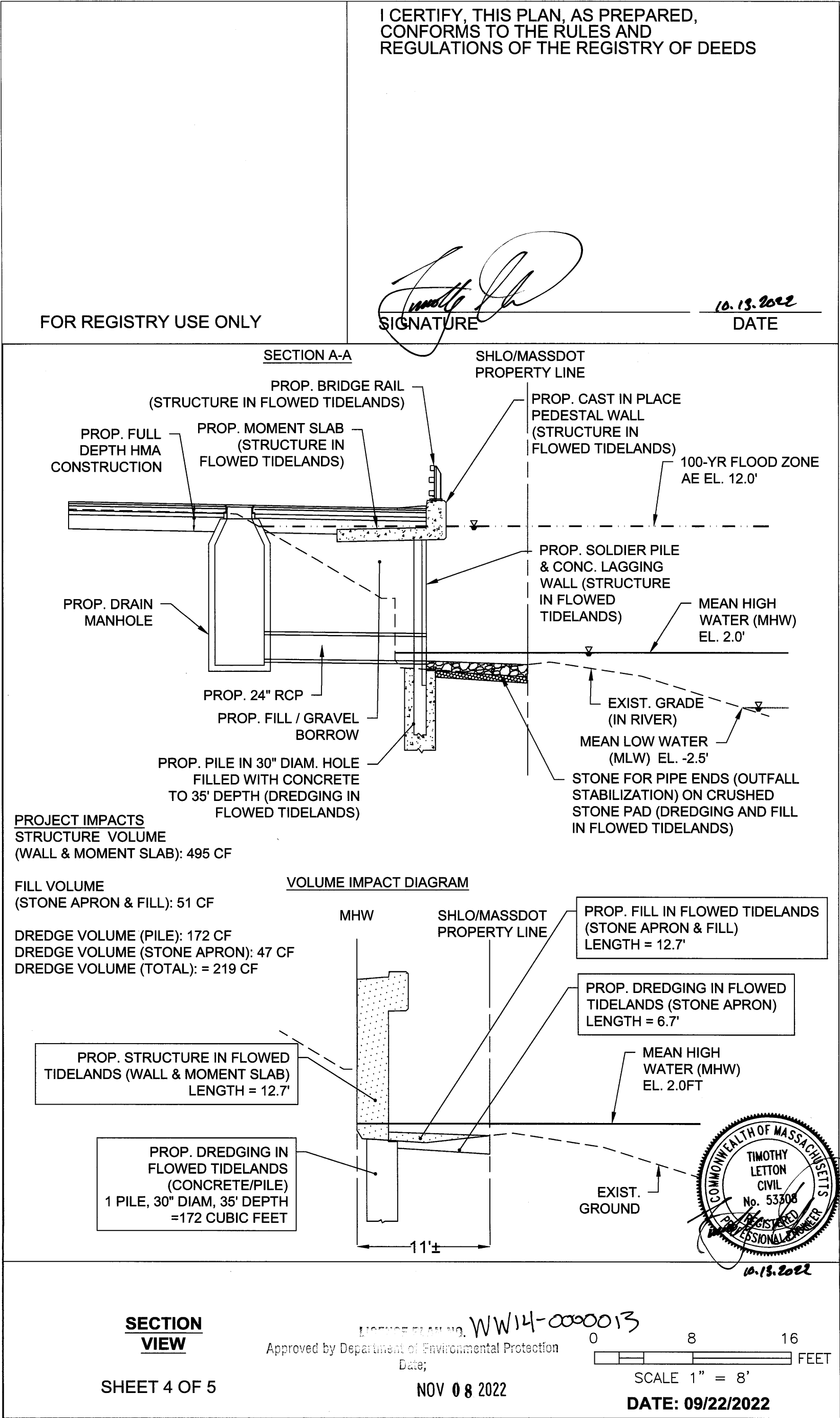
Approved by Department of Environmental Protection
of Massachusetts



NOV 08 2022






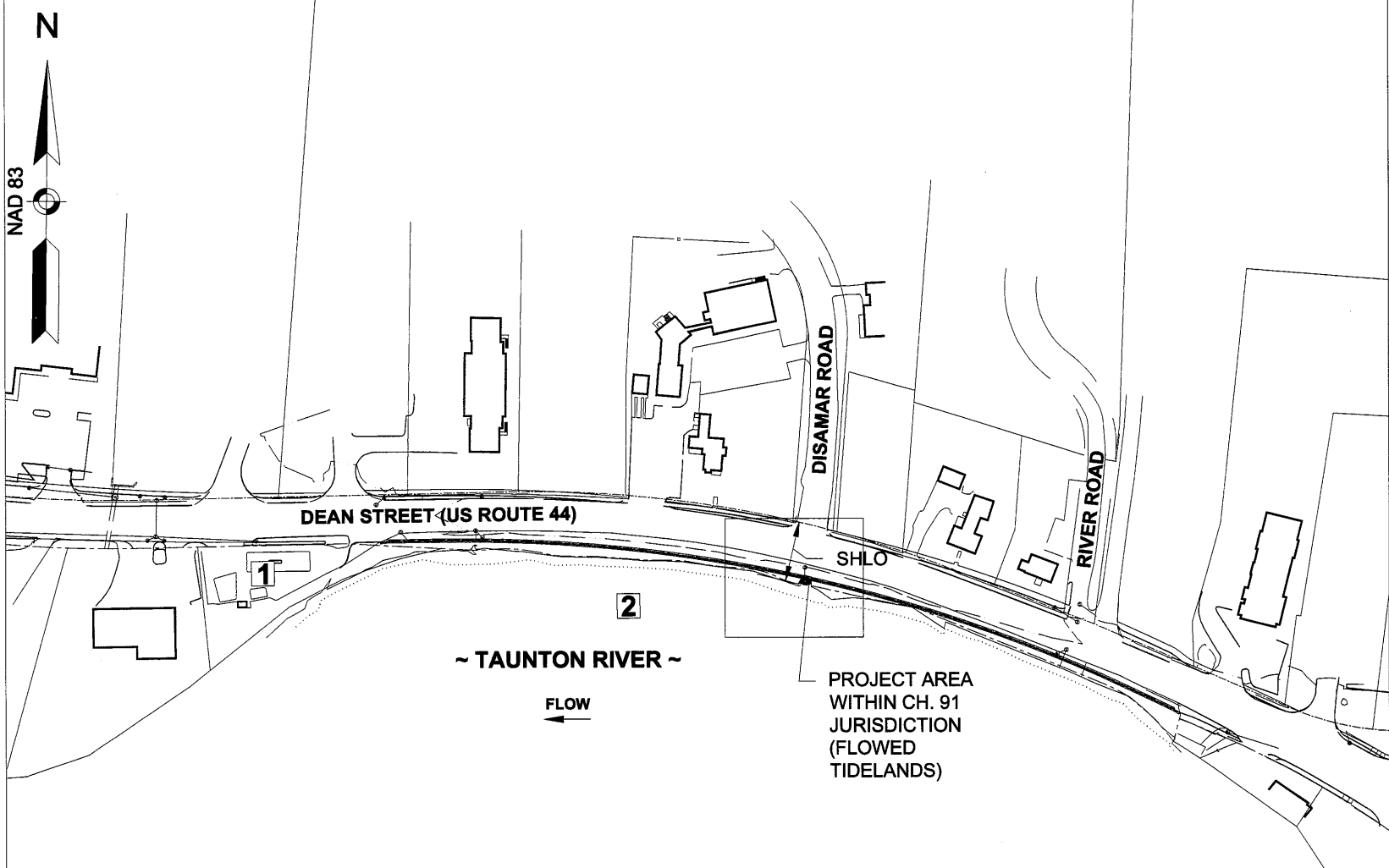


I CERTIFY, THIS PLAN, AS PREPARED,
CONFORMS TO THE RULES AND
REGULATIONS OF THE REGISTRY OF DEEDS

FOR REGISTRY USE ONLY


SIGNATURE

10.13.2022
DATE



ABUTTER INFORMATION

| | | | | |
|---|-------------------------------|-----------------|----------------|---------------------|
| 1 | PB&C SERIES, LLC | 113 DEAN STREET | MAP 56 LOT 103 | BOOK 13194 PAGE 233 |
| 2 | COMMONWEALTH OF MASSACHUSETTS | | | |

LICENSE PLAN NO. WW14-0000013
Approved by Department of Environmental Protection
Date;

NOV 08 2022



**ABUTTER
INFORMATION**

SHEET 5 OF 5

0 200 400
FEET
SCALE 1" = 200'
DATE: 09/22/2022

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