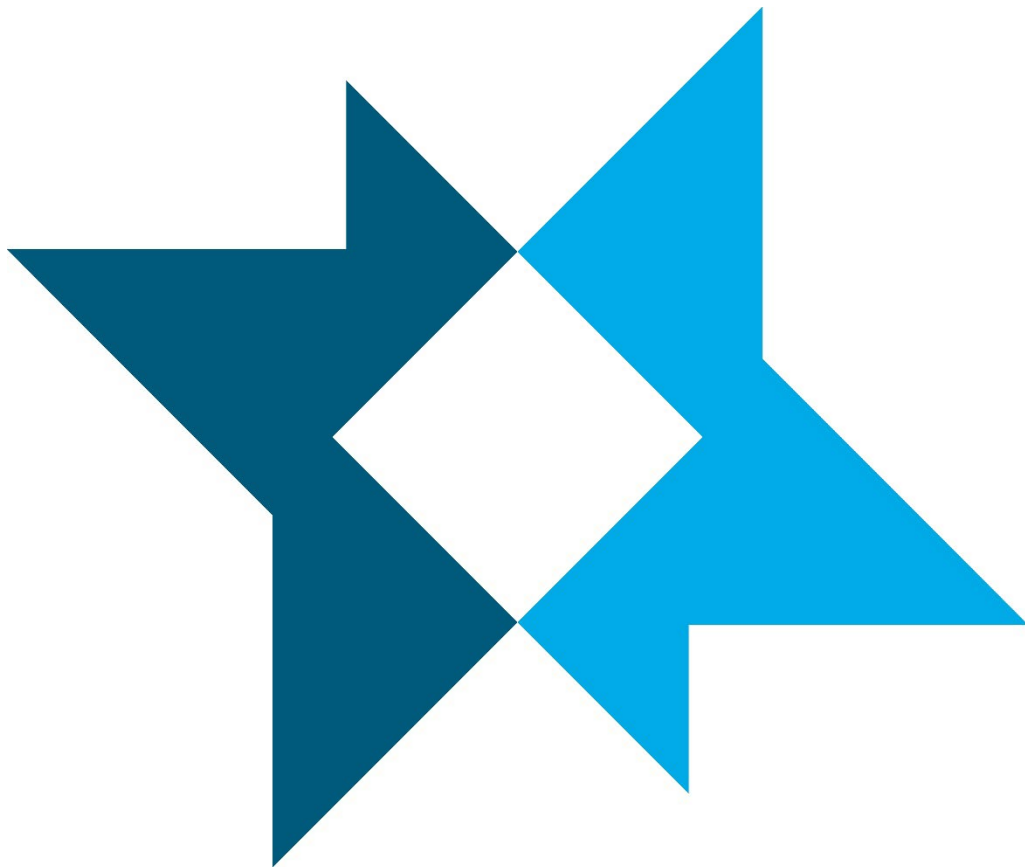




INVITATION FOR BID

MacMillan Pier Safety Upgrades & Pier Repairs



Town of Provincetown
Provincetown, Massachusetts

March 25, 2026

Project I.D.: 24P125.25

MacMillan Pier Safety Upgrades & Pier Repairs

Project ID: 24P125.25

Prepared for
Town of Provincetown
Provincetown, Massachusetts

Prepared by
Foth Infrastructure & Environment, LLC

March 25, 2026



Scott R. Skuncik, P.E.
Engineer of Record
Foth Infrastructure & Environment, LLC

REUSE OF DOCUMENTS

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MacMillan Pier Safety Upgrades & Pier Repairs
Provincetown, Massachusetts
Town of Provincetown

Table of Contents

DIVISION 00 – PROCUREMENT AND CONTRACTING REQUIREMENTS

00 11 13	Advertisement for Bids
00 21 13	Instructions to Bidders
00 41 13	Bid Form
00 43 13	Bid Bond
00 43 33	Substitute and/or Equal Schedule
00 43 36	Tabulation of Subcontractors/Supplier
00 51 00	Notice of Award
00 52 00	Agreement
	◆ Certificate of Vote
00 55 00	Notice to Proceed
00 61 13	Performance Bond
00 61 14	Payment Bond
00 63 62	Change Order
00 65 16	Certificate of Substantial Completion
00 70 00	General Conditions of the Construction Contract

DIVISION 01 – GENERAL REQUIREMENTS

01 11 00	Summary of Work
01 14 19	Use of Site
01 25 13	Submittals and Substitutions
01 29 73	Schedule of Values
01 31 19	Project Meetings
01 50 00	Temporary Facilities and Controls
01 66 00	Products Storage and Handling Requirements
01 71 23	Field Engineering
01 73 29	Cutting and Patching
01 74 23	Cleaning
01 77 19	Execution and Closeout Requirements
01 78 39	Project Record Documents

DIVISION 02 – EXISTING CONDITIONS

02 41 00	Selective Demolition
----------	----------------------

Table of Contents (continued)

DIVISION 05 – METALS

05 12 00 Structural Steel
05 50 13 Miscellaneous Metal Fabrications

DIVISION 06 – WOOD, PLASTICS, AND COMPOSITES

06 13 33 Heavy Timber Pier Construction

DIVISION 31 – EARTHWORK

31 62 16.13 Steel Pipe Piles

DIVISION 35 – WATERWAY AND MARINE CONSTRUCTION

35 59 13.16 Marine Fenders

ATTACHMENTS

- | | |
|--------------|---|
| Attachment 1 | Incorporation of Applicable Provisions of the Massachusetts General Laws |
| Attachment 2 | Prevailing Wage Rates |
| Attachment 3 | Boring Log Plan and Boring Logs
(Fay, Spofford & Thornidike, Inc., December 1999) |
| Attachment 4 | Existing Permits <ul style="list-style-type: none">◆ Order of Conditions and Amendment #1, DEP File no. SE 058-0739 (dated August 15, 2024 and August 14, 2025, respectively)◆ Chapter 91 License #8621 and Addendum #1 (October 16, 2000 and March 19, 2007, respectively)◆ Self-Verification Notice Submittal Packet for the Pier Repair Project to USACE (March 6, 2024)◆ Self-Verification Notification for the General Permits for the Pier Repair Project to USACE (August 26, 2024) |

DRAWINGS

G-001 Cover Sheet
G-002 Notes
G-101 Location Key Plan
C-101 Pier Site Plan
C-102 Courtesy Float Repositioning Site Plan
C-301 Sections, Details & Profiles 1 of 4
C-302 Sections, Details & Profiles 2 of 4
C-303 Sections, Details & Profiles 3 of 4
C-304 Sections, Details & Profiles 4 of 4

SECTION 00 11 13

ADVERTISEMENT FOR BIDS

The Town of Provincetown (Town) is soliciting bids for the **MacMillan Pier Safety Upgrades & Pier Repairs** project.

All bids must be submitted electronically through the Town's e-Procurement Portal at <https://www.provincetown-ma.gov/37/Procurement>. Bids are due by **APRIL 30, 2026, at 11:00 A.M.**, at which time the bids will be publicly opened and read at 2 Mayflower Street Provincetown MA 02657, in Room 74.

Invitations for Bid documents are available via the Town's e-Procurement Portal on **MARCH 26, 2026, at 10 AM.**

A non-mandatory Pre-bid Conference will occur on site at the Harbormaster's Office located on MacMillan Pier on **APRIL 15, 2026, at 10:00 AM.**

Questions relating to the bid will be accepted via the Town's e-Procurement Portal until **APRIL 22, 2026, at 4:00 P.M.**

All bids for this project are subject to applicable public bidding laws of MA, including, but not limited to G.L. c.30, §39M. It is anticipated that the procurement period will begin after the Notice of Award, and the work will begin on or after **SEPTEMBER 14, 2026.** The project is anticipated to be substantially completed on or before **JANUARY 29, 2027.**

The Town reserves the right to waive any informality, to accept or reject, in whole or in part, any or all bids, or take whatever other action may be deemed to be in the best interest of the Town.

Town of Provincetown
Alex Morse, Town Manager

SECTION 00 21 13

INSTRUCTIONS TO BIDDERS

1. Receipt and Opening of Bids

The Town of Provincetown (Town/Owner), acting by and through its Board of Selectmen, will receive sealed Bids for the **MacMillan Pier Safety Upgrades & Pier Repairs** project.

All bids must be submitted electronically through the Town's e-Procurement Portal at <https://www.provincetown-ma.gov/37/Procurement>. Bids are due by **APRIL 30, 2026, at 11:00 A.M.**, at which time the Bids will be publicly opened and read at 2 Mayflower Street Provincetown MA 02657, in Room 74.

Any bid may be withdrawn in writing prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified will not be considered. The bidder agrees that its bid shall be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids.

Invitations for Bid documents are available electronically at the Town's e-Procurement Portal.

2. Location and Work to be Done

A non-mandatory Pre-bid Conference will occur on site at the Harbormaster's Office located on MacMillan Pier on **APRIL 15, 2026, at 10:00 AM.**

The MacMillan Pier is located in Provincetown, MA. The project scope consists of the labor, equipment, and materials for removal and replacement of timber fender piles, timber fender systems, timber offloading areas, ladders, and the relocation of steel pipe piles.

Additional drawings showing details in accordance with which the Work is to be done may be furnished by addendum from time to time during the bidding period by the Owner or its Engineer and shall then become a part of the Contract Documents.

The Contractor shall furnish all labor, services, materials, equipment, plant, machinery, apparatus, appliances, tools, supplies, and all other things necessary to do all work required for the completion of each item of the Work and as herein specified.

The Work to be done and paid for under any item shall not be limited to the exact extent mentioned or described but shall include all incidental work necessary or customarily done for the completion of that item.

3. Preparation of Bid

Each bid must be submitted on the prescribed Section 00 41 13, Bid Form. All blank spaces for bid prices must be filled in, in ink or typewritten.

As specified in the Receipt and Opening of Bids section (above), the bid submittal must be uploaded to the Town's e-Procurement Portal along with the required bid security. If the bid security is mailed, it must be enclosed in a second envelope bearing on the outside the name of the bidder, their address, and endorsed with the name of the project at the place and before the time specified. The Town shall not be responsible for any improperly addressed bid security (also see Item #15 in this specification).

4. Bid Opening Procedure

The following list of requirements shall apply to each filed bid. Bids not meeting all requirements for timeliness and bid security will be rejected. Bids not meeting signature and addenda requirements will be rejected prior to checking of bid amounts.

- ◆ All bidders are encouraged to attend the non-mandatory Pre-bid Conference.
- ◆ Bid signatures will be checked.
- ◆ All bidders shall include with their bids the written acknowledgment form provided in Section 00 41 13, Bid Form.
- ◆ At the Bid Opening, the total dollar amount of each bid will be read, and the three apparent, lowest bids will be selected for further consideration. These three apparent low bids will be read aloud for the benefit of the other bidders. All those present may examine all bids after the Bid Opening.

5. Modification

Any bidder may modify their bid in writing signed by the bidder prior to the scheduled closing time for receipt of bids. Any modification must be received by the Owner prior to the closing time.

6. Ability and Experience of Bidder

No award will be made to any bidder who cannot satisfy the Owner that they have sufficient ability and experience in this class of work and sufficient capital and plant to enable them to prosecute and complete the work successfully within the time named. The Owner's decision or judgment on these matters will be final, conclusive, and binding.

The Owner may make such investigations as it deems necessary, and the bidder shall furnish to the Owner, under oath if so required, all such information and data for this purpose as the Owner may request.

7. Conditions of Work

Each bidder must familiarize themselves fully with the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of their obligation to furnish all material and labor necessary to carry out the provisions of the contract. Insofar as possible, the Contractor, in carrying out their work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor.

8. Addenda and Interpretations

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally. All information given to bidders other than by means of the plans, specifications, or by addenda, as described below, is given informally and shall not be used as the basis of a claim against the Owner.

Requests for information or questions regarding the Contract Documents must be submitted via the Town's e-Procurement Portal at: <https://www.provincetown-ma.gov/37/Procurement>, on or before **APRIL 22, 2026, at 4:00 P.M.** Any and all responses, if deemed necessary or appropriate, will be in the form of written addenda and uploaded to the Town's e-procurement portal. It shall be each bidder's responsibility to ensure, before submitting its bid, that it has received all addenda. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under their bid as submitted. All addenda so issued shall become part of the Contract Documents.

9. Security for Faithful Performance

Simultaneously with the delivery of the executed Contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this Contract and for the payment of all persons performing labor and materials under this Contract. The surety on such bond or bonds shall be a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the Owner. The bonds shall remain in force for one year after final acceptance of the work by the Owner, unless the Owner, in writing, releases the Contractor from the obligation sooner. Forms of bond required by the Owner are included in the bid documents.

10. Power of Attorney

Attorneys-in-fact who sign Contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

11. Laws and Regulations

The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances or bylaws, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though written out in full.

12. Liquidated Damages for Failure to Enter into Contract

The successful bidder, upon their failure or refusal to execute and deliver the Contract and bonds required within 5 days (Saturdays, Sundays, and legal holidays excluded) after presentation thereof by the Owner, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with their bid, but the amount forfeited shall not exceed the difference between their bid price and the bid price of the next lowest responsible and eligible bidder. In case of death, disability, bona fide clerical or mechanical error of a substantial nature, or other similar unforeseen circumstances affecting the bidder, their bid deposit will be returned.

13. Obligation of Bidder

At the time of the opening of bids, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the Contract Documents (including all addenda). The failure or omission of any bidder to examine any form, instrument, or document shall in no way relieve any bidder from any obligation in respect of their bid.

14. Site and Project Reference Documents

The following site and project reference documents are provided as **Attachments to this Bid Package**:

- | | |
|--------------|--|
| Attachment 1 | Incorporation of Applicable Provisions of the Massachusetts General Laws |
| Attachment 2 | Prevailing Wage Rates |
| Attachment 3 | Boring Log Plan and Boring Logs
(Fay, Spofford & Thornidike, Inc., December 1999) |
| Attachment 4 | Existing Permits <ul style="list-style-type: none"> ◆ Order of Conditions and Amendment #1, DEP File no. SE 058-0739 (dated August 15, 2024 and August 14, 2025, respectively) ◆ Chapter 91 License #8621 and Addendum #1 (October 16, 2000 and March 19, 2007, respectively) ◆ Self-Verification Notice Submittal Packet for the Pier Repair Project to USACE (March 6, 2024) ◆ Self-Verification Notification for the General Permits for the Pier Repair Project to USACE (August 26, 2024) |

All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the sources at present available to the Owner. All such information is furnished only for the information and convenience of bidders and is not guaranteed.

It is agreed and understood that the Owner does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents. It is further agreed and understood that no bidder or Contractor shall use or be entitled to use any of the information made available to them or obtained in any examination made by them in any manner as a basis of or ground for any claim or demand against the Owner or the Engineer, arising from or by reason of any variance which may exist between the information made available and the actual subsurface or other structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents or required by G.L. c.30, § 39N.

15. Bid Security

Each bid submittal must be accompanied by bid security in the form of a Bid Bond, certified check, cash, or a treasurers or cashier's check, payable to the Owner, in the amount of 5% of the value of the bid. Such security of general bidders will be returned to all except the three lowest responsible and eligible bidders within 5 days (Saturdays, Sundays, and legal holidays excluded), after the opening of bids, and the remaining securities will be returned promptly after the Owner and the accepted bidder have executed the Contract, or if no notice of intent to award has been presented to the selected Contractor within 30 days (Saturdays, Sundays and holidays excluded), after the date of the opening of bids, upon demand of the bidder at any time thereafter.

16. Right to Reject Bid

The Owner reserves the right to waive any informalities in bids and to reject any and all bids, should the Owner deem it to be in the public interest to do so.

The Owner may also reject bids which in its sole judgment are either incomplete, conditional, obscure, or not responsive or which contain additions not called for, erasures not properly initialed, alterations, or similar irregularities.

17. Time for Completion

The successful general bidder must agree to commence work within 10 days of the date of the Notice to Proceed to be issued to the successful bidder unless a different date is set forth in said notice, and to substantially complete and fully complete the project within the time limit stated in Section 00 41 13, Bid Form.

18. Comparison of Bids

Bids will be compared on the basis of prices set forth in the Bid Form. In the event that there is a discrepancy between the lump sum or unit prices, the lowest price will govern.

19. Award of Contract

The Contract will be awarded to "the lowest responsible and eligible bidder" pursuant to General Laws Chapter 30, Section 39M, as amended. Such a bidder shall possess the skill, ability, and integrity necessary for the faithful performance of the work, shall be able to furnish labor that can work in harmony with all other elements of labor employed, or to be employed, in the work, and shall otherwise comply with all applicable provisions of law, all as set forth in such statutory section. Contract award shall be subject to availability of an appropriation of funding.

20. Statutes Regulating Competitive Bidding

Any bid which does not comply with the provisions of Massachusetts General Laws Chapter 30, Section 39M, as amended, need not be accepted and the Owner may reject every such bid.

21. Wage Rates

Prevailing Wage Rates as determined by the Commissioner of Department of Labor and Workforce Development under the provision of the Massachusetts General Laws, Chapter 149, Sections 26 to 27G, as amended, apply to this project. It is the responsibility of the bidder, before the Bid Opening, to request any additional information on Prevailing Wage Rates for those tradespeople who may be employed for the proposed work under this Contract.

22. Contractor Records

The Contractor shall comply with the provisions of Massachusetts General Laws, Chapter 30, Section 39R concerning Contractor records.

23. Insurance

The Contractor shall carry and continuously maintain until completion of the Contract, insurance as specified in Section 00 52 00, Agreement, and in such form as shall protect them performing work covered by this Contract. Except for Workmen's Compensation, all liability coverage shall name the **Town of Provincetown and Foth Infrastructure & Environment, LLC as an additional insured**. The Contractor covenants and agrees to hold these parties and their employees, agents, and officials harmless from loss or damage due to claims for bodily injury or death and/or property damage arising from, or in connection with, operations under this Contract.

24. Project Manager

The Owner may utilize the services of a Project Manager, whose duties shall be as set forth in an Agreement for Project Manager Services.

END OF SECTION

SECTION 00 41 13

BID FORM

Bidder's Name: _____

Bidder's Address: _____

Bidder's Telephone Number: _____

By (Printed Name and Title): _____

Signature: _____

Date: _____

The undersigned Bidder, in compliance with the Invitation for Bids for the project known as **MacMillan Pier Safety Upgrades & Pier Repairs**, having examined the Specifications and Drawings and related documents and the site of the proposed work, and being familiar with all conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all supervision, technical personnel, labor, materials, machinery, tools, appurtenances, equipment, and service, including utility and transportation services, required to construct and complete the Scope of Work all in accordance with the above listed documents. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this bid is a part.

The Bidder proposes to perform the Work for the following costs as listed in the Bid Form, which includes unit prices for possible changes to quantities of certain work items.

The Bidder is required to provide the following enclosures as listed in the Specifications with the completed Bid Form:

- ◆ Subcontractor Listing
- ◆ Substitution Listing
- ◆ Construction Schedule
- ◆ Construction Methodology
- ◆ Key Personnel Data
- ◆ Rates for All Project Personnel and Equipment
- ◆ Debris Disposal Plan
- ◆ Site Utilization Plan

The Bidder agrees to perform all work described in the Contract Documents including the specifications and plans for the Total Bid Price in the following table:

BASE BID

Item No.	Description of Bid Item	Est. Quant.	Units	Unit Price	Estimated Total Cost
1	Mobilization and Demobilization	1	LS		\$
2	Demolition	1	LS		\$
3	Furnish & Install Silt Curtain	1	LS		\$
4	Furnish & Install 12" Dia. Fender Piles	44	EA		\$
5	Furnish & Install UHMW Wear Strips	44	EA		\$
6	Furnish & Install 8"x10" Timber Fender System	1,500	LF		\$
7	Furnish & Install Rubber Fender 8" SQ x 3' L w/ 3" Dia Hole System	44	EA		\$
8	Furnish & Install 6"x10" Timber Offloading Areas	180	LF		\$
9	Furnish & Install 4"x8" Timber Offloading Areas	670	LF		\$
10	Furnish & Install HDG Ladders	7	EA		\$
11	Furnish & Install 6"x8" Timber Ladder Supports	275	LF		\$
12	Remove & Re-Install Existing 16" Dia. Steel Pipe Piles	2	EA		\$
13	Hardware	1	LS		\$
TOTAL BID BASE PRICE:					\$

TOTAL BASE BID PRICE WRITTEN IN WORDS:

(Dollars and Cents)

The Bidder acknowledges receipt of the following Addenda issued by the Engineer of Record:

ADDENDUM NUMBER	DATE

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

The Bidder understands that all bids for this project are subject to the applicable bidding laws of the Commonwealth of Massachusetts, including General Laws Chapter 149 and Chapter 30, Section 39M, as amended.

The Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays, and legal holidays excluded, after the Bid Opening.

Within 5 days (Saturdays, Sundays, and legal holidays excluded) of receipt of the written notice of acceptance of this bid, the Bidder will execute the formal Agreement set forth in Section 00 52 00, Agreement, and provide the required bonds (noted below).

Bid security is attached in the sum of **five percent (5%)** of the total bid in accordance with the conditions of Section 00 21 13, Instructions to Bidders. The bid security shall become the property of the Owner in the event the Contract and bond are not executed within the time set forth above, except as otherwise provided by law.

The selected Contractor shall furnish a Performance Bond and a Payment Bond in an amount at least equal to **one hundred percent (100%)** of the Contract price in accordance with Section 00 61 13, Performance Bond, Section 00 61 14, Payment Bond, and as stipulated in the Contract.

The undersigned offers the following information as evidence of their qualifications to perform the work as bid upon according to all the requirements of the plans and specifications.

1. Have been in business under present name for _____ years.

2. The names and addresses of all persons interested in the bid (if made by a partnership or corporation) as principals, are as follows:

(Attach supplementary list, if necessary)

The Bidder is requested to state below what work of a similar character to that included in the proposed contract their company has done and give references that will enable the Owner to judge their experience, skill and business standing (use supplementary page, if necessary).

Completion Date	Project Name	Contract Amount	Design Engineer	Reference Name	Telephone No.

Bank reference:

(Bank Name)

(Address)

(Telephone No.)

Pursuant to G.L. c.62C, §49A, I certify hereby in writing, under penalties of perjury, that the within named Bidder/Contractor has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

The undersigned Bidder hereby certifies under penalties of perjury, as follows: (1) that he/she is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (2) that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration (OSHA) that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and (3) that all employees to be employed in the work subject to this bid have successfully completed a course in construction safety and health approved by the United States OSHA that is at least 10 hours in duration.

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

The undersigned bidder also certifies under penalty of perjury that it is not presently debarred from doing public construction work in the Commonwealth under the provisions of Section 29F of Chapter 29, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

The undersigned bidder hereby certifies, under pains and penalties of perjury, that the foregoing bid is based upon the payment to laborers to be employed on the project of wages in an amount no less than the applicable prevailing wage rates established for the project by the Massachusetts Department of Labor and Workforce Development. The undersigned bidder agrees to indemnify the awarding authority for, from and against any loss, expense, damages, actions or claims, including any expense incurred in connection with any delay or stoppage of the project work arising out of or as a result of (1) the failure of the said bid to be based upon the payment of the said applicable prevailing wage rates or (2) the failure of the bidder, if selected as the Contractor, to pay laborers employed on the project the said applicable prevailing wage rates.

Respectfully submitted:

Date: _____

By: _____
(Signature)

(Type Name of Bidder)

(Title)

(Business Address)

(City and State)

(Telephone Number)

SECTION 00 52 00

AGREEMENT

THIS AGREEMENT made this _____ day of _____
in the year Two Thousand and _____, between _____,
with a usual place of business at _____, hereinafter
called the CONTRACTOR, and the Town of _____, acting by its _____,
with a usual place of business at _____ Street, _____, MA _____,
hereinafter called the OWNER.

The CONTRACTOR and the OWNER, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The Contractor shall furnish all labor, materials, equipment, and insurance to perform all work required for the project known as the **MacMillan Pier Safety Upgrades & Pier Repairs** project, in strict accordance with the Contract Documents as defined herein. The Contract Documents are incorporated herein by reference and are made a part of this Agreement.

2. Contract Price

The Owner shall pay the Contractor for the performance of this Agreement, subject to additions and deductions provided herein, in current funds, the sum of
\$ _____.

3. Commencement and Completion of Work and Liquidated Damages

It is agreed that time is of the essence of this Agreement. The Contractor shall commence and prosecute the work under this Agreement upon execution hereof and shall substantially complete the work on or before **JANUARY 29, 2027**, and fully complete the work on or before **FEBRUARY 28, 2027**, which is 30 days after Substantial Completion.

- A. Definition of Term: The term "Substantial Completion" shall mean the date certified by the Owner when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner may occupy the project, or designated portion(s) thereof, for the use for which it is intended.
- B. Time as Essential Condition: It is understood and agreed that the commencement of and Substantial Completion of the work are essential conditions of this

Agreement. It is further agreed that time is of the essence for each and every portion of the Contract Documents wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract Documents any additional time is allowed for the completion of any work, the new time fixed by such extension shall be of the essence of this Agreement. It is understood and agreed that the times for the completion of the work are reasonable, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

- C. Progress and Completion: Contractor shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently, and uninterruptedly at such a rate of progress as will ensure Substantial Completion within the stipulated number of calendar days.
- D. Liquidated Damages: It is expressly agreed between the Contractor and the Owner that the Contractor will be responsible for all damages which may arise due to the Contractor's failure to substantially complete the work within the above specified time. If the Contractor shall neglect, fail or refuse to complete the work within the specified number of days, or any extension thereof authorized by the Owner, Contractor agrees, as a part of the consideration for the execution of this Contract by the Owner, to pay the Owner the amount specified herein, not as a penalty, but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day (excluding Saturdays, Sundays and legal holidays) that the Contractor shall be in default of Substantial Completion after the date specified in the Agreement. Due to the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, said amount is agreed to be the amount of damages which the Owner would sustain, and said amount shall be retained from time to time by the Owner from current periodic estimates. The amount of liquidated damages shall be **two hundred dollars (\$200) per day.**

4. Performance of the Work

- A. Direction of the Work: The Contractor shall supervise and direct the Work, using their best skills and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the project site during the performance of the Work. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement.
- B. Responsibility for the Work:
- (1) The Contractor shall be responsible to the Owner for the acts and omissions of their employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a

contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, Contractors, and agents engaged in the work.

- (1) The Contractor shall not be relieved from their obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the Contractor.
- C. Permits and Fees: Unless otherwise expressly provided, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Agreement and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project.
- D. Notices, Compliance with Laws:
- (1) The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees paid. The Owner represents that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Agreement.
 - (2) If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, codes and regulations in any respect, they shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate modification.
 - (3) If the Contractor performs any Work which they know or should know is contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, the Contractor shall assume full responsibility therefor and shall bear all costs attributable thereto.
 - (4) In the performance of the Work, the Contractor shall comply with all applicable federal, state, and local laws and regulations including those relating to workplace and employee safety. The Contractor shall notify the Owner immediately of any conditions at the place of the Work which violate said laws and regulations and shall take prompt action to correct and eliminate any such violations.
- E. Project Superintendent: The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the

Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.

- F. Progress Schedule: The Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's information an estimated progress schedule for the Work. The progress schedule shall be related to the entire Project to the extent required by the Contract Documents and shall provide for expeditious and practicable execution of the Work.
- G. Drawings, Specifications and Submittals:
- (1) The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, and "As- Built" Drawings and Specifications in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be delivered to the Owner upon completion of the Work.
 - (2) By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that they have determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that they have checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
 - (3) The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the Owner in writing of such deviation at the time of submission and the Owner has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Owner's approval thereof.
 - (4) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Owner on previous submittals.
 - (5) No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Owner. All such portions of the Work shall be in accordance with approved submittals.
- H. Protection of the Work and Owner's Property: The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Agreement. The Contractor shall at all times safely guard and protect their own

work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury. The Contractor shall clean the work area and restore it to its original condition upon completion of the work.

- I. **Quality of the Work:** The Contractor shall perform the work in a good, workmanlike manner. The Contractor hereby guarantees that the entire work constructed by him under the Agreement will meet fully all requirements thereof as to quality of workmanship and materials. The Contractor hereby agrees to make at their own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with respect to any provisions of the Contract Documents. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the Owner for the cost thereof.
- J. **Warranty:** The Contractor guarantees to Owner that all materials incorporated into the work will be new unless otherwise specified or agreed. Prior to final payment, the Contractor shall deliver to the Owner all manufacturers' warranties, together with such endorsements or assignments as are necessary to ensure to the Owner the full rights and benefits of such warranties.

5. **Affirmative Action/Equal Employment Opportunity**

- A. The Contractor is directed to comply with all applicable State Laws, Ordinances, Bylaws, and rules and regulations regarding affirmative action/equal employment opportunity requirements. Failure of the Contractor to comply with any such law, rule or regulation shall constitute grounds for the Owner to terminate the Agreement.
- B. **Anti-discrimination Policy.** It is the policy of the Town of Provincetown to uphold the human rights of all persons in Provincetown and the free exercise and enjoyment of any and all rights and privileges secured by the Constitution, Law, Bylaws and Regulations of the United States, the Commonwealth of Massachusetts, and the Town of Provincetown. As such, actions that may deny or tend to deny or intend to deny to an individual equal access or opportunity in matters of housing, employment, education, municipal services, contracts, purchasing or public accommodations on the basis of age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation, are hereby prohibited. No lease or contract for services or public works and public building construction contracts shall be entered into by any Town authority without an anti-discrimination certification signed by the Contractor as follows:

The Contractor hereby certifies that the Contractor will not discriminate against any employee or applicant for employment on the basis of age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation. The Contractor has taken and will continue to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination.

6. Site Information Not Guaranteed; Contractor's Investigation

- A. All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of the Contractor and is not guaranteed.
- B. It is agreed and understood that the Owner does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents.
- C. Contractor has familiarized themselves with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state, and local laws, rules, ordinances, and regulations that in any manner may affect costs, progress, or performance of the work. Contractor has made, or has caused to be made, examinations, investigations, and tests and studies of such reports and related data in addition to those referred to in the paragraph above as they deem necessary for the performance of the work at the Contract Price, within the Contract Time, and in accordance with the other Terms and Conditions of the Contract Documents; and no additional examinations, tests, investigations, reports, and similar data are or will be required by the Contractor for such purposes.
- D. Contractor has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the Contract Documents. Contractor has given the Owner written notice of all conflicts, errors, or discrepancies that they have discovered in the Contract Documents, and the resolution thereof by the Owner is acceptable to the Contractor.
- E. It is further agreed and understood that the Contractor shall not use or be entitled to use any of the information made available to them or obtained in any examination made by them in any manner as a basis of or ground for any claim or demand against the Owner, arising from or by reason of any variance which may

exist between the information made available and the actual subsurface conditions or other conditions or structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents.

7. Project Engineer

- A. Except as otherwise indicated in the Contract Documents, the Engineer shall be a representative of the Owner, and the Contractor shall direct all communications, questions and comments on the work and the performance thereof to the Engineer. Except as otherwise provided, the Engineer shall have all the authority of the Owner set forth in the Contract Documents. In general, the Engineer shall have the authority to review the performance of the work, reject work which is defective or otherwise does not comply with the Contract Documents and to order the Contractor to remedy defective work and take such actions which are necessary to make the work conform to the Contract Documents.

8. Prevailing Wage Rates

- A. Prevailing Wage Rates, as determined by the Commissioner of the Department of Labor and Workforce Development under the provisions of Massachusetts General Laws, Chapter 149, Sections 26 to 27G, as amended, apply to this project. It is the responsibility of the Contractor to provide the Town with certified payrolls and to comply with all requirements of the above-cited statutes.
- B. The schedules of Prevailing Wage Rates are provided as an **Attachment to the Bid Package**.

9. Payments to the Contractor

Within 15 days after receipt from the Contractor of a proper and satisfactory periodic estimate requesting payment of the amount due for the preceding month, the Owner shall have 15 days to make payment for:

- A. The work performed during the preceding month.
- B. The materials not incorporated in the Work but delivered and suitably stored at the site (or at some location agreed upon in writing) to which the Contractor has title, or to which a Subcontractor has title and has authorized the Contractor to transfer title to the Owner.
- C. Less the following retention items:
- (1) A retention based on an estimate of the fair value of the Owner's claims against the Contractor.

- (2) A retention for direct payments to Subcontractors, if any, based on demands for same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws.
 - (3) A retention not exceeding 5% of the approved amount of the periodic payment.
- D. After the receipt of a periodic estimate requesting final payment and within 65 days after the Contractor fully completes the Work, or substantially completes the Work so that the value of the Work remaining to be done is, on the estimate of the Owner, less than 1% of the original Contract Price, or substantially completes the Work and the Owner takes possession or occupancy, whichever occurs first, the Owner shall pay the Contractor the entire balance due on the Contract less:
- (1) A retention based on an estimate of the fair value of the Owner's claims against the Contractor and of the cost of completing the incomplete and unsatisfactory items of Work.
 - (2) A retention for direct payments to Subcontractors, if any, based on demands of same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws, or based on the record of payments by the Contractor to the Subcontractors under this Contract if such record of payment indicates that the Contractor has not paid Subcontractors as provided in Section 39F of Chapter 30 of the General Laws.

If the Owner fails to make payment as herein provided, there shall be added to each such payment, daily interest at the rate of 3 percentage points above the rediscount rate than charged by the Federal Reserve Bank of Boston, commencing on the first day after said payment is due, and continuing until the payment is delivered or mailed to the Contractor; provided that no interest shall be due, in any event, on the amount of a periodic estimate for final payment until 15 days after receipt of such a periodic estimate by the Owner as provided in the first paragraph of this Article. The Contractor agrees to pay to each subcontractor a portion of any such interest paid in accordance with the amount due each subcontractor.

The Owner may make changes in any periodic estimate submitted by the Contractor and the payment due on said periodic estimate shall be computed in accordance with the changes so made, and such changes and any requirements for a corrected periodic estimate shall not affect the due date for the periodic payment or the date for the commencement of interest charges on the amount of the periodic payment computed in accordance with the changes made, as provided herein; provided further, that the Owner may, within seven (7) days after receipt, return to the Contractor for correction, any periodic estimate which is not in acceptable form or which contains computations not arithmetically correct, and in that event, the date of receipt of such periodic estimate shall be the date of receipt of the corrected periodic estimate in proper form and with arithmetically correct

computations. The date of receipt of a periodic estimate received on a Saturday shall be the first working day thereafter.

- E. Changes in the Work: No changes in the work covered by the approved Contract Documents shall be made without prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:
- (1) Unit bid prices previously approved.
 - (2) An agreed lump sum.
 - (3) The actual cost of:
 - a. Labor.
 - b. Materials entering permanently into the work.
 - c. The ownership or rental cost of construction equipment during the time of use on the extra work.
 - d. Power and consumable supplies for the operation of power equipment.
 - e. Wages to be paid.

To the cost under (1), there shall be added a fixed fee to be agreed upon but not to exceed 15% of the actual cost of work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit, and any other general expenses.

- F. Claims for Additional Costs: If the Contractor wishes to make a claim for an increase in the Contract Sum, they shall give the Owner written notice thereof within 20 days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Town on account of any delay in the commencement or performance of the work and/or any hindrance, delay or suspension of any portion of the work including, but not limited to, any claims or damages on account of having to perform out of sequence work, claims for damages on account of loss of production or other interference with the work, and claims for additional or extended general conditions due to delays or extensions of the contract time, whether such delay is caused by the Town or otherwise, except as and to the extent expressly provided under G.L. c.30, §39O in the case of written orders by the Town. The Contractor acknowledges that the Contractor's sole remedy for any such claim will be an extension of time as provided herein.

10. Final Payment, Effect

The acceptance of final payment by the Contractor shall constitute a waiver of all claims by the Contractor arising under the Agreement.

11. Contract Documents

The Contract Documents consist of the following:

- Instructions to Bidders
- Bid Form
- Bid Bond
- Performance Bond
- Payment Bond
- Agreement
- Clerk's Certificate of Corporate Vote (if applicable)
- Certificate of Liability Insurance
- General Conditions
- General Requirements and Technical Specifications
- Addenda
- Contract Drawings
- All other documents listed in the Table of Contents of the Project Manual.

12. Terms Required by Law

A. This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein.

13. Indemnification

A. The Contractor shall indemnify and hold harmless the Owner from and against any and all claims, damages, liabilities, losses, costs and expenses, including attorney's fees, arising out of the performance of this Agreement when such claims, damages, liabilities, losses, and expenses are caused, in whole or in part, by the acts, errors, or omissions of the Contractor or their employees, agents, subcontractors or representatives.

14. Insurance

A. The Contractor shall purchase and maintain such insurance as will protect both the Owner and the Contractor from claims which may arise under the Agreement, including operations performed for the named insured by independent contractors and general inspection thereof by the named insured. In addition, the Contractor shall require its subcontractors to maintain such insurance. Coverage shall be provided for:

- (1) claims under workers' or workmen's compensation, disability benefit and other applicable employee benefit acts;
 - (2) claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - (4) claims for damages insured by usual personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (b) by any other person;
 - (5) claims for damages, including damages to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
 - (6) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.
 - (7) claims involving contractual liability applicable to the Contractor's obligations under Paragraph 13 (above).
- B. The limits of liability for coverage required under the preceding paragraph shall be as follows:

In no case shall the limits of liability be less than the following:

- (1) Contractor's Liability Insurance
 - a. Workers' Compensation:
 - 1) State: Statutory
 - 2) Employer Liability:
 - \$100,000 Bodily Injury by Accident
 - \$500,000 Bodily Injury by Disease - policy limit
 - 3) \$100,000 Bodily Injury by Disease - each
 - \$1,000,000 Umbrella Liability - all limits
 - b. Comprehensive General Liability (including Premises-Operations; Independent Contractor's Protective; Products and Completed Operations; Broad Form Property Damage):

- 1) Bodily Injury:
 - \$1,000,000 Each Occurrence
 - \$2,000,000 Aggregate
 - 2) Products and Completed Operations
 - \$1,000,000 Each Occurrence (bodily injury and property damage)
 - \$2,000,000 Aggregate

 - Products and Completed
 - \$1,000,000 Operations
 - 3) Property Damage Liability (including coverage for XCU hazards).
 - \$1,000,000 Each Occurrence
 - \$2,000,000 Aggregate
 - 4) Products and Completed Operations insurance shall be maintained for a minimum period of 2 years after final payment and Contractor shall continue to provide evidence of such coverage to Owner on an annual basis during the aforementioned.
 - 5) Contractual Liability (Hold Harmless Coverage):
 - \$1,000,000 Bodily Injury Each Occurrence
 - \$1,000,000 Property Damage Each Occurrence
 - \$1,000,000 Property Damage Aggregate
 - 6) Personal Injury, with Employment Exclusion deleted:
 - \$1,000,000 All Limits
- c. Comprehensive Automobile Liability (owned, non-owned, hired):
- 1) Bodily Injury
 - \$1,000,000 Each Person
 - \$1,000,000 Each Accident
 - 2) Property Damage
 - \$1,000,000 Each Accident
- d. Property Insurance / Builders Risk: the full Contact sum
- e. Umbrella Liability Coverage
 - \$1,000,000 All Limits
- C. Except for Workmen's Compensation, **all liability coverage shall name the Town of Provincetown and Foth Infrastructure & Environment, LLC, as additional insureds** and shall provide 30 days prior written notice to the Town of any modification or termination of coverage provided thereby. The Contractor

shall provide the Owner with appropriate Certificate(s) of Insurance evidencing compliance with this provision prior to the commencement of any work under this Agreement.

15. Notice

- A. All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

16. Termination

- A. Each party shall also have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.
- B. The Owner shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the Contractor. In the event that the Agreement is terminated pursuant to this subparagraph, the Contractor shall be reimbursed in accordance with the Contract Documents for all Work performed up to the termination date, and for all materials or equipment not incorporated in the Work but delivered and suitably stored at the site. Payment for material or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to Owner to establish the Owner's title to such material or equipment or otherwise protect the Owner's interests.

17. Miscellaneous

- A. **Royalties and Patents:** The Contractor shall pay all royalties and license fees. They shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, they shall be responsible for such loss unless they promptly give such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.
- B. **Assignment:** The Contractor shall not assign or transfer any of its rights, duties, or obligations under this Agreement without the written approval of the Owner.

- C. Governing Law: This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts. Any litigation arising hereunder shall be brought solely in the state courts of the Commonwealth sitting in the county in which Owner maintains its principal office.
- D. By its signature hereon, the Contractor certifies, under the pains and penalties of perjury, that it has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

AGREED:

TOWN OF PROVINCETOWN
(Owner)

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

CONTRACTOR

By: _____

Name: _____

Title: _____

Address: _____

City/State: _____

CERTIFICATE OF VOTE

(to be filed if Contractor is a Corporation)

I, _____, hereby certify that I am the duly qualified
(Secretary of the Corporation)

and acting Secretary of _____, and I further certify that a meeting of the
(Name of Corporation)

Directors of said Company, duly called and held on _____ at which
(Date of Meeting)

all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower

Anyone acting singly, to execute Forms of General Bid, Contracts or Bonds on behalf of the Corporation.

I further certify that the above vote is still in effect and has not been changed or modified in any respect.

By: _____
(Secretary of Corporation)

A True Copy:

Attest: _____
(Notary Public)

My Commission Expires: _____
(Date)

SECTION 00 61 13

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____
 a _____ (form of entity) with an address of _____
 hereinafter called "Principal" or "Contractor" and _____, as surety,
 with an address of _____, State of _____ hereinafter
 called the "Surety" and licensed by the State Division of Insurance to do business under the laws
 of the Commonwealth of Massachusetts, are held and firmly bound to the Town of
 _____, Massachusetts, hereinafter called "Owner", in the penal sum of
 _____ Dollars \$ _____) in lawful money of the
 United States, for the payment of which sum well and truly to be made, we bind ourselves, our
 heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas the Principal has
 entered into a certain contract with the Owner (the "Construction Contract"), dated the
 _____ day of _____, 20____, for the construction described as follows:
 _____.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties,
 all the undertakings, covenants, terms, conditions, and agreements of the Construction Contract
 during the original term thereof, and any extensions thereof which may be granted by the Owner,
 with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under
 the Construction Contract, and shall, as hereby agreed, fully indemnify the Owner from all
 liabilities, costs, expenses and damages which it may suffer by reason of the Principal's failure to
 so perform, and shall reimburse and repay the Owner all outlay and expense the Owner may
 incur in making good such nonperformance (including without limitation Owner's reasonable
 attorneys' fees), then this obligation shall be void; otherwise, this obligation shall remain in full
 force and effect.

PROVIDED, FURTHER, that the Surety's obligation under this Bond shall arise after
 the Owner has, with or without terminating the Construction Contract, declared that the Principal
 is in material breach of the Construction Contract ("Contractor Default"). When the Surety's
 obligation under this Bond arises, the Surety, at its sole expense shall, at the election of the
 Owner, promptly: (1) arrange for the Principal to comply with the Construction Contract and
 perform and complete the Construction Contract; or (2) arrange for a contractor other than the
 Principal to perform and complete the Construction Contract; or (3) reasonably calculate the
 amount of its liability hereunder and, subject to Owner's agreement, tender payment of such
 amount to Owner. Up to the amount of this Bond, the Surety's obligation is limited to (1) the
 correction of defective work and completion of the Construction Contract; (2) additional costs
 and expenses incurred by the Owner for designer and project management services, and
 reasonable attorney's fees, caused by the Contractor Default and any default of the Surety,
 including such costs and expenses and reasonable attorneys' fees incurred in support of Owner's
 claim on the Bond; (3) any additional work beyond the Construction Contract made necessary by

the Contractor Default and default of the Surety under this Bond; (4) contract indemnification obligations of the Principal under the Construction Contract; (5) damages arising from the Contractor Default; and (6) liquidated damages as provided in the Construction Contract for Contractor-caused delays, or if no such damages are specified, actual damages caused by such delays. The Surety and Principal shall be jointly and severally responsible for all such damages, costs, expenses, and fees.

The Surety will keep Owner reasonably informed of the progress, status and results of its investigation of any claim of the Owner under this Bond. If the Surety does not proceed as provided in this Bond with reasonable promptness, the Surety shall be deemed in default of this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. Principal agrees, notwithstanding any agreement between it and the surety to the contrary, not to bring any claims against the Surety on account of the Surety's reasonable, good faith compliance with this Bond.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Construction Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Construction Contract or to the work or to the specifications.

Any proceeding, legal or equitable, under this Bond shall be instituted in a state court of competent jurisdiction in the Commonwealth of Massachusetts sitting in the county in which Owner maintains its principal office. Surety agrees that any proceeding brought by Owner on this bond shall not be stayed on grounds that existing disputes between Owner and Contractor have not been adjudicated.

IN WITNESS WHEREOF, this instrument is executed in _____ () counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20____.

ATTEST:

		Principal
_____	By	_____
(Principal Secretary)		_____

		(Address-Zip Code)

_____	(SEAL)
Witness as to Principal	

(Address-Zip Code)

ATTEST:

		Surety
_____	By	_____
		(Attorney-in-Fact)

		(Address-Zip Code)

_____	(SEAL)
Witness as to Surety	

(Address-Zip Code)

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond.

SECTION 00 61 14

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____

_____ a _____
(Name of Contractor) (Corporation, Partnership, Joint Venture or Individual)

hereinafter called "Principal" and _____ of _____,
(Surety)

State of _____ hereinafter called the "Surety" and licensed by the State
(City and State)

Division of Insurance to do business under the laws of the Commonwealth of Massachusetts, are held and firmly bound to the City/Town of _____, Massachusetts, hereinafter called "Owner", in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20_____, for the construction described as follows:

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ () counterparts, each one of which shall be deemed an original, this the ___ day of _____, 20 _____.

ATTEST:

Surety

By: _____
(Attorney-in-Fact)

Address: _____

Witness as to Surety (SEAL)

Address: _____

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond.

SECTION 00 52 00

AGREEMENT

THIS AGREEMENT made this _____ day of _____
in the year Two Thousand and _____, between _____,
with a usual place of business at _____, hereinafter
called the CONTRACTOR, and the Town of _____, acting by its _____,
with a usual place of business at _____ Street, _____, MA _____,
hereinafter called the OWNER.

The CONTRACTOR and the OWNER, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The Contractor shall furnish all labor, materials, equipment, and insurance to perform all work required for the project known as the **MacMillan Pier Safety Upgrades & Pier Repairs** project, in strict accordance with the Contract Documents as defined herein. The Contract Documents are incorporated herein by reference and are made a part of this Agreement.

2. Contract Price

The Owner shall pay the Contractor for the performance of this Agreement, subject to additions and deductions provided herein, in current funds, the sum of
\$ _____.

3. Commencement and Completion of Work and Liquidated Damages

It is agreed that time is of the essence of this Agreement. The Contractor shall commence and prosecute the work under this Agreement upon execution hereof and shall substantially complete the work on or before **JANUARY 29, 2027**, and fully complete the work on or before **FEBRUARY 28, 2027**, which is 30 days after Substantial Completion.

- A. **Definition of Term:** The term "Substantial Completion" shall mean the date certified by the Owner when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner may occupy the project, or designated portion(s) thereof, for the use for which it is intended.
- B. **Time as Essential Condition:** It is understood and agreed that the commencement of and Substantial Completion of the work are essential conditions of this

Agreement. It is further agreed that time is of the essence for each and every portion of the Contract Documents wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract Documents any additional time is allowed for the completion of any work, the new time fixed by such extension shall be of the essence of this Agreement. It is understood and agreed that the times for the completion of the work are reasonable, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

- C. Progress and Completion: Contractor shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently, and uninterruptedly at such a rate of progress as will ensure Substantial Completion within the stipulated number of calendar days.
- D. Liquidated Damages: It is expressly agreed between the Contractor and the Owner that the Contractor will be responsible for all damages which may arise due to the Contractor's failure to substantially complete the work within the above specified time. If the Contractor shall neglect, fail or refuse to complete the work within the specified number of days, or any extension thereof authorized by the Owner, Contractor agrees, as a part of the consideration for the execution of this Contract by the Owner, to pay the Owner the amount specified herein, not as a penalty, but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day (excluding Saturdays, Sundays and legal holidays) that the Contractor shall be in default of Substantial Completion after the date specified in the Agreement. Due to the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, said amount is agreed to be the amount of damages which the Owner would sustain, and said amount shall be retained from time to time by the Owner from current periodic estimates. The amount of liquidated damages shall be **two hundred dollars (\$200) per day.**

4. Performance of the Work

- A. Direction of the Work: The Contractor shall supervise and direct the Work, using their best skills and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the project site during the performance of the Work. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement.
- B. Responsibility for the Work:
- (1) The Contractor shall be responsible to the Owner for the acts and omissions of their employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a

contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, Contractors, and agents engaged in the work.

- (1) The Contractor shall not be relieved from their obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the Contractor.
- C. Permits and Fees: Unless otherwise expressly provided, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Agreement and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project.
- D. Notices, Compliance with Laws:
- (1) The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees paid. The Owner represents that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Agreement.
 - (2) If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, codes and regulations in any respect, they shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate modification.
 - (3) If the Contractor performs any Work which they know or should know is contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, the Contractor shall assume full responsibility therefor and shall bear all costs attributable thereto.
 - (4) In the performance of the Work, the Contractor shall comply with all applicable federal, state, and local laws and regulations including those relating to workplace and employee safety. The Contractor shall notify the Owner immediately of any conditions at the place of the Work which violate said laws and regulations and shall take prompt action to correct and eliminate any such violations.
- E. Project Superintendent: The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the

Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.

- F. Progress Schedule: The Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's information an estimated progress schedule for the Work. The progress schedule shall be related to the entire Project to the extent required by the Contract Documents and shall provide for expeditious and practicable execution of the Work.
- G. Drawings, Specifications and Submittals:
- (1) The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, and "As- Built" Drawings and Specifications in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be delivered to the Owner upon completion of the Work.
 - (2) By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that they have determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that they have checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
 - (3) The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the Owner in writing of such deviation at the time of submission and the Owner has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Owner's approval thereof.
 - (4) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Owner on previous submittals.
 - (5) No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Owner. All such portions of the Work shall be in accordance with approved submittals.
- H. Protection of the Work and Owner's Property: The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Agreement. The Contractor shall at all times safely guard and protect their own

work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury. The Contractor shall clean the work area and restore it to its original condition upon completion of the work.

- I. **Quality of the Work:** The Contractor shall perform the work in a good, workmanlike manner. The Contractor hereby guarantees that the entire work constructed by him under the Agreement will meet fully all requirements thereof as to quality of workmanship and materials. The Contractor hereby agrees to make at their own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with respect to any provisions of the Contract Documents. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the Owner for the cost thereof.
- J. **Warranty:** The Contractor guarantees to Owner that all materials incorporated into the work will be new unless otherwise specified or agreed. Prior to final payment, the Contractor shall deliver to the Owner all manufacturers' warranties, together with such endorsements or assignments as are necessary to ensure to the Owner the full rights and benefits of such warranties.

5. **Affirmative Action/Equal Employment Opportunity**

- A. The Contractor is directed to comply with all applicable State Laws, Ordinances, Bylaws, and rules and regulations regarding affirmative action/equal employment opportunity requirements. Failure of the Contractor to comply with any such law, rule or regulation shall constitute grounds for the Owner to terminate the Agreement.
- B. **Anti-discrimination Policy.** It is the policy of the Town of Provincetown to uphold the human rights of all persons in Provincetown and the free exercise and enjoyment of any and all rights and privileges secured by the Constitution, Law, Bylaws and Regulations of the United States, the Commonwealth of Massachusetts, and the Town of Provincetown. As such, actions that may deny or tend to deny or intend to deny to an individual equal access or opportunity in matters of housing, employment, education, municipal services, contracts, purchasing or public accommodations on the basis of age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation, are hereby prohibited. No lease or contract for services or public works and public building construction contracts shall be entered into by any Town authority without an anti-discrimination certification signed by the Contractor as follows:

The Contractor hereby certifies that the Contractor will not discriminate against any employee or applicant for employment on the basis of age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation. The Contractor has taken and will continue to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination.

6. Site Information Not Guaranteed; Contractor's Investigation

- A. All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of the Contractor and is not guaranteed.
- B. It is agreed and understood that the Owner does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents.
- C. Contractor has familiarized themselves with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state, and local laws, rules, ordinances, and regulations that in any manner may affect costs, progress, or performance of the work. Contractor has made, or has caused to be made, examinations, investigations, and tests and studies of such reports and related data in addition to those referred to in the paragraph above as they deem necessary for the performance of the work at the Contract Price, within the Contract Time, and in accordance with the other Terms and Conditions of the Contract Documents; and no additional examinations, tests, investigations, reports, and similar data are or will be required by the Contractor for such purposes.
- D. Contractor has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the Contract Documents. Contractor has given the Owner written notice of all conflicts, errors, or discrepancies that they have discovered in the Contract Documents, and the resolution thereof by the Owner is acceptable to the Contractor.
- E. It is further agreed and understood that the Contractor shall not use or be entitled to use any of the information made available to them or obtained in any examination made by them in any manner as a basis of or ground for any claim or demand against the Owner, arising from or by reason of any variance which may

exist between the information made available and the actual subsurface conditions or other conditions or structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents.

7. Project Engineer

- A. Except as otherwise indicated in the Contract Documents, the Engineer shall be a representative of the Owner, and the Contractor shall direct all communications, questions and comments on the work and the performance thereof to the Engineer. Except as otherwise provided, the Engineer shall have all the authority of the Owner set forth in the Contract Documents. In general, the Engineer shall have the authority to review the performance of the work, reject work which is defective or otherwise does not comply with the Contract Documents and to order the Contractor to remedy defective work and take such actions which are necessary to make the work conform to the Contract Documents.

8. Prevailing Wage Rates

- A. Prevailing Wage Rates, as determined by the Commissioner of the Department of Labor and Workforce Development under the provisions of Massachusetts General Laws, Chapter 149, Sections 26 to 27G, as amended, apply to this project. It is the responsibility of the Contractor to provide the Town with certified payrolls and to comply with all requirements of the above-cited statutes.
- B. The schedules of Prevailing Wage Rates are provided as an **Attachment to the Bid Package**.

9. Payments to the Contractor

Within 15 days after receipt from the Contractor of a proper and satisfactory periodic estimate requesting payment of the amount due for the preceding month, the Owner shall have 15 days to make payment for:

- A. The work performed during the preceding month.
- B. The materials not incorporated in the Work but delivered and suitably stored at the site (or at some location agreed upon in writing) to which the Contractor has title, or to which a Subcontractor has title and has authorized the Contractor to transfer title to the Owner.
- C. Less the following retention items:
- (1) A retention based on an estimate of the fair value of the Owner's claims against the Contractor.

- (2) A retention for direct payments to Subcontractors, if any, based on demands for same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws.
 - (3) A retention not exceeding 5% of the approved amount of the periodic payment.
- D. After the receipt of a periodic estimate requesting final payment and within 65 days after the Contractor fully completes the Work, or substantially completes the Work so that the value of the Work remaining to be done is, on the estimate of the Owner, less than 1% of the original Contract Price, or substantially completes the Work and the Owner takes possession or occupancy, whichever occurs first, the Owner shall pay the Contractor the entire balance due on the Contract less:
- (1) A retention based on an estimate of the fair value of the Owner's claims against the Contractor and of the cost of completing the incomplete and unsatisfactory items of Work.
 - (2) A retention for direct payments to Subcontractors, if any, based on demands of same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws, or based on the record of payments by the Contractor to the Subcontractors under this Contract if such record of payment indicates that the Contractor has not paid Subcontractors as provided in Section 39F of Chapter 30 of the General Laws.

If the Owner fails to make payment as herein provided, there shall be added to each such payment, daily interest at the rate of 3 percentage points above the rediscount rate than charged by the Federal Reserve Bank of Boston, commencing on the first day after said payment is due, and continuing until the payment is delivered or mailed to the Contractor; provided that no interest shall be due, in any event, on the amount of a periodic estimate for final payment until 15 days after receipt of such a periodic estimate by the Owner as provided in the first paragraph of this Article. The Contractor agrees to pay to each subcontractor a portion of any such interest paid in accordance with the amount due each subcontractor.

The Owner may make changes in any periodic estimate submitted by the Contractor and the payment due on said periodic estimate shall be computed in accordance with the changes so made, and such changes and any requirements for a corrected periodic estimate shall not affect the due date for the periodic payment or the date for the commencement of interest charges on the amount of the periodic payment computed in accordance with the changes made, as provided herein; provided further, that the Owner may, within seven (7) days after receipt, return to the Contractor for correction, any periodic estimate which is not in acceptable form or which contains computations not arithmetically correct, and in that event, the date of receipt of such periodic estimate shall be the date of receipt of the corrected periodic estimate in proper form and with arithmetically correct

computations. The date of receipt of a periodic estimate received on a Saturday shall be the first working day thereafter.

- E. Changes in the Work: No changes in the work covered by the approved Contract Documents shall be made without prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:
- (1) Unit bid prices previously approved.
 - (2) An agreed lump sum.
 - (3) The actual cost of:
 - a. Labor.
 - b. Materials entering permanently into the work.
 - c. The ownership or rental cost of construction equipment during the time of use on the extra work.
 - d. Power and consumable supplies for the operation of power equipment.
 - e. Wages to be paid.

To the cost under (1), there shall be added a fixed fee to be agreed upon but not to exceed 15% of the actual cost of work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit, and any other general expenses.

- F. Claims for Additional Costs: If the Contractor wishes to make a claim for an increase in the Contract Sum, they shall give the Owner written notice thereof within 20 days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Town on account of any delay in the commencement or performance of the work and/or any hindrance, delay or suspension of any portion of the work including, but not limited to, any claims or damages on account of having to perform out of sequence work, claims for damages on account of loss of production or other interference with the work, and claims for additional or extended general conditions due to delays or extensions of the contract time, whether such delay is caused by the Town or otherwise, except as and to the extent expressly provided under G.L. c.30, §39O in the case of written orders by the Town. The Contractor acknowledges that the Contractor's sole remedy for any such claim will be an extension of time as provided herein.

10. Final Payment, Effect

The acceptance of final payment by the Contractor shall constitute a waiver of all claims by the Contractor arising under the Agreement.

11. Contract Documents

The Contract Documents consist of the following:

- Instructions to Bidders
- Bid Form
- Bid Bond
- Performance Bond
- Payment Bond
- Agreement
- Clerk's Certificate of Corporate Vote (if applicable)
- Certificate of Liability Insurance
- General Conditions
- General Requirements and Technical Specifications
- Addenda
- Contract Drawings
- All other documents listed in the Table of Contents of the Project Manual.

12. Terms Required by Law

A. This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein.

13. Indemnification

A. The Contractor shall indemnify and hold harmless the Owner from and against any and all claims, damages, liabilities, losses, costs and expenses, including attorney's fees, arising out of the performance of this Agreement when such claims, damages, liabilities, losses, and expenses are caused, in whole or in part, by the acts, errors, or omissions of the Contractor or their employees, agents, subcontractors or representatives.

14. Insurance

A. The Contractor shall purchase and maintain such insurance as will protect both the Owner and the Contractor from claims which may arise under the Agreement, including operations performed for the named insured by independent contractors and general inspection thereof by the named insured. In addition, the Contractor shall require its subcontractors to maintain such insurance. Coverage shall be provided for:

- (1) claims under workers' or workmen's compensation, disability benefit and other applicable employee benefit acts;
 - (2) claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 - (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 - (4) claims for damages insured by usual personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (b) by any other person;
 - (5) claims for damages, including damages to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
 - (6) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.
 - (7) claims involving contractual liability applicable to the Contractor's obligations under Paragraph 13 (above).
- B. The limits of liability for coverage required under the preceding paragraph shall be as follows:

In no case shall the limits of liability be less than the following:

- (1) Contractor's Liability Insurance
 - a. Workers' Compensation:
 - 1) State: Statutory
 - 2) Employer Liability:
 - \$100,000 Bodily Injury by Accident
 - \$500,000 Bodily Injury by Disease - policy limit
 - 3) \$100,000 Bodily Injury by Disease - each
\$1,000,000 Umbrella Liability - all limits
 - b. Comprehensive General Liability (including Premises-Operations; Independent Contractor's Protective; Products and Completed Operations; Broad Form Property Damage):

- 1) Bodily Injury:
 - \$1,000,000 Each Occurrence
 - \$2,000,000 Aggregate
 - 2) Products and Completed Operations
 - \$1,000,000 Each Occurrence (bodily injury and property damage)
 - \$2,000,000 Aggregate

 - Products and Completed
 - \$1,000,000 Operations
 - 3) Property Damage Liability (including coverage for XCU hazards).
 - \$1,000,000 Each Occurrence
 - \$2,000,000 Aggregate
 - 4) Products and Completed Operations insurance shall be maintained for a minimum period of 2 years after final payment and Contractor shall continue to provide evidence of such coverage to Owner on an annual basis during the aforementioned.
 - 5) Contractual Liability (Hold Harmless Coverage):
 - \$1,000,000 Bodily Injury Each Occurrence
 - \$1,000,000 Property Damage Each Occurrence
 - \$1,000,000 Property Damage Aggregate
 - 6) Personal Injury, with Employment Exclusion deleted:
 - \$1,000,000 All Limits
- c. Comprehensive Automobile Liability (owned, non-owned, hired):
- 1) Bodily Injury
 - \$1,000,000 Each Person
 - \$1,000,000 Each Accident
 - 2) Property Damage
 - \$1,000,000 Each Accident
- d. Property Insurance / Builders Risk: the full Contact sum
- e. Umbrella Liability Coverage
 - \$1,000,000 All Limits
- C. Except for Workmen's Compensation, **all liability coverage shall name the Town of Provincetown and Foth Infrastructure & Environment, LLC, as additional insureds** and shall provide 30 days prior written notice to the Town of any modification or termination of coverage provided thereby. The Contractor

shall provide the Owner with appropriate Certificate(s) of Insurance evidencing compliance with this provision prior to the commencement of any work under this Agreement.

15. Notice

- A. All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

16. Termination

- A. Each party shall also have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.
- B. The Owner shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the Contractor. In the event that the Agreement is terminated pursuant to this subparagraph, the Contractor shall be reimbursed in accordance with the Contract Documents for all Work performed up to the termination date, and for all materials or equipment not incorporated in the Work but delivered and suitably stored at the site. Payment for material or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to Owner to establish the Owner's title to such material or equipment or otherwise protect the Owner's interests.

17. Miscellaneous

- A. **Royalties and Patents:** The Contractor shall pay all royalties and license fees. They shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, they shall be responsible for such loss unless they promptly give such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.
- B. **Assignment:** The Contractor shall not assign or transfer any of its rights, duties, or obligations under this Agreement without the written approval of the Owner.

- C. **Governing Law:** This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts. Any litigation arising hereunder shall be brought solely in the state courts of the Commonwealth sitting in the county in which Owner maintains its principal office.

- D. By its signature hereon, the Contractor certifies, under the pains and penalties of perjury, that it has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

AGREED:

TOWN OF PROVINCETOWN
(Owner)

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

CONTRACTOR

By: _____

Name: _____

Title: _____

Address: _____

City/State: _____

CERTIFICATE OF VOTE

(to be filed if Contractor is a Corporation)

I, _____, hereby certify that I am the duly qualified
(Secretary of the Corporation)

and acting Secretary of _____, and I further certify that a meeting of the
(Name of Corporation)

Directors of said Company, duly called and held on _____ at which
(Date of Meeting)

all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower

Anyone acting singly, to execute Forms of General Bid, Contracts or Bonds on behalf of the Corporation.

I further certify that the above vote is still in effect and has not been changed or modified in any respect.

By: _____
(Secretary of Corporation)

A True Copy:

Attest: _____
(Notary Public)

My Commission Expires: _____
(Date)

SECTION 00 61 13

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____
 a _____ (form of entity) with an address of _____
 hereinafter called "Principal" or "Contractor" and _____, as surety,
 with an address of _____, State of _____ hereinafter
 called the "Surety" and licensed by the State Division of Insurance to do business under the laws
 of the Commonwealth of Massachusetts, are held and firmly bound to the Town of
 _____, Massachusetts, hereinafter called "Owner", in the penal sum of
 _____ Dollars \$ _____) in lawful money of the
 United States, for the payment of which sum well and truly to be made, we bind ourselves, our
 heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas the Principal has
 entered into a certain contract with the Owner (the "Construction Contract"), dated the
 _____ day of _____, 20____, for the construction described as follows:
 _____.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties,
 all the undertakings, covenants, terms, conditions, and agreements of the Construction Contract
 during the original term thereof, and any extensions thereof which may be granted by the Owner,
 with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under
 the Construction Contract, and shall, as hereby agreed, fully indemnify the Owner from all
 liabilities, costs, expenses and damages which it may suffer by reason of the Principal's failure to
 so perform, and shall reimburse and repay the Owner all outlay and expense the Owner may
 incur in making good such nonperformance (including without limitation Owner's reasonable
 attorneys' fees), then this obligation shall be void; otherwise, this obligation shall remain in full
 force and effect.

PROVIDED, FURTHER, that the Surety's obligation under this Bond shall arise after
 the Owner has, with or without terminating the Construction Contract, declared that the Principal
 is in material breach of the Construction Contract ("Contractor Default"). When the Surety's
 obligation under this Bond arises, the Surety, at its sole expense shall, at the election of the
 Owner, promptly: (1) arrange for the Principal to comply with the Construction Contract and
 perform and complete the Construction Contract; or (2) arrange for a contractor other than the
 Principal to perform and complete the Construction Contract; or (3) reasonably calculate the
 amount of its liability hereunder and, subject to Owner's agreement, tender payment of such
 amount to Owner. Up to the amount of this Bond, the Surety's obligation is limited to (1) the
 correction of defective work and completion of the Construction Contract; (2) additional costs
 and expenses incurred by the Owner for designer and project management services, and
 reasonable attorney's fees, caused by the Contractor Default and any default of the Surety,
 including such costs and expenses and reasonable attorneys' fees incurred in support of Owner's
 claim on the Bond; (3) any additional work beyond the Construction Contract made necessary by

the Contractor Default and default of the Surety under this Bond; (4) contract indemnification obligations of the Principal under the Construction Contract; (5) damages arising from the Contractor Default; and (6) liquidated damages as provided in the Construction Contract for Contractor-caused delays, or if no such damages are specified, actual damages caused by such delays. The Surety and Principal shall be jointly and severally responsible for all such damages, costs, expenses, and fees.

The Surety will keep Owner reasonably informed of the progress, status and results of its investigation of any claim of the Owner under this Bond. If the Surety does not proceed as provided in this Bond with reasonable promptness, the Surety shall be deemed in default of this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. Principal agrees, notwithstanding any agreement between it and the surety to the contrary, not to bring any claims against the Surety on account of the Surety's reasonable, good faith compliance with this Bond.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Construction Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Construction Contract or to the work or to the specifications.

Any proceeding, legal or equitable, under this Bond shall be instituted in a state court of competent jurisdiction in the Commonwealth of Massachusetts sitting in the county in which Owner maintains its principal office. Surety agrees that any proceeding brought by Owner on this bond shall not be stayed on grounds that existing disputes between Owner and Contractor have not been adjudicated.

IN WITNESS WHEREOF, this instrument is executed in _____ () counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20____.

ATTEST:

		Principal
_____	By	_____
(Principal Secretary)		_____

		(Address-Zip Code)

_____ (SEAL)
 Witness as to Principal

_____ (Address-Zip Code)

ATTEST:

		Surety
_____	By	_____
		(Attorney-in-Fact)

		(Address-Zip Code)

_____ (SEAL)
 Witness as to Surety

_____ (Address-Zip Code)

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond.

SECTION 00 61 14

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____

_____ a _____
(Name of Contractor) (Corporation, Partnership, Joint Venture or Individual)

hereinafter called "Principal" and _____ of _____,
(Surety)

State of _____ hereinafter called the "Surety" and licensed by the State
(City and State)

Division of Insurance to do business under the laws of the Commonwealth of Massachusetts, are held and firmly bound to the City/Town of _____, Massachusetts, hereinafter called "Owner", in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20_____, for the construction described as follows:

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ () counterparts, each one of which shall be deemed an original, this the ___ day of _____, 20 _____.

ATTEST:

Surety

By: _____
(Attorney-in-Fact)

Address: _____

Witness as to Surety (SEAL)

Address: _____

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond.

SECTION 00 43 13

BID BOND (PENAL SUM FORM)

<p>Bidder Name: [Full formal name of Bidder] Address (<i>principal place of business</i>): [Address of Bidder's principal place of business]</p>	<p>Surety Name: [Full formal name of Surety] Address (<i>principal place of business</i>): [Address of Surety's principal place of business]</p>
<p>Owner Name: [Full formal name of Owner] Address (<i>principal place of business</i>): [Address of Owner's principal place of business]</p>	<p>Bid Project (<i>name and location</i>): [Owner project/contract name, and location of the project] Bid Due Date: [Enter date bid is due]</p>
<p>Bond Penal Sum: [Amount] Date of Bond: [Date]</p>	
<p>Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.</p>	
<p>Bidder</p>	<p>Surety</p>
<p style="text-align: center;"><i>(Full formal name of Bidder)</i></p>	<p style="text-align: center;"><i>(Full formal name of Surety) (corporate seal)</i></p>
<p>By: _____ <i>(Signature)</i></p>	<p>By: _____ <i>(Signature) (Attach Power of Attorney)</i></p>
<p>Name: _____ <i>(Printed or typed)</i></p>	<p>Name: _____ <i>(Printed or typed)</i></p>
<p>Title: _____</p>	<p>Title: _____</p>
<p>Attest: _____ <i>(Signature)</i></p>	<p>Attest: _____ <i>(Signature)</i></p>
<p>Name: _____ <i>(Printed or typed)</i></p>	<p>Name: _____ <i>(Printed or typed)</i></p>
<p>Title: _____</p>	<p>Title: _____</p>
<p><i>Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.</i></p>	

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

SECTION 00 43 33

SUBSTITUTE AND OR EQUAL SCHEDULE

Within five (5) days of the Bid Opening and before the Notice of Award, where possible, Bidder shall identify one or more proposed "or equals" and/or substitutes meeting the requirements of paragraph 6.05 of the General Conditions for the following items identifying the comparative cost with the specified "named" item. The purpose of this schedule is to identify any proposed substitutes and "or equals" for these specific items. Proposed substitute/"or equal" proposals shall be submitted to Bidder prior to bid date for consideration.

If Engineer and Owner believe consideration of the proposed items will result in the betterment of the project, then the apparent low bidder shall submit sufficient information for evaluation; in accordance with paragraph 6.05 of the General Conditions.

Specification Section	Named Equipment	Proposed Substitute/ "Or Equal"	Bid Price Deduct
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$

END OF SECTION

SECTION 00 51 00
NOTICE OF AWARD

Date of Issuance:

Owner:

Owner's Project No.:

Engineer:

Engineer's Project No.:

Project:

Contract Name:

Bidder:

Bidder's Address:

You are notified that Owner has accepted your Bid dated **[date]** for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

[Describe Work, alternates, or sections of Work awarded]

The Contract Price of the awarded Contract is \$**[Contract Price]**. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

[Number of copies sent] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner **[number of copies sent]** counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any): **[Describe other conditions that require Successful Bidder's compliance]**

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: **[Full formal name of Owner]**

By *(signature)*:

Name *(printed)*: _____

Title: _____

Copy: Engineer

SECTION 00 55 00

NOTICE TO PROCEED

Owner: _____ Owner's Project No.: _____
 Engineer: _____ Engineer's Project No.: _____
 Contractor: _____ Contractor's Project No.: _____
 Project: _____
 Contract Name: _____
 Effective Date of Contract: _____

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on **[date Contract Times are to start]** pursuant to Paragraph 4.01 of the General Conditions.

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work will be done at the Site prior to such date.

In accordance with the Agreement:

The date by which Substantial Completion must be achieved is **[date for Substantial Completion, from Agreement]**, and the date by which readiness for final payment must be achieved is **[date for readiness, from Agreement]**.

Before starting any Work at the Site, Contractor must comply with the following:

[Note any access limitations, security procedures, or other restrictions]

Owner: _____
By (signature): _____
Name (printed): _____
Title: _____
Date Issued: _____

Copy: Engineer

SECTION 00 63 62

CHANGE ORDER

NO.: _____

Owner: _____ Owner's Project No.: _____
 Engineer: _____ Engineer's Project No.: _____
 Contractor: _____ Contractor's Project No.: _____
 Project: _____
 Contract Name: _____
 Date Issued: _____ Effective Date of Change Order: _____

The Contract is modified as follows upon execution of this Change Order:

Description:

[Description of the change]

Attachments:

[List documents related to the change]

Change in Contract Price

Change in Contract Times
[State Contract Times as either a specific date or a number of days]

Original Contract Price: \$ _____	Original Contract Times: Substantial Completion: _____ Ready for final payment: _____
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. [Number of previous Change Order] : \$ _____	[Increase] [Decrease] from previously approved Change Orders No.1 to No. [Number of previous Change Order] : Substantial Completion: _____ Ready for final payment: _____
Contract Price prior to this Change Order: \$ _____	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for final payment: _____
[Increase] [Decrease] this Change Order: \$ _____	[Increase] [Decrease] this Change Order: Substantial Completion: _____ Ready for final payment: _____
Contract Price incorporating this Change Order: \$ _____	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for final payment: _____

Recommended by Engineer (if required)

Accepted by Contractor

By: _____

Title: _____

Date: _____

Authorized by Owner

Approved by Funding Agency (if applicable)

By: _____

Title: _____

Date: _____

SECTION 00 65 16

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner:	Owner’s Project No.:
Engineer:	Engineer’s Project No.:
Contractor:	Contractor’s Project No.:
Project:	
Contract Name:	

This Preliminary Final Certificate of Substantial Completion applies to:

All Work The following specified portions of the Work:

[Describe the portion of the work for which Certificate of Substantial Completion is issued]

Date of Substantial Completion: **[Enter date, as determined by Engineer]**

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work must be as provided in the Contract, except as amended as follows:

Amendments to Owner’s Responsibilities: None As follows:

[List amendments to Owner’s Responsibilities]

Amendments to Contractor’s Responsibilities: None As follows:

[List amendments to Contractor’s Responsibilities]

The following documents are attached to and made a part of this Certificate:

[List attachments such as punch list; other documents]

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

By *(signature)*: _____

Name *(printed)*: _____

Title: _____

SECTION 00 70 00

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

(Revisions to this Contract are shown in red.)

TABLE OF CONTENTS

	Page
Article 1—Definitions and Terminology	6
1.01 Defined Terms	6
1.02 Terminology	10
Article 2—Preliminary Matters	11
2.01 Delivery of Performance and Payment Bonds; Evidence of Insurance	11
2.02 Copies of Documents.....	11
2.03 Before Starting Construction	12
2.04 Preconstruction Conference; Designation of Authorized Representatives	12
2.05 Acceptance of Schedules	12
2.06 Electronic Transmittals.....	12
Article 3—Contract Documents: Intent, Requirements, Reuse	13
3.01 Intent.....	13
3.02 Reference Standards	13
3.03 Reporting and Resolving Discrepancies	14
3.04 Requirements of the Contract Documents	14
3.05 Reuse of Documents	15
Article 4—Commencement and Progress of the Work	15
4.01 Commencement of Contract Times; Notice to Proceed.....	15
4.02 Starting the Work.....	15
4.03 Reference Points	16
4.04 Progress Schedule.....	16
4.05 Delays in Contractor’s Progress	16
Article 5—Site; Subsurface and Physical Conditions; Hazardous Environmental Conditions.....	18
5.01 Availability of Lands	18
5.02 Use of Site and Other Areas	18
5.03 Subsurface and Physical Conditions.....	19

5.04 Differing Subsurface or Physical Conditions.....19

5.05 Underground Facilities21

5.06 Hazardous Environmental Conditions at Site21

Article 6—Bonds and Insurance.....23

6.01 Performance, Payment, and Other Bonds23

6.02 Insurance—General Provisions24

6.03 Contractor’s Insurance25

6.04 Builder’s Risk and Other Property Insurance26

6.05 Property Losses; Subrogation27

6.06 Receipt and Application of Property Insurance Proceeds27

Article 7—Contractor’s Responsibilities.....28

7.01 Contractor’s Means and Methods of Construction28

7.02 Supervision and Superintendence28

7.03 Labor; Working Hours.....28

7.04 Services, Materials, and Equipment.....29

7.05 “Or Equals”29

7.06 Substitutes.....30

7.07 Concerning Subcontractors and Suppliers31

7.08 Patent Fees and Royalties33

7.09 Permits.....33

7.10 Taxes.....33

7.11 Laws and Regulations.....33

7.12 Record Documents.....34

7.13 Safety and Protection34

7.14 Hazard Communication Programs.....35

7.15 Emergencies.....35

7.16 Submittals35

7.17 Contractor’s General Warranty and Guarantee.....38

7.18 Indemnification.....39

7.19 Delegation of Professional Design Services39

Article 8—Other Work at the Site40

8.01 Other Work40

8.02 Coordination41

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GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

8.03 Legal Relationships41

Article 9—Owner’s Responsibilities42

9.01 Communications to Contractor42

9.02 Replacement of Engineer.....42

9.03 Furnish Data42

9.04 Pay When Due42

9.05 Lands and Easements; Reports, Tests, and Drawings.....42

9.06 Insurance.....43

9.07 Change Orders43

9.08 Inspections, Tests, and Approvals43

9.09 Limitations on Owner’s Responsibilities43

9.10 Undisclosed Hazardous Environmental Condition43

9.11 Evidence of Financial Arrangements.....43

9.12 Safety Programs.....43

Article 10—Engineer’s Status During Construction43

10.01 Owner’s Representative43

10.02 Visits to Site.....43

10.03 Resident Project Representative44

10.04 Engineer’s Authority44

10.05 Determinations for Unit Price Work.....44

10.06 Decisions on Requirements of Contract Documents and Acceptability of Work44

10.07 Limitations on Engineer’s Authority and Responsibilities45

10.08 Compliance with Safety Program45

Article 11—Changes to the Contract.....45

11.01 Amending and Supplementing the Contract45

11.02 Change Orders46

11.03 Work Change Directives.....46

11.04 Field Orders46

11.05 Owner-Authorized Changes in the Work.....47

11.06 Unauthorized Changes in the Work47

11.07 Change of Contract Price.....47

11.08 Change of Contract Times48

11.09 Change Proposals48

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GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

00 70 00 - 3

11.10 Notification to Surety49

Article 12—~~Claims Omitted~~.....50

Article 13—Cost of the Work; Allowances; Unit Price Work50

 13.01 Cost of the Work.....50

 13.02 Allowances53

 13.03 Unit Price Work.....53

Article 14—Tests and Inspections; Correction, Removal, or Acceptance of Defective Work54

 14.01 Access to Work.....54

 14.02 Tests, Inspections, and Approvals54

 14.03 Defective Work.....55

 14.04 Acceptance of Defective Work.....55

 14.05 Uncovering Work56

 14.06 Owner May Stop the Work.....56

 14.07 Owner May Correct Defective Work.....56

Article 15—Payments to Contractor; Set-Offs; Completion; Correction Period57

 15.01 Progress Payments57

 15.02 Contractor’s Warranty of Title60

 15.03 Substantial Completion.....60

 15.04 Partial Use or Occupancy61

 15.05 Final Inspection61

 15.06 Final Payment.....61

 15.07 Waiver of Claims.....62

 15.08 Correction Period.....63

Article 16—Suspension of Work and Termination63

 16.01 Owner May Suspend Work.....63

 16.02 Owner May Terminate for Cause64

 16.03 Owner May Terminate for Convenience65

 16.04 Contractor May Stop Work or Terminate.....65

Article 17—Final Resolution of Disputes65

 17.01 Methods and Procedures.....65

Article 18—Miscellaneous66

 18.01 Giving Notice66

 18.02 Computation of Times66

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GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

18.03	Cumulative Remedies	66
18.04	Limitation of Damages	66
18.05	No Waiver.....	66
18.06	Survival of Obligations.....	66
18.07	Controlling Law.....	67
18.08	Assignment of Contract	67
18.09	Successors and Assigns	67
18.10	Headings	67

SECTION 00700

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that, together with the other Contract Documents, sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, ~~and designates the specific items that are Contract Documents.~~
 3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. ~~*Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda. Intentionally Omitted.~~
 7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times or a change in the Work; ~~contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.~~
 10. *Claim*
 - a. ~~A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by Engineer concerning the~~

~~requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.~~

~~ba. A Change Proposal demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.~~

~~c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.~~

~~db. A demand for money or services by a third party is not a Claim.~~

11. *Constituent of Concern* – Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations

regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

12. *Contract* – The ~~Contract Documents~~entire and integrated written contract between Owner and Contractor concerning the Work.
13. *Contract Documents* – Those ~~documents~~items so designated in the Agreement, and which, together ~~with the Agreement~~, comprise the Contract ~~Documents~~.
14. *Contract Price* – The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
15. *Contract Times* – The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor* – The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work* – See Paragraph 13.01 for definition.
18. *Drawings* – The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract* – The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Electronic Document* – Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. *Electronic Means* – Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
22. *Engineer* – The individual or entity named as such in the Agreement.
23. *Field Order* – A written order issued by Engineer ~~which requires for~~ “minor changes in the Work,” ~~i.e., changes that but does not affect or require any change to~~ the Contract Price or the Contract Times.
24. *Hazardous Environmental Condition* – The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
 - a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
 - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.

- c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens* – Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone* – A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award* – The written notice by Owner to a Bidder of Owner’s acceptance of the Bid.
29. *Notice to Proceed* – A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner* – The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule* – A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor’s plan to accomplish the Work within the Contract Times.
32. *Project* – The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
33. *Resident Project Representative* – The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals* – A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals.
36. *Schedule of Values* – A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
37. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site* – Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.

39. *Specifications* – The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal* – A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers’ instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, ~~Claims~~, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer and Owner, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.
43. *Successful Bidder* – The Bidder to which the Owner makes an award of contract.
44. *Supplementary Conditions* – The part of the Contract that amends or supplements these General Conditions.
45. *Supplier* – A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
46. *Technical Data*
- a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
 - b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.

- c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
47. *Underground Facilities* – All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
48. *Unit Price Work* – Work to be paid for on the basis of unit prices.
49. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
50. *Work Change Directive* – A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives*: The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day*: The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective*: The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
1. does not conform to the Contract Documents;
 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

3. has been damaged ~~during performance of the Work prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).~~
- E. *Furnish, Install, Perform, Provide*
1. The word "furnish," when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word "install," when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words "perform" or "provide," when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. *Contract Price or Contract Times*: References to a change in "Contract Price or Contract Times" or "Contract Times or Contract Price" or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term "or both" is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the Performance Bond and Payment Bond ~~(if the Contract requires Contractor to furnish such bonds).~~
- B. *Evidence of Contractor's Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies. ~~C. ——— *Evidence of Owner's Insurance*: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6~~

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor ~~two~~^{four} printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. ~~Owner-Engineer~~ shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. ~~Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.~~

2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference ~~Owner and Contractor each~~ shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on its behalf ~~of each respective party~~.

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment, a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or

2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.
- 3.02 *Reference Standards*
- A. *Standards Specifications, Codes, Laws and Regulations*
1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless the same would have been revealed through a careful review of the Contract Documents or Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in

resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

- a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
- ~~b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).~~

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor ~~and Owner~~ shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation – RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible

after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.

- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will, notwithstanding anything to the contrary in the Contract Documents, be final and binding on Contractor; ~~unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim, provided that, notwithstanding any decision of the Engineer, Owner may withhold from Contractor the fair value of its claims against Contractor in accordance with G.L. c.30, § 39K/G, as applicable.~~
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise Contract Documents), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 127.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed, and if no day is indicated in the Notice to Proceed, within 10 days of the date of the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract, unless otherwise stated in the Agreement. In no event, however, will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier, notwithstanding any Notice to Proceed.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work may be done at the Site prior to such date.

4.03 *Reference Points*

- A. ~~Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work.~~ Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall **immediately** report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. ~~Contractor shall not delay or postpone any~~ **No Work will be delayed or postponed due to or** pending resolution of any disputes or disagreements, ~~or during any appeal process,~~ **except as permitted by Paragraph 16.04, or as** Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. ~~Intentionally Omitted If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.~~
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of ~~Owner, Contractor,~~ and those for ~~which whom Contractor is they~~ are responsible, **including but not limited to delays, disruption or interference caused by Owner or Engineer,** then Contractor shall be entitled to an equitable adjustment in Contract Times only. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. **Contractor shall not be entitled to adjustment in the Contract Time due to weather conditions.**

Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 2. ~~Abnormal weather conditions;~~Intentionally omitted
 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
 4. Acts of war or terrorism.
- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference, as shall be demonstrated by Contractor to the satisfaction of Engineer.
 2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference, regardless of the cause if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled. For avoidance of doubt, Contractor shall not be entitled to any increased costs or other damages due to disruption or interference with the work, for performance of out-of-sequence work, for acceleration of the Work, or for any extended or additional general conditions, which are expressly prohibited no matter the cause of delay.
 3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each ~~Contractor request or~~ Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following, and unless a different time period is expressly set forth in the Contract, be submitted to Engineer and Owner within 14 days of the event giving rise to the Change Proposal:
1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the

- activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.
- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 ~~Intentionally Omitted~~*Availability of Lands*

- ~~A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.~~
- ~~B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.~~
- ~~C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.~~

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and, in addition to any other remedies, (c) to the fullest extent permitted by Laws and Regulations, indemnify

and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas safe and free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it safe and ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions may identify:
 1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
 2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
 3. Technical Data contained in such reports and drawings.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. *Reliance by Contractor on Technical Data:* Contractor may reasonably rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, ~~but such reports and drawings are not Contract Documents~~. If no such express identification has been made, then Contractor may reasonably rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Notwithstanding the foregoing, neither Owner nor Engineer guarantee or warrant the accuracy of any Technical Data, and except as required by G.L. c.30, § 39N, Contractor shall not be entitled to any adjustment to the Contract Price on account of any incompleteness or inaccuracy of any Technical Data.
- D. *Limitations of Other Data and Documents:* ~~Except for such reliance on Technical Data,~~ Contractor may not rely upon or make any claim against Owner or Engineer, or any of their

officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site entitles it to an adjustment to the Contract Price, it:

- ~~1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;~~
- ~~2. is of such a nature as to require a change in the Drawings or Specifications;~~
- ~~3. differs materially from that shown or indicated in the Contract Documents; or~~
- ~~4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;~~

~~then Contractor~~ shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition

- and provide a Change Proposal. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.
- B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer, in consultation with Owner, will promptly review the subsurface or physical condition in question; ~~determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain request any additional information from Contractor, including, for example,~~ any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the ~~Contractor's resumption of Work in connection with the~~ subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part. Owner's decision shall be final and binding on Contractor.
- D. *Early Resumption of Work*: If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may, in consultation with Owner, at its discretion instruct Contractor to resume such Work, and if it does so, Contractor shall promptly comply.
- E. *Possible Price and Times Adjustments*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times as follows, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. For adjustment to the Contract Price, such adjustment shall be permitted only to the extent such adjustment is required by G.L. c.30, § 39N~~Such condition must fall within any one or more of the categories described in Paragraph 5.04.A; and~~
 - b. ~~Intentionally omitted~~With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs ~~4.05.D and 4.05.E~~.
 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;

- b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A or to comply with G.L. c.30, § 39N.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
- ~~4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.~~
- F. *Underground Facilities; Hazardous Environmental Conditions:* Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions, except to the extent expressly set forth in Paragraph 5.05 and Paragraph 5.06, respectively.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
- 1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - 2. complying with applicable state and local utility damage prevention Laws and Regulations;
 - 3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 - 4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - 5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility and the procedure set forth in Paragraph 5.04 shall apply.

C. *Engineer's Review:* Engineer will:

1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.

~~During such time,~~ Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

- 4.—The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions may identify:
1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
 2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data only to the extent set forth in Paragraphs 5.03C and 5.03D~~expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:~~
- 1.—~~the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;~~
 - 2.—~~other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or~~
 - 3.—~~any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.~~
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition not created by Contractor but encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work, or unless Contractor negligently caused a release of, or otherwise negligently exacerbated, the Hazardous Environmental Condition.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates

- a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as ~~are Owner deems~~ necessary to ~~permit Owner to timely obtain required permits~~ and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, Contractor shall remove and remediate the Hazardous Environmental Condition forthwith upon written demand from the Owner or, at Owner's discretion, ~~then~~ Owner may remove and remediate the Hazardous Environmental Condition; and impose a set-off against payments otherwise due Contractor to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has ~~obtained any required permits related thereto, and~~ delivered written notice to Contractor either (1) specifying that such condition and any affected area is ~~or has been rendered deemed~~ safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the ~~amount or~~ extent, if any, of any adjustment in ~~Contract Price or~~ Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within ~~30-14~~ days of Owner's written notice regarding the resumption of Work, Contractor may shall submit a Change Proposal, ~~or Owner may impose a set-off~~. Entitlement to any such adjustment is subject to the provisions of Paragraphs ~~4.05.D, 4.05.E, 11.07, and 11.08~~.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in

Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

- I. ~~To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence. Contractor shall not be entitled to an adjustment to the Contract Price due to the presence of a Hazardous Environmental Condition except to the extent required by G.L. c.30, § 39N.~~
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created, or negligently released or exacerbated, by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- ~~K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.~~

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding ~~Documents~~ Requirements or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding

- Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies” as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual’s authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
 - E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
 - F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner’s termination rights under Article 16.
 - G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
 - H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 Insurance—General Provisions

- A. ~~Owner and~~ Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by ~~Owner or~~ Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and “Occupational Accident and Excess Employer’s Indemnity Policies,” are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and

- (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.
- E. ~~Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.~~Intentionally omitted
- F. Failure of Owner ~~or Contractor~~ to demand such certificates or other evidence of the ~~other party's~~Contractor's full compliance with these insurance requirements, or failure of Owner ~~or Contractor~~ to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the ~~other party's~~Contractor's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. If ~~either party~~Contractor does not purchase or maintain the insurance required of such party by the Contract, ~~such party~~it shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if ~~a party~~Contractor has failed to obtain required insurance, the ~~other party~~Owner may elect (but is in no way obligated) to obtain equivalent insurance to protect such ~~other party's~~sits interests at the expense of the ~~party~~Contractor who was required to provide such coverage, and the Contract Price will be adjusted accordingly.

- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 *Contractor's Insurance*

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
 - 1. include at least the specific coverages required;
 - 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
 - 3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
 - 4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
 - 5. include all necessary endorsements to support the stated requirements.
- C. *Additional Insureds:* The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
 - 1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
 - 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
 - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
 - 4. not seek contribution from insurance maintained by the additional insured; and

5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: ~~Unless otherwise provided in the Supplementary Conditions,~~ Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
- B. *Property Insurance for Facilities of Owner Where Work Will Occur*: ~~Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.~~ Intentionally omitted
- C. *Property Insurance for Substantially Complete Facilities*: ~~Promptly a~~ After Owner agrees in writing that Contractor has achieved Substantial Completion, ~~and before actual occupancy or use of the substantially completed Work,~~ Owner will obtain property insurance for such substantially completed Work, ~~and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance.~~ The builder's risk insurance maintained by Contractor may terminate only upon written confirmation from Owner of Owner's procurement of such property insurance.
- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner will so notify (directly, if it is the purchaser of the builder's risk policy, or through Contractor), who will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity

or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies, ~~and any other property insurance applicable to the Work~~ but only to the extent of the insurance proceeds paid to the Owner or Contractor, as applicable, on account of such losses and damages, and not otherwise; and, in addition, to the extent of proceeds so paid, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
 2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. ~~Intentionally omitted. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.~~
1. ~~Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.~~
- C. ~~The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss~~ Intentionally omitted.

- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and

distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.

- C. If no other special agreement is reached with Owner, Contractor shall promptly repair or replace ~~the-all~~ damaged Work, using allocated insurance proceeds.

D. Notwithstanding anything to the contrary in this Article 6, the existence of insurance shall not limit in any way Owner's right to withhold from Contractor the fair value of Owner's claims in accordance with G.L. c.30, §39G/K, nor be a basis for Contractor to forego or delay correcting defective Work or repairing or replacing damaged Work.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work must be new, of recent manufacture, defect-free and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.05 *“Or Equals”*

- A. *Contractor’s Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or equal” item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
 - 1. An item shall be considered equal to the item so named or described if, in the opinion of the Engineer, in consultation with Owner: (1) it is at least equal in quality, durability, appearance, strength and design, (2) it will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased, and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the said specifications. For each item of material the specifications shall provide for either a minimum of three named brands of material or a description of material which can be met by a minimum of three manufacturers or producers, and for the equal of any one of said name or described materials. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an “or equal” item. For the

~~purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:~~

- ~~a. in the exercise of reasonable judgment Engineer determines that the proposed item:~~
- ~~1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;~~
 - ~~2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;~~
 - ~~3) has a proven record of performance and availability of responsive service; and~~
 - ~~4) is not objectionable to Owner.~~

~~ba. Contractor certifies that, if the proposed item is approved and incorporated into the Work:~~

- ~~1) there will be no increase in cost to the Owner or increase in Contract Times; and~~
- ~~2) the item (1) is at least equal in quality, durability, appearance, strength and design, (2) will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased, and (3) conforms substantially, even with deviations, to the detailed requirements for the item in the said specifications the item will conform substantially to the detailed requirements of the item named in the Contract Documents.~~

- B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer, in consultation with Owner, determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request will result in any change-increase in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding on Contractor, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

7.06 *Substitutes*

- A. *Contractor's Request; Governing Criteria:* Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that

named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 3. Contractor shall, in the form of a Change Proposal, make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be similar in substance to the item specified; and
 - 3) be suited to the same use as the item specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and any direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and, in consultation with Owner, Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a

substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute. Such amounts may be withheld by Owner from amounts payable to Contractor.

- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer, in consultation with Owner, approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a Change Proposal for a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. ~~Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.~~

7.07 *Concerning Subcontractors and Suppliers*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30-14 days of Owner's requirement of replacement.

- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.
- N. Notwithstanding the foregoing or anything to the contrary in the Contract, neither the approval or lack of approval by Owner of any subcontractor shall constitute approval of a subcontractor for purposes of G.L. c.30, § 39F.

7.08 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents.
- ~~B. Intentionally OmittedTo the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.~~
- C. To the fullest extent permitted by Laws and Regulations, in addition to any other rights and remedies available to Owner, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against all claims, costs, losses, and

damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

7.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.11 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall, in addition to any other rights and remedies available to Owner, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. ~~It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.~~
- C. ~~Intentionally omitted. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.~~

7.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such

record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, or at such other time as may be requested from time to time, Contractor shall deliver these record documents to Engineer. Contractor understands and agrees that all documents made and received by Contractor in performance of the Work are Owner's public records under the Massachusetts Public Records Law.

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for the safety of, and for initiating, maintaining, and supervising all safety precautions and programs in connection with, the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 1. all persons on the Site or who may be affected by the Work;
 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with

- them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
 - H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
 - I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site ~~(except as otherwise expressly provided in connection with Substantial Completion)~~.
 - J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 Hazard Communication Programs

- A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 Emergencies

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act as soon as possible to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.

7.16 Submittals

A. Shop Drawing and Sample Requirements

1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determine and verify:
 - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

- 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
 - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
 3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.
1. *Shop Drawings*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.
 2. *Samples*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Engineer's Review of Shop Drawings and Samples*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals subject to G.L. c.30, § 39P. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. Resubmittal Procedures for Shop Drawings and Samples

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

E. Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.

- c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
 - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 Contractor's General Warranty and Guarantee

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer ~~and Owner is~~are entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the ~~Contract and at law, including Owner's rights under the~~ correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; ~~provided, however, that after the end of the correction period under Paragraph 15.08:~~
 - ~~1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and~~
 - ~~2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.~~
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - 1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 - 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
 - 1. Observations by Engineer;
 - 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
 - 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 - 4. Use or occupancy of the Work or any part thereof by Owner;
 - 5. Any review and approval of a Shop Drawing or Sample submittal;
 - 6. The issuance of a notice of acceptability by Engineer;

7. The end of the correction period established in Paragraph 15.08;
 8. Any inspection, test, or approval by others; or
 9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other rights and remedies available to Owner and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.

- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject

to the professional standard of care and the performance and design criteria stated in the Contract Documents.

- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.19;
 - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and

proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 Coordination

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be ~~set forth in the Supplementary Conditions or~~ provided ~~to~~ by Owner and Contractor prior to the start of any such other work:
1. The identity of the individual or entity that will have authority and responsibility on behalf of the Owner and Contractor for coordination of the activities among the various other Owner's contractors;
 2. An itemization of the specific matters to be covered by such authority and responsibility; and
 3. The extent of such authority and responsibilities.
- B. ~~Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination~~ Contractor shall fully cooperate and exercise all reasonable efforts to coordinate the Work with the work of Owner's other contractors.

8.03 Legal Relationships

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors that is not covered by insurance, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor ~~shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor~~ must submit any Change Proposal seeking an equitable adjustment in the Contract Price (excluding adjustments due to delays) or the Contract Times under this paragraph within 30-14 days of the damaging, delaying, disrupting, or interfering event. The determination of entitlement to, and extent of, any such equitable adjustment will may take into account, among other information, information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs ~~4.05.D and 4.05.E~~.
- B. Contractor shall take reasonable and customary all necessary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.

1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may, in addition to any other rights and remedies, impose a set-off against payments due

Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.

2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take ~~reasonable and customary~~the measures required herein with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may, in addition to any other rights and remedies, impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take ~~reasonable and customary~~all necessary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall, in addition to any other rights and remedies available to Owner, (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue ~~all~~ communications to Contractor through Engineer or other authorized representatives.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, ~~provided Contractor makes no reasonable objection to the replacement engineer~~. The replacement engineer's status under the Contract Documents will be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall endeavor in good faith to promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement, subject to deduction for the fair value of Owner's claims in accordance with the Contract and G.L. c.30, § 39G/K.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties, if any, with respect to providing lands and easements are set forth in Paragraph 5.01.

- B. Owner's duties, if any, with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to ~~Owner's identifying and making available to Contractor copies of~~ reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility, if any, in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of ~~Financial Arrangements~~ Appropriation*

- A. ~~Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work) See G.L. c.44, § 31C.~~

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall endeavor in good faith to comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed in writing.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and

observations, Engineer, for the benefit of Owner only, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Resident Project Representative*

- A. If ~~Owner and Engineer have agreed that~~ Engineer will furnishes a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.
- E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.06 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer ~~will not show partiality to Owner or Contractor, and~~ will not be liable to ~~Owner~~, Contractor or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.07 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents, and shall not operate to waive any rights of Owner to require Contractor to correct defective work and to withhold from amounts otherwise payable to Contractor the fair value of Owner's claims in accordance with the Contract and G.L. c.30, § 39G/K.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order, provided that Contractor shall proceed with any work that is the subject of a Work Change Directive notwithstanding any dispute or negotiations with respect to any adjustment in the Contract Price and Contract Time. Notwithstanding anything to the contrary in the Contract, in the event Owner disagrees with any assertion of Contractor that certain work is additional or extra to the Contract, Contractor shall promptly and without any delay proceed with the work notwithstanding such disagreement, and shall submit a Change Proposal in accordance with the terms of the Contract.

- C. ~~All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.~~Intentionally omitted.

11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off, provided that Owner may nonetheless withhold from Contractor the fair value of Owner's claims in accordance with the Contract and G.L. c.30, § 39G/K;
 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's clear and unequivocal acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, ~~subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters;~~ and
 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; ~~Article 12, Claims;~~ Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. ~~If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.~~Intentionally omitted.

11.03 *Work Change Directives*

- A. A Work Change Directive will be issued where a change in the Work is directed but there is no agreement between Owner and Contractor not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; ~~or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.~~
- B. If Owner has issued a Work Change Directive and:
1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 14 days after ~~the completion of the Work set out in receipt of~~ the Work Change Directive.
 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, it may include such adjustment in the Work Change Directive ~~then Owner shall submit any~~

~~Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.~~

11.04 *Field Orders*

- A. Engineer may authorize minor changes in the Work (~~i.e., if the~~ changes that do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents). Such changes will be accomplished by a Field Order and will be binding on ~~Owner and also on~~ Contractor, which shall perform the Work involved promptly.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein, provided that if Engineer disagrees that an adjustment is justified, Contractor shall promptly and without delay proceed with the work that is the subject of the Field Order.

11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. ~~Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.~~
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that ~~Contractor reasonably concludes~~ cannot be performed safely in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order, provided that Owner may withhold from Contractor the fair value of Owner's claims in accordance with the Contract and G.L. c.30, § 39G/K. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. ~~Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.~~
- B. An adjustment in the Contract Price will be determined as follows:
 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);

2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
1. A mutually acceptable fixed fee; or
 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
 - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
 - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
 - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
 - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. ~~Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.~~

- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

11.09 Change Proposals

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price or change in the Work; ~~contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract.~~ The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief requested change in the Work, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

B. Change Proposal Procedures

1. *Submittal:* Contractor shall submit each Change Proposal to Engineer within 30-14 days after the start of the event giving rise thereto; ~~or after such initial decision.~~
2. *Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner with ~~in~~ 15 days after the submittal of the Change Proposal.
 - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. *Engineer's Initial Review:* Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
4. *Engineer's Full Review and Action on the Change Proposal:* Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then ~~either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.~~
5. *Binding Decision:* Engineer's decision is final and binding upon ~~Owner and Contractor; unless Owner or Contractor appeals the decision by filing a Claim under Article 12,~~

provided that, notwithstanding the foregoing, Owner may withhold the fair value of its claims against Contractor in accordance with G.L. c.30, § 39G/K.

- C. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 127.
- D. *Post-Completion:* Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

11.10 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12—INTENTIONALLY OMITTED CLAIMS

~~12.01—Claims~~

- ~~A. —Claims Process: The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:~~
- ~~1. —Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;~~
 - ~~2. —Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;~~
 - ~~3. —Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and~~
 - ~~4. —Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.~~
- ~~B. —Submittal of Claim: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.~~
- ~~C. —Review and Resolution: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by~~

~~mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.~~

~~D. Mediation~~

~~1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.~~

~~2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.~~

~~3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.~~

~~E. Partial Approval: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.~~

~~F. Denial of Claim: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.~~

~~G. Final and Binding Results: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.~~

ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 Cost of the Work

A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:

1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
2. When needed to determine the value of a Change Order, Change Proposal, ~~Claim~~, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.

B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the

locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.

c. *Construction Equipment Rental*

- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
 - 3) With respect to Work that is the result of a Change Order, Change Proposal, ~~Claim~~, set-off, or other adjustment in Contract Price (“changed Work”), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. ~~Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder’s risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor’s fee~~Intentionally omitted.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work does not include any of the following items:

1. Payroll costs and other compensation of Contractor’s officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel

employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.

2. The cost of purchasing, renting, or furnishing small tools and hand tools.
3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
6. Expenses incurred in preparing and advancing Claims.
7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee*

1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
 - b. for any Work covered by a Change Order, Change Proposal, ~~Claim~~, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, ~~Claim~~, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

- E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish

and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:* Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance:* Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item, and for all other costs associated with the Unit Price Work.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.

E. *Adjustments in Unit Price*

1. Contractor ~~or Owner~~ shall not be entitled to an adjustment in the unit price with respect to an item of Unit Price Work ~~if unless and then only to the extent required by law.~~
 - a. ~~the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and~~
 - b. ~~Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.~~
2. ~~The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.~~
3. ~~Adjusted unit prices will apply to all units of that item.~~

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable-all times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;

3. by manufacturers of equipment furnished under the Contract Documents;
4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work. Notwithstanding the foregoing, any Work that is defective must be corrected by the Contractor with or without notice from Engineer or Owner.
- C. *Notice of Defects*: Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor, provided that any failure of Owner or Engineer to provide such notice shall not release Contractor from its obligation to correct all defective work with or without such notice.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether discovered before or after Substantial Completion or final completion of the Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, and such other remedies available to Owner, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, fees of the Engineer, reasonable attorneys' fees, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so ~~(subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety)~~. Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then

Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner. Notwithstanding the foregoing, no such acceptance shall be valid unless express, unambiguous and unequivocal using words to the effect that “Owner is accepting a defective condition,” and contained in a Change Order signed by authorized representative of Owner, and even then, such acceptance shall be only to the extent stated in the Change Order.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer’s observation, and then replace the covering, all at Contractor’s expense.
- C. If, through no fault of Contractor, Engineer considers it necessary or advisable that covered Work be again observed by Engineer or inspected or tested by others, then Contractor, at Engineer’s request, shall uncover, expose, or otherwise make available for such additional observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor’s full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30-14 days of ~~the determination that the Work is not defective~~ date of uncovering.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails promptly within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days’ written notice to Contractor, correct or remedy any such deficiency, and/or exercise any other remedies available to Owner.
- B. ~~In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously.~~ In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend

Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere.
Contractor shall

allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work, fees of the Engineer and reasonable attorneys' fees.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement, but not less than 5%.

C. Review of Applications

1. Engineer will, within 10 days after receipt of each complete and accurate Application for Payment, including each resubmittal, either indicate in writing a recommendation and certification of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation and certification of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work, subject to any deductions by Owner for the fair value of its claims against Contractor in accordance with the Contract and G.L. c.30, § 39G/K, and without waiver or release of Contractor's obligation to correct all defective Work.
3. By recommending and certifying any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle ~~Contractor to be paid additionally by Owner or entitle~~ Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work;
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or

- e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend and certify the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
 6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because of any of the following, provided Owner shall not be bound by such recommendations, and may withhold the fair value of all claims against Contractor in accordance with the Contract and G.L. c.30, § 39G/K:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. Payment Becomes Due

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation and certification, the amount recommended and certification (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. Reductions in Payment by Owner

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of Owner's other claims, including any of the following:
 - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;

- g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
- h. The Contract Price has been reduced by Change Orders;
- i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
- j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
- k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
- l. Other items entitle Owner to a set-off against the amount recommended.

~~2.—If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.~~

~~3.—Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.~~

15.02 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

15.03 Substantial Completion

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment, subject to revision and addition by the Engineer.
- B. Promptly after Contractor's notification, ~~Owner, Contractor, and~~ Engineer shall make an inspection of the Work to determine, in consultation with Owner, the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. Contractor shall pay for all costs of additional inspections after the first inspection.
- C. If, in consultation with Owner, Engineer considers the Work substantially complete, Engineer will inspect the Work for the purpose of preparing a monetized punchlist of all remaining items of incomplete and defective work, and shall, upon completion of such punchlist, deliver to Owner a preliminary certificate of Substantial Completion which will fix-propose the date of Substantial Completion. Engineer shall attach to the certificate a monetized punch list of items to be completed or corrected before final payment. ~~Owner shall have 7 days after~~

- ~~receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised monetized punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.~~
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, ~~Owner Contractor~~ shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or

occupancy of the Work until Contractor receives written confirmation from Owner that the Work is covered by Owner's property insurance.

- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment, and shall complete and correct all such items within 30 days of Substantial Completion. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner and Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

- ~~1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.~~
- ~~2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.~~
- ~~3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.~~
- ~~4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.~~

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies. Contractor shall pay all costs of additional inspections after the first final inspection.

15.06 *Final Payment*A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
 2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Proposals ~~and Claims~~; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
 3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation and certification of final payment and present the final Application for Payment to Owner for payment. Such recommendation and certification will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments, subject, however, to Owner's further deductions based on Owner's determination of the fair value of its claims against Contractor. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Notice of Acceptability*: In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation and certification of final payment and issuance of notice of the acceptability of the Work, subject, however, to Contractor's obligation to correct all defective Work whether discovered before or after final completion.
- E. *Final Payment Becomes Due*: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner determines it is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract and law with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer, subject to Owner's other rights and remedies under the Contract and law.

15.07 *Waiver of Claims*

- A. ~~By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.~~
- B. ~~The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.~~

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions, and without waiver of such other rights and remedies available to Owner:
1. correct the defective repairs to the Site or such adjacent areas;
 2. correct such defective Work;
 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall endeavor in good faith to give any such notice of defect within 60 days of the discovery that such Work or repairs is defective, provided that any failure to do so shall not operate as a waiver of Owner's rights and remedies. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.

- C. If, after receipt of a notice of defect ~~within 60 days and within the correction period~~, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). ~~Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.~~
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof ~~for a period of not more than 90 consecutive days~~ by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times directly attributable to any such suspension if and as required by G.L. c.30, § 39O. Any Change

Proposal seeking such adjustments must be submitted no later than ~~30~~14 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
1. Contractor's ~~persistent~~ failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 3. Contractor's ~~failure to comply with or~~ disregard of Laws or Regulations of any public body having jurisdiction; or
 4. Contractor's ~~repeated~~ disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (~~and any surety~~)-10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
 2. enforce the rights available to Owner under any applicable performance bond.
- C. ~~Subject to the terms and operation of any applicable performance bond, if~~ Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. ~~Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure~~Intentionally omitted.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. ~~Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order.~~ When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

~~G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.~~

16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work; and
 2. reasonable and necessary expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and,
 3. ~~other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.~~
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon ~~7-14~~ days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, ~~7-14~~ days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. ~~The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.~~

ARTICLE 17—~~FINAL~~ RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to ~~Final~~ Resolution*: The following disputed matters are subject to final resolution under the provisions of this article:
1. ~~A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and Intentionally omitted.~~

2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, ~~that arise after final payment has been made.~~
- B. ~~Final~~ *Resolution of Disputes*: For any dispute subject to resolution under this article, Owner or Contractor may:
1. elect in writing to invoke the dispute resolution process, if any, provided for in the Supplementary Conditions;
 2. agree with the other party to submit the dispute to another dispute resolution process; or
 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction. The parties agree that venue for any such

dispute shall be in the state court sitting in the county in which Owner maintains its principal offices. Notwithstanding the foregoing or anything to the contrary in the Contract, for disputes involving decisions of Engineer or Owner that are final and binding on Contractor, Contractor shall be required to demonstrate that such decisions were arbitrary and capricious or illegal pursuant to G.L. c.30, § 39J, in addition to such other burdens of proof imposed by law.

ARTICLE 18—MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, ~~Claims~~, ~~disputes~~ subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any consequential damages, including without limitation lost profits, and claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the

Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located without application of such state's laws addressing conflicts-of-law.

18.08 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

18.11 *Tort Claims Act*

- A. Notwithstanding anything to the contrary in the Contract, nothing in the Contract shall operate as a waiver of any rights, remedies and defenses of Owner as a municipality under the Massachusetts Tort Claims Act, G.L. c.258.

SECTION 01 11 00

SUMMARY OF WORK

PART 1 - GENERAL

1.1 DESCRIPTION

A. Work Included:

1. The “Project”, of which the “Work” of this Contract is a part, is titled “**MacMillan Pier Safety Upgrades & Pier Repairs**”. The Work includes those items required by the Contractor to maintain safe operation, safe pedestrian and vehicular access through the site during construction without interruption of the Town of Provincetown’s activities.
2. The “Work” of this Contract is titled “**MacMillan Pier Safety Upgrades & Pier Repairs**” and consists of the removal and replacement of timber fender piles, timber fender systems, timber offloading areas, ladders, and the relocation of steel pipe piles.

END OF SECTION

SECTION 01 14 19

USE OF SITE

PART 1 - GENERAL

1.1 DESCRIPTION

Work Included: This Section applies to situations in which the Contractor or their representatives including, but not necessarily limited to, suppliers, subcontractors, employees, and field engineers, enter upon the Project location.

1.2 QUALITY ASSURANCE

- A. Promptly upon award of the Contract, notify all pertinent personnel regarding requirements of this Section.
- B. Require that all personnel who will enter upon the Project location certify their awareness of and familiarity with the requirements of this Section.
- C. Require that all personnel (including subcontractors, visitors, suppliers, etc.) who will enter upon the Project location abide by the insurance requirements set forth in Section 00 52 00, Agreement.

1.3 Submittals

Submit a detailed Site Utilization Plan containing a drawing depicting, as a minimum, the following:

- A. Staging areas for equipment, both upland and waterborne
- B. Parking areas for project personnel
- C. Material storage areas
- D. Location of Contractor's field office(s)
- E. Access roads throughout the site
- F. Lay-out of temporary utilities
- G. Location of refuse container(s)

1.4 TRANSPORTATION FACILITIES

- A. Truck and equipment access:

Provide adequate protection for curbs and sidewalks over which trucks and equipment pass to reach the Project location.

B. Contractor's vehicles:

1. Require Contractor's vehicles, vehicles belonging to employees of the Contractor, and all other vehicles entering upon the Project location in performance of the Work of the Contract, to use only the Owner designated site access way and parking areas.
2. Do not permit such vehicles to park on any street or other area of the Project Location except in the area or areas designated by the Owner for such use.

1.5 SECURITY

- A. Restrict the access of all persons entering upon the Project location in connection with the Work to the Owner designated areas.
- B. Use of existing buildings on site is restricted. Should the Contractor need access to these areas, permission must be requested and granted in advance by the Owner.

1.6 SITE ACCESS

Always maintain clear vehicular access to all portions of the site, at no time shall access be restricted. Access ways shall be detailed in the Site Utilization Plan described in Paragraph 1.3.

END OF SECTION

SECTION 01 25 13

SUBMITTALS AND SUBSTITUTIONS

PART 1 - GENERAL

1.1 DESCRIPTION

- A. Work included: Make submittals required by the Contract Documents, and revise and resubmit as necessary to establish compliance with the specified requirements.
- B. Work not included:
 - 1. Non-required submittals will not be reviewed by the Engineer.
 - 2. The Contractor may require their subcontractors to provide Drawings, setting diagrams, and similar information to help coordinate the Work, but such data shall remain between the Contractor and their subcontractors and will not be reviewed by the Engineer.
- C. Definitions:
 - 1. "Or equivalent":
 - a. Where the phrase "or equivalent," or "or equivalent as accepted by the Engineer," occurs in the Contract Documents, do not assume that the materials, equipment, or methods will be approved as equivalent unless the item has been specifically so accepted for this Work by the Engineer.
 - b. The decision of the Engineer shall be final.

1.2 QUALITY ASSURANCE

- A. Coordination of submittals:
 - 1. Prior to each submittal, carefully review and coordinate all aspects of each item being submitted.
 - 2. Verify that each item and the submittal for it conform in all respects with the specified requirements.
 - 3. The Contractor shall procure a rubber stamp with identical wording to the sample Contractor's submittal stamp shown below.

CONTRACTOR: _____

THIS SUBMITTAL IS REQUIRED PER SECTION _____ OF THE SPECIFICATIONS. THE SUBMITTED ITEMS HAVE BEEN REVIEWED IN DETAIL AND ARE CORRECT AND IN STRICT CONFORMANCE WITH THE CONTRACT DOCUMENTS. THE SUBMITTED ITEMS HAVE BEEN COORDINATED WITH OTHER WORK OF THIS CONTRACT, EXISTING STRUCTURES, AND WORK OF OTHER CONTRACTS.

BY: _____

DATE: _____

4. By affixing the Contractor's submittal stamp to each submittal, certify that this coordination has been performed. Submittals which do not bear the requisite stamp will be returned to the Contractor non-reviewed.

B. Substitutions:

1. The Contract is based on the standards of quality established in the Contract Documents. Substitutions will be considered only when listed at time of bidding, on the form provided therefore in the bidding documents, and when substantiated by the Contractor's submittal of required data.
2. Do not substitute materials, equipment, or methods unless such substitution has been specifically accepted in writing for this Work by the Engineer.

1.3 SUBMITTALS

Make submittals of Shop Drawings, Samples, substitution requests, and other items in accordance with the provisions of this specification.

PART 2 - PRODUCTS

2.1 SHOP DRAWINGS

- A. Scale and measurements: Make Shop Drawings accurately to a scale sufficiently large to show all pertinent aspects of the item and its method of connection to the Work.
- B. Types of prints required:
 1. Submit Shop Drawings electronically in PDF format.
 2. Blueprints will not be acceptable.
- C. One electronic set of shop drawings with the Engineer's review comments will be returned to the Contractor. The Contractor may distribute as required for their purposes.

2.2 MANUFACTURERS' LITERATURE

- A. Where contents of submitted literature from manufacturers include data not pertinent to the submittal, clearly show which portions of the contents are being submitted for review.
- B. Submit manufacturers' data electronically in PDF format for review. One electronic set of manufacturer's data with the Engineer's review comments will be returned to the Contractor. The Contractor may distribute as required for their purposes.

2.3 SAMPLES

- A. Provide Sample or Samples identical to the precise article proposed to be provided. Identify as described under "Identification of submittals" below.

B. Number of Samples required:

1. Unless otherwise specified, submit Samples in the quantity, which is required to be returned, plus one, which will be retained by the Engineer.
2. By prearrangement in specific cases, a single Sample may be submitted for review and, when accepted, be installed in the Work at a location agreed upon by the Engineer.

2.4 COLORS AND PATTERNS

Unless the precise color and pattern is specifically called out in the Contract Documents, and whenever a choice of color or pattern is available in the specified products, submit accurate color and pattern charts to the Engineer for selection.

PART 3 - EXECUTION

3.1 IDENTIFICATION OF SUBMITTALS

- A. Consecutively number all submittals.
1. When material is resubmitted for any reason, transmit under a new letter of transmittal and with a new transmittal number.
 2. On re-submittals, cite the original submittal number for reference.
- B. Clearly label each submittal with a reference to the appropriate specification Section for which the submittal is made.
- C. Accompany each submittal with a letter of transmittal showing all information required for identification and checking.
- D. On at least the first page of each submittal, and elsewhere as required for positive identification, show the submittal number in which the item was included.
- E. Maintain an accurate submittal log for the duration of the Work, showing current status of all submittals at all times. Make the submittal log available to the Engineer for their review upon request.

3.2 GROUPING OF SUBMITTALS

- A. Unless otherwise specified, make submittals in groups containing all associated items to assure that information is available for checking each item when it is received.
- B. Partial submittals may be rejected as not complying with the provisions of the Contract.
- C. The Contractor may be held liable for delays so occasioned.

3.3 TIMING OF SUBMITTALS

- A. Make submittals far enough in advance of scheduled dates for installation to provide time required for reviews, for securing necessary approvals, for possible revisions and re-submittals, and for placing orders and securing delivery.
- B. In scheduling, allow at least 14 days for review by the Engineer following their receipt of the submittal.

3.4 ENGINEER'S REVIEW

- A. Review by the Engineer does not relieve the Contractor from responsibility for errors or omissions that may exist in the submitted data.
- B. Revisions:
 - 1. Make revisions required by the Engineer.
 - 2. If the Contractor considers any required revision to be a change, they shall so notify the Engineer.
 - 3. Make only those revisions directed or accepted by the Engineer.
- C. Reimbursement of Engineer's Costs:
 - 1. In the event substitutions are proposed to the Engineer after the Contract has been awarded, the Engineer will record all time used by them and by their consultants in evaluation of each such proposed substitution.
 - 2. Whether or not the Engineer accepts a proposed substitution, the Contractor shall be responsible for the costs of the Engineer and their consultants for all time spent by them in evaluating the proposed substitution, plus administrative fees. The costs will be deducted from outstanding pay requests due to the Contractor by way of a Change Order.
- D. Engineer's Review Stamp: The Engineer's review stamp will indicate the status of the submittal, and corresponding action to be taken by the Contractor as follows:
 - 1. No Exceptions Taken: When the Engineer marks the submittal "No Exceptions Taken," the Work covered by the submittal may proceed, provided it complies with the requirements of the Contract Documents.
 - 2. Make Corrections Noted: When the Engineer marks the submittal "Make Corrections Noted," the Work covered by the submittal may proceed provided it complies with the notations on the submittal and requirements of the Contract Documents. Final payment depends on that compliance.
 - 3. Amend and Resubmit: When the Engineer marks the submittal "Amend and Resubmit," the Work covered by the submittal may proceed provided it complies with the notations on the submittal and requirements of the Contract Documents. The submittal must be revised to comply with the notations on the submittal and requirements of the Contract Documents and must then resubmitted to the Engineer. Final payment depends on that compliance.

4. Rejected – See Remarks: When the Engineer marks the submittal “Rejected – See Remarks,” do not proceed with the Work covered by the submittal, including purchasing, fabrication, delivery, or other activity. Revise and prepare a new submittal according to the notations, resubmit without delay. Repeat if necessary to obtain a different action mark.
 - a. Do not use or allow others to use submittals marked “Resubmit” at the Project Site or elsewhere where Work is in progress.

END OF SECTION

SECTION 01 29 73

SCHEDULE OF VALUES

PART 1 - GENERAL

1.1 DESCRIPTION

Work included: Provide a detailed breakdown of the agreed Contract Sum showing value allocated to each of the various parts of the Work, as specified herein and in other provisions of the Contract Documents.

1.2 QUALITY ASSURANCE

- A. Use required means to assure arithmetical accuracy of the sums described.
- B. When so required by the Engineer, provide copies of the subcontracts or other data acceptable to the Engineer, substantiating the sums described.

1.3 SUBMITTALS

Prior to first application for payment, but not later than 21 days after the Contractor has received their Contract, submit a proposed schedule of values to the Engineer.

- A. Meet with the Engineer and determine additional data, if any, required to be submitted.
- B. Secure the Engineer's review of the schedule of values prior to submitting first application for payment.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

- 3.1 Submittal process is described in PART 1 above.

END OF SECTION

SECTION 01 31 19

PROJECT MEETINGS

PART 1 - GENERAL

1.1 DESCRIPTION

Work included: To enable orderly review during progress of the Work and to provide for systematic discussion of problems, the Engineer will conduct project meetings throughout the construction period.

1.2 QUALITY ASSURANCE

For those persons designated by the Contractor to attend and participate in project meetings, provide required authority to commit the Contractor to solutions agreed upon in the project meetings.

1.3 SUBMITTALS

- A. Agenda items: To the maximum extent practicable, advise the Engineer at least 24 hours in advance of project meetings regarding items to be added to the agenda.
- B. Minutes:
 - 1. The Engineer will compile minutes of each project meeting and will furnish one copy to the Contractor and required copies to the Owner.
 - 2. Recipients of copies may make and distribute such other copies as they wish.

PART 2 - PRODUCTS

(No products are required in this Section)

PART 3 - EXECUTION

3.1 MEETING SCHEDULE

- A. Except as noted below for Pre-construction Meeting, project meetings will be held weekly.
- B. Coordinate as necessary to establish mutually acceptable schedule for meetings.

3.2 MEETING LOCATION

The Engineer will establish meeting location. To the maximum extent practicable, meetings will be held at the job site.

3.3 PRE-CONSTRUCTION MEETING

- A. Pre-construction Meeting will be scheduled to be held within 21 days after the Owner has issued the Contract.
 - 1. Provide attendance by authorized representatives of the Contractor, including the Contractor's Representative and major subcontractors.
 - 2. The Engineer will advise other interested parties, including the Owner, and request their attendance.
- B. Minimum agenda: Data will be distributed and discussed on at least the following items.
 - 1. Organizational arrangement of Contractor's forces and personnel, and those of subcontractors, materials suppliers, and Engineer.
 - 2. Channels and procedures for communication.
 - 3. Construction schedule, including sequence of critical work.
 - 4. Contract Documents, including distribution of required copies of original Documents and revisions.
 - 5. Processing of Shop Drawings and other data submitted to the Engineer for review.
 - 6. Processing of Bulletins, field decisions, and Change Orders.
 - 7. Rules and regulations governing performance of the Work; and
 - 8. Procedures for safety and first aid, security, quality control, housekeeping, and related matters.

3.4 PROJECT MEETINGS

- A. Attendance:
 - 1. As a minimum, the Contractor's Representative is required to represent the Contractor at project meetings throughout progress of the Work.
 - 2. Subcontractors, materials suppliers, and others may be invited to attend those project meetings in which their aspect of the Work is involved.
- B. Minimum agenda:
 - 1. Review and revise as necessary the minutes of previous meetings.
 - 2. Review progress of the Work since last meeting, including status of submittals for review.
 - 3. Identify problems that impede planned progress.
 - 4. Develop corrective measures and procedures to regain planned schedule.
 - 5. Complete other current business.
- C. Revisions to minutes:
 - 1. Unless published minutes are challenged in writing within two days of issuance, they will be accepted as properly stating the activities and decisions of the meeting.

2. Persons challenging published minutes shall submit the challenge to the Engineer in writing.
3. Challenge to minutes shall be settled as priority portion of “old business” at the next regularly scheduled meeting.

END OF SECTION

SECTION 01 50 00

TEMPORARY FACILITIES AND CONTROLS

PART 1 - GENERAL

1.1 DESCRIPTION

- A. Work included: Provide temporary facilities and controls needed for the Work including, but not necessarily limited to:
1. Temporary utilities such as heat, water, electricity, and telephone.
 2. Field office for the Contractor's personnel.
 3. Sanitary facilities.
 4. Enclosures such as tarpaulins, barricades, and canopies.
 5. Temporary fencing of the construction site.
- B. Definitions:
1. Temporary: Labor, equipment, and materials required for the installation of facilities and controls which, upon completion of the Work, are not a part of the completed Work, shall be furnished, installed, and subsequently removed from the site by the Contractor.

1.2 PRODUCT HANDLING

Maintain temporary facilities and controls in proper and safe condition throughout progress of the Work.

PART 2 - PRODUCTS

2.1 UTILITIES

- A. Water:
1. Limited fresh water supply is available at the site.
 2. Provide necessary temporary service and piping.
- B. Electricity:
1. Provide and pay for temporary electrical service and electricity used in construction.
 2. Provide necessary temporary wiring.
 3. Provide temporary area distribution boxes so located that the individual trades may furnish and use extension cords to obtain power and lighting at points where needed for work, inspection, and safety.

C. Heating:

1. Provide and maintain temporary heat necessary for proper conduct of operations needed in the Work.

D. Telephone:

1. Provide and maintain temporary telephone service to the Contractor's office at the site.

2.2 FIELD OFFICES AND SHEDS

A. Contractor's facilities:

1. Provide a temporary field office building and sheds adequate in size and accommodation for Contractor's offices, supply, and storage. As a minimum, equip the Contractor's field office with a telephone, telephone answering machine, facsimile machine, and photocopier which shall remain in operation throughout the Work.

B. Sanitary facilities:

1. Provide temporary sanitary facilities in the quantity required by applicable health regulations for use by all personnel.
2. Always maintain in a sanitary condition.

2.3 ENCLOSURES

Provide and maintain for the duration of construction all temporary scaffolds, tarpaulins, canopies, warning signs, steps, platforms, bridges, and other temporary construction necessary for proper completion of the Work in compliance with pertinent safety and other regulations.

2.4 CONTAINERS FOR DEBRIS & REFUSE REMOVAL

Provide and maintain suitable containers for the collection and disposal of trash and debris generated from demolition and construction. Do not use containers that are the property of the Owner, or the property of others that may be present on site.

PART 3 - EXECUTION

3.1 MAINTENANCE AND REMOVAL

- A. Maintain temporary facilities and controls as long as needed for safe and proper completion of the Work.
- B. Remove such temporary facilities and controls as rapidly as progress of the Work will permit, or as directed by the Engineer.

END OF SECTION

TEMPORARY FACILITIES AND CONTROLS
01 50 00 - 2

SECTION 01 66 00

PRODUCT STORAGE AND HANDLING REQUIREMENTS

PART 1 - GENERAL

1.1 DESCRIPTION

Work included: Protect products scheduled for use in the Work by means including, but not necessarily limited to, those described in this Section.

1.2 QUALITY ASSURANCE

Include within the Contractor's quality assurance program such procedures as are required to assure full protection of work and materials.

1.3 MANUFACTURERS' RECOMMENDATIONS

Except as otherwise required by the Engineer, determine, and comply with manufacturers' recommendations on product handling, storage, and protection.

1.4 PACKAGING

- A. Deliver products to the job site in their manufacturer's original container, with labels intact and legible.
 - 1. Maintain packaged materials with seals unbroken and labels intact until time of use.
 - 2. Promptly remove damaged material and unsuitable items from the job site, and promptly replace with material meeting the specified requirements, at no additional cost to the Owner.
- B. The Engineer may reject as non-complying such material and products that do not bear satisfactory identification as to manufacturer, grade, quality, and other pertinent information.

1.5 PROTECTION

- A. Protect finished surfaces through which equipment and materials are handled.
- B. Maintain finished surfaces clean, unmarred, and suitably protected until accepted by the Owner.

1.6 REPAIRS AND REPLACEMENTS

- A. In event of damage, promptly make replacements and repairs to the acceptance of the Engineer and at no additional cost to the Owner.

- B. Additional time required to secure replacements and to make repairs will not be considered by the Engineer to justify an extension in the Contract Time of Completion.

PART 2 - PRODUCTS

2.1 MATERIALS

Provide materials, not specifically described but required for a complete and proper execution of the Work, as selected by the Contractor subject to the review of the Engineer.

PART 3 - EXECUTION

3.1 PROCEDURES

Handle products as outlined in PART 1 above.

END OF SECTION

SECTION 01 71 23

FIELD ENGINEERING

PART 1 - GENERAL

1.1 DESCRIPTION

Work included: Provide such field engineering services as are required for proper completion of the Work including, but not necessarily limited to:

- A. Establishing and maintaining lines and levels.
- B. Structural design of shores, forms, and similar items provided by the Contractor as part of their means and methods of construction.

1.2 QUALITY ASSURANCE

Use adequate numbers of skilled work men and women who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the work of this specification.

1.3 SUBMITTALS

- A. Comply with pertinent provisions of Section 01 25 13, Submittals and Substitutions.
- B. Upon request of the Engineer, submit:
 - 1. Data demonstrating qualifications of persons proposed to be engaged for field engineering services.
 - 2. Documentation verifying accuracy of field engineering work.
 - 3. Certification, signed by the Contractor's retained field engineer, certifying that elevations and locations of improvements are in conformance or non-conformance with requirements of the Contract Documents.

PART 2 - PRODUCTS

2.1 MATERIALS

Provide materials, not specifically described but required for a complete and proper execution of the Work, as selected by the Contractor subject to the review of the Engineer.

PART 3 - EXECUTION

3.1 PROCEDURES

In addition to procedures directed by the Contractor for proper performance of the Contractor's responsibilities:

- A. Locate and protect control points before starting work on the site.
- B. Preserve permanent reference points during progress of the Work.
- C. Do not change or relocate reference points or items of the Work without specific direction from the Engineer.
- D. Promptly advise the Engineer when a reference point is lost or destroyed or requires relocation because of other changes in the Work.
 - 1. Upon direction of the Engineer, require the field engineer to replace reference stakes or markers.
 - 2. Locate such replacements according to the original survey control.

END OF SECTION

SECTION 01 73 29

CUTTING AND PATCHING

PART 1 - GENERAL

1.1 DESCRIPTION

Work included: This Section establishes general requirements pertaining to cutting (including excavating), fitting, and patching of the Work required to:

- A. Make the several parts fit properly.
- B. Uncover work to provide for installing, review, or both, of ill-timed work.
- C. Remove and replace work not conforming to requirements of the Contract Documents.
- D. Remove and replace defective work.

1.2 QUALITY ASSURANCE

Use adequate numbers of skilled work men and women who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the work of this specification.

1.3 SUBMITTALS

- A. Request for Engineer's consent:
 - 1. Prior to cutting which affects structural safety, submit written request to the Engineer and secure written authorization to proceed cutting.
 - 2. Should conditions of the Work, or schedule, indicate a required change of materials or methods for cutting and patching, so notify the Engineer and secure their written authorization and the required Change Order prior to proceeding.
- B. Notices to the Engineer:
 - 1. Prior to cutting and patching performed pursuant to the Engineer's instructions, submit cost estimate to the Engineer. Secure the Engineer's written authorization before proceeding with cutting and patching.
 - 2. Submit written notice to the Engineer designating the time the Work will be uncovered, to provide for the Engineer's observation.

PART 2 - PRODUCTS

2.1 MATERIALS

For replacement of items removed, use materials complying with pertinent Sections of these Specifications.

2.2 PAYMENT FOR COSTS

The Owner will reimburse the Contractor for cutting and patching performed pursuant to the written Change Order, after claim for such reimbursement is submitted by the Contractor. Perform other cutting and patching needed to comply with the Contract Documents at no additional cost to the Owner.

PART 3 - EXECUTION

3.1 SURFACE CONDITIONS

A. Inspection by the Contractor:

1. Inspect existing conditions, including elements subject to movement or damage during cutting, excavating, patching, and backfilling.
2. After uncovering the work, inspect conditions affecting installation of new work.

B. Discrepancies:

1. If uncovered conditions are not as anticipated, immediately notify the Engineer in writing, and secure the Engineer's written directions.
2. Do not proceed until unsatisfactory conditions are corrected.

3.2 PREPARATION PRIOR TO CUTTING

- A. Provide required protection including, but not necessarily limited to, shoring, bracing, and support to maintain structural integrity of the Work.
- B. Prior to cutting new or existing elements, carefully lay out the work required. Verify that the layout is correct and accurate as necessary to perform the construction safely and within the tolerances required.

3.3 PERFORMANCE

- A. Perform required excavating and backfilling as required under pertinent other Sections of these specifications.
- B. Perform cutting and demolition by methods that will prevent damage to other portions of the Work and provide proper surfaces to receive installation of repair and new work.

- C. Perform fitting and adjusting of products to provide finished installation complying with the specified tolerances and finishes.
- D. Prevent migration of soils into waterways. Do not affect water quality of waterways.

END OF SECTION

SECTION 01 74 23

CLEANING

PART 1 - GENERAL

1.1 DESCRIPTION

Work included: Throughout the construction period, maintain the buildings and site in a standard of cleanliness as described in this specification.

1.2 QUALITY ASSURANCE

- A. Conduct daily inspection, and more often, if necessary, to verify that requirements for cleanliness are being met.
- B. In addition to the standards described in this Section, comply with pertinent requirements of governmental agencies having jurisdiction.

PART 2 - PRODUCTS

2.1 CLEANING MATERIALS AND EQUIPMENT

Provide required personnel, equipment, and materials needed to maintain the specified standard of cleanliness.

2.2 COMPATIBILITY

Use only the cleaning materials and equipment that are compatible with the surface being cleaned, as recommended by the manufacturer of the material.

PART 3 - EXECUTION

3.1 PROGRESS CLEANING

- A. General:
 - 1. Retain stored items in an orderly arrangement allowing maximum access, not impeding traffic or drainage, and providing required protection of materials.
 - 2. Do not allow accumulation of scrap, debris, waste material, and other items not required for construction of this Work.
 - 3. At least twice each month, and more often, if necessary, completely remove all scrap, debris, and waste material from the job site.
 - 4. Provide adequate storage for all items awaiting removal from the job site, observing requirements for fire protection and protection of the ecology.

B. Site:

1. Daily, a more often, if necessary, inspect the site and pick up all scrap, debris, and waste material. Remove such items to the place designated for their storage.
2. Weekly, and more often, if necessary, inspect all arrangements of materials stored on the site. Re-stack, tidy, or otherwise service arrangements to meet the requirements of Paragraph 3.1-A-1 above.
3. Always maintain the site in a neat and orderly condition.

C. Structures:

1. Weekly, and more often, if necessary, inspect the structures and pick up all scrap, debris, and waste material. Remove such items to the place designated for their storage.
2. As required preparatory to installation of succeeding materials, clean the structures or pertinent portions thereof to the degree of cleanliness recommended by the manufacturer of the succeeding material, using equipment and materials required to achieve the necessary cleanliness.

3.2 FINAL CLEANING

A. Prior to completion of the Work, remove from the job site all tools, surplus materials, equipment, scrap, debris, and waste. Conduct final progress cleaning as described in Paragraph 3.1 above.

B. Site:

1. Unless otherwise specifically directed by the Engineer, broom clean paved areas on the site and public paved areas adjacent to the site.
2. Completely remove resultant debris.

C. Structures:

1. Exterior:
 - a. Visually inspect exterior surfaces and remove all traces of soil, cement-based materials, waste materials, smudges, and other foreign matter.
 - b. Remove all traces of splashed materials from adjacent surfaces.
 - c. If necessary to achieve a uniform degree of cleanliness, hose down the exterior of the structure.
 - d. In the event of stubborn stains not removable with water, the Engineer may require light sandblasting or other cleaning at no additional cost to the Owner.

D. Schedule final cleaning as approved by the Engineer to enable the Owner to accept a completely clean Work.

3.3 CLEANING DURING OWNER'S OCCUPANCY

Should the Owner occupy the Work or any portion thereof prior to its completion by the Contractor and acceptance by the Owner, responsibilities for interim and final cleaning shall be as determined by the Engineer in accordance with the General Conditions of the Contract.

END OF SECTION

SECTION 01 77 19

EXECUTION AND CLOSEOUT REQUIREMENTS

PART 1 - GENERAL

1.1 DESCRIPTION

Work included: Provide an orderly and efficient transfer of the completed Work to the Owner.

1.2 QUALITY ASSURANCE

- A. Prior to requesting review by the Engineer, use adequate means to assure that the Work is completed in accordance with the specified requirements and is ready for the requested review.
- B. Submit written certification that Contract Documents have been reviewed by the Contractor, the Work has been inspected by the Contractor, and that the Work is complete and in accordance with the Contract Documents.

1.3 PROCEDURES

- A. Substantial Completion:
 - 1. Substantial Completion is defined as the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.
 - 2. When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Engineer a comprehensive list of items to be completed or corrected.
 - 3. Prepare and submit the list required by Paragraph 1.3, A. 2. above.
 - 4. Within a reasonable time after receipt of the list, the Engineer will review to determine status of completion.
 - 5. Should the Engineer determine that the Work is not substantially complete:
 - a. The Engineer promptly will so notify the Contractor, in writing, giving the reasons, therefore.
 - b. Remedy the deficiencies and notify the Engineer when ready for additional review.
 - c. The Engineer will review the Work.
 - 6. When the Engineer concurs that the Work is substantially complete:
 - a. The Engineer will prepare a "Certificate of Substantial Completion," accompanied by the Contractor's list of items to be completed or corrected, as verified by the Engineer.

- b. The Engineer will submit the Certificate to the Owner and to the Contractor for their written acceptance of the responsibilities assigned to them in the Certificate.
- B. Final Completion:
 1. Prepare and submit to the Engineer a notice that the Work is complete and ready for final review and acceptance.
 2. Certify that:
 - a. Contract Documents have been reviewed.
 - b. Work has been reviewed for compliance with the Contract Documents.
 - c. Work has been completed in accordance with the Contract Documents.
 - d. Equipment and systems have been tested as required and are operational.
 - e. Work is completed and ready for final review.
 3. The Engineer will make a review to verify status of completion.
 4. Should the Engineer determine that the Work is incomplete or defective:
 - a. The Engineer promptly will so notify the Contractor, in writing, listing the incomplete or defective work.
 - b. Remedy the deficiencies promptly and notify the Engineer when ready for additional review.
 5. When the Engineer determines that the Work is acceptable under the Contract Documents, they will request the Contractor to make closeout submittals.
- C. Closeout submittals include, but are not necessarily limited to:
 1. Project Record Documents are described in Section 01 78 39.
 2. Operation and maintenance data for items so listed in pertinent other Sections of these Specifications, and for other items when so directed by the Engineer.
 3. Warranties and bonds.
 4. Spare parts and materials extra stock.
 5. Evidence of compliance with requirements of governmental agencies having jurisdiction including, but not necessarily limited to:
 - a. Certificates of Inspection.
 - b. Certificates of Occupancy.
 6. Certificates of Insurance for products and completed operations.
 7. Evidence of payment and release of liens.
 8. List of subcontractors, service organizations, and principal vendors, including names, address, and telephone numbers where they can be always reached for emergency service including nights, weekends, and holidays.
 9. As built Drawings and surveys.
- D. Final adjustment of accounts:
 1. Submit a final statement of accounting to the Engineer, showing all adjustments to the Contract Sum.
 2. If so required, the Engineer will prepare a final Change Order showing adjustments to the Contract Sum that were not made previously by Change Orders.

1.4 INSTRUCTION

Instruct the Owner's personnel in proper operation and maintenance of systems, equipment, and similar items which were provided as part of the Work.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

Closeout procedures are described in PART 1 above.

END OF SECTION

SECTION 01 78 39

PROJECT RECORD DOCUMENTS

PART 1 - GENERAL

1.1 DESCRIPTION

Work included:

- A. Throughout progress of the Work, maintain an accurate record of changes in the Contract Documents, as described in Paragraph 3.1 below.
- B. Upon completion of the Work, transfer the recorded changes to a set of Record Documents, as described in Paragraph 3.2 below.

1.2 QUALITY ASSURANCE

- A. Accuracy of records:
 - 1. Thoroughly coordinate changes within the Record Documents, making adequate and proper entries on each page of Specifications and each sheet of Drawings and other Documents where such entry is required to show the change properly.
 - 2. Accuracy of records shall be such that future searches for items shown in the Contract Documents may rely reasonably on information obtained from the approved Project Record Documents.
- B. Make entries within 24 hours after receipt of information that the change has occurred.

1.3 SUBMITTALS

- A. Comply with pertinent provisions of Section 01 25 13, Submittals and Substitutions.
- B. The Engineer's review of the current status of Project Record Documents may be a prerequisite to the Engineer's review of requests for progress payment and request for final payment under the Contract.
- C. Prior to submitting each request for progress payment, secure the Engineer's review of the current status of the Project Record Documents.
- D. Prior to submitting request for final payment, submit the final Project Record Documents to the Engineer and secure their review.

1.4 PRODUCT HANDLING

- A. Maintain the job set of Record Documents completely protected from deterioration and from loss and damage until completion of the Work and transfer of all recorded data to the final Project Record Documents.

- B. In the event of loss of recorded data, use means necessary to again secure the data to the Engineer's review.
 - 1. Such means shall include, if necessary, in the opinion of the Engineer, removal and replacement of concealing materials.
 - 2. In such case, provide replacements to the standards originally required by the Contract Documents.

PART 2 - PRODUCTS

2.1 RECORD DOCUMENTS

- A. Job set: Promptly following receipt of the Contract, secure from the Engineer, at no charge to the Contractor, one complete set of all Documents comprising the Contract.
- B. Final Record Documents: At a time nearing the completion of the Work, secure from the Engineer, at no charge to the Contractor, one complete set of Drawings in the Contract.

PART 3 - EXECUTION

3.1 MAINTENANCE OF JOB SET

- A. Immediately upon receipt of the job set described in Paragraph 2.1., A. above, identify each of the Documents with the title, "RECORD DOCUMENTS - JOB SET."
- B. Preservation:
 - 1. Considering the Contract completion time, the probable number of occasions upon which the job set must be taken out for new entries and for examination, and the conditions under which these activities will be performed, devise a suitable method for protecting the job set.
 - 2. Do not use the job set for any purpose except entry of new data and for review by the Engineer, until start of transfer of data to final Project Record Documents.
 - 3. Maintain the job set at the site of Work as designated by the Engineer.
- C. Making entries on Drawings:
 - 1. Using an erasable colored pencil (not ink or indelible pencil), clearly describe the change by graphic line and note as required.
 - 2. Date all entries.
 - 3. Call attention to the entry by a "cloud" drawn around the area or areas affected.
 - 4. In the event of overlapping changes, use different colors for the overlapping changes.
- D. Make entries in the pertinent other Documents.

- E. Conversion of schematic layouts:
1. In some cases, on the Drawings, arrangements of conduits, circuits, piping, ducts, and similar items are shown schematically and are not intended to portray precise physical layout.
 - a. Final physical arrangement is determined by the Contractor, subject to the Engineer's review.
 - b. However, design of future modifications of the facility may require accurate information as to the final physical layout of items that are shown only schematically on the Drawings.
 2. Show on the job set of Record Drawings, by dimension accurate to within 1 inch, the centerline of each run of items such as is described in Paragraph 3.1, E., 1. above.
 - a. Clearly identify the item by accurate note such as "cast iron drain," "galv. water," and the like.
 - b. Show, by symbol or note, the vertical location of the item ("under slab," "in ceiling plenum," "exposed," and the like).
 - c. Make all identification sufficiently descriptive that it may be related reliably to the Specifications.
 3. The Engineer may waive the requirements for conversion of schematic layouts where, in the Engineer's judgment, conversion serves no useful purpose. However, do not rely upon waivers being issued except as specifically issued in writing by the Engineer.

3.2 FINAL PROJECT RECORD DOCUMENTS

- A. The purpose of the final Project Record Documents is to provide factual information regarding all aspects of the Work, both concealed and visible, to enable future modification of the Work to proceed without lengthy and expensive site measurement, investigation, and examination.
- B. Engineer's review of recorded data prior to transfer:
1. Following receipt of the Drawings described in Paragraph 2.1, B. above, and prior to start of transfer of recorded data thereto, secure the Engineer's review of all recorded data.
 2. Make required revisions.
- C. Transfer of data to Drawings:
1. Carefully transfer change data shown on the job set of Record Drawings to the corresponding final set of Record Drawings, coordinating the changes as required.
 2. Clearly indicate at each affected detail and other Drawing a full description of changes made during construction, and the actual location of items described in Paragraph 3.1, E., 1. above.

3. Call attention to each entry by drawing a “cloud” around the area or areas affected.
4. Make changes neatly, consistently, and with the proper media to assure longevity and clear reproduction.

D. Transfer of data to other Documents:

1. If the Documents other than Drawings have been kept clean during progress of the Work, and if entries thereon have been orderly to the acceptance of the Engineer, the job set of those Documents other than Drawings will be accepted as final Record Documents.
2. If any such Document is not so accepted by the Engineer, secure a new copy of that Document from the Engineer at the Engineer’s usual charge for reproduction and handling, and carefully transfer the change data to the new copy to the acceptance of the Engineer.

E. Review and submittal:

1. Submit the completed set of Project Record Documents to the Engineer as described in Paragraph 1.3, D. above.
2. Participate in review meetings as required.
3. Make required changes and promptly deliver the final Project Record Documents to the Engineer.

3.3 CHANGES SUBSEQUENT TO ACCEPTANCE

The Contractor has no responsibility for recording changes in the Work subsequent to Final Completion, except for changes resulting from work performed under Warranty.

END OF SECTION

SECTION 02 41 00

SELECTIVE DEMOLITION

PART 1 - GENERAL

1.1 DESCRIPTION OF WORK

- A. Carefully demolish and remove from the site those items scheduled to be so demolished and removed.
- B. Carefully remove and store off or on site those items scheduled to be reused. Replace these items as indicated on the Drawings such that they are undamaged and fit for their intended purpose.
- C. All utility lines that are altered or relocated during the construction are to be of an equal standard to those now existing and are to be acceptable to the Owner and the appropriate Utility Company. The Contractor is to inform and liaise with the Owner regarding all work that may affect the existing utilities. The Owner will make arrangements with the Utility Company for services to be cut-off if required during construction. The Contractor is responsible for notification of local utilities.

1.2 QUALITY ASSURANCE

Use adequate numbers of skilled work men and women who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the Work of this specification.

1.3 SUBMITTALS

Except for items specifically scheduled for reuse, demolished material shall be considered to be property of the Contractor and shall be completely removed from the job site and disposed of in legal manner. The Contractor shall submit a detailed disposal plan to the Engineer. The disposal plan shall include the name, address, and telephone number of the disposal site. The Contractor shall submit to the Engineer a signed manifest and trip ticket stating that the debris was disposed at the stated site within 24 hours after the material has left the site.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.1 SURFACE CONDITIONS

Examine the areas and conditions under which Work of this Section will be performed. Correct conditions detrimental to timely and proper completion of the Work. Do not proceed until satisfactory conditions are corrected.

3.2 DEMOLITION

- A. By careful study of the Contract Documents, determine the location and extent of selective demolition to be performed.
- B. In company with the Engineer, visit the site and verify the extent and location of selective demolition required.
 - 1. Carefully identify limits of selective demolition.
 - 2. Secure the Engineer's review of the items scheduled for selective demolition.
 - 3. Demolish and remove the scheduled items.
- C. Prepare and follow an organized plan for demolition and removal of items.
 - 1. Shut off, cap, and otherwise protect existing utility lines in accordance with the requirements of the public agency or utility having jurisdiction.
 - 2. Completely remove items scheduled to be so demolished and removed, leaving surfaces clean, solid, and ready to receive new materials specified elsewhere or excavation.
 - 3. In all activities, comply with pertinent regulations of governmental agencies having jurisdiction.
- D. Exercise all necessary care so as not to damage items scheduled to remain in place for re-use.
- E. Except for items specifically scheduled for reuse or to be turned over to the Owner, demolished material shall be considered to be property of the Contractor and shall be completely removed from the job site and disposed of in accordance with all Federal, State and local regulations. Provide documentation to the Engineer that material has been disposed of in such a manner.

3.3 REPLACEMENTS

In the event of demolition or damage caused to items not so scheduled to be demolished, promptly replace such items to the approval of the Owner and at no additional cost to the Owner.

3.4 ALTERATIONS TO REUSED ITEMS

All alterations to reused items are to be of an equal standard to their original construction, or as otherwise indicated in these specifications. The Contractor is responsible for ensuring that the dimensions of reused items are adjusted to suit the new construction. Drawings are to be presented to the Engineer for review prior to making any alterations; however, this review does not relieve the Contractor of his responsibilities as indicated elsewhere in this Contract.

3.5 RELOCATION OF UTILITIES

Relocate existing utilities as required during construction such that services to the site are maintained to the Owner's satisfaction. The Contractor is responsible for liaison with the Owner on all aspects of utility service maintenance and relocation. If replacement of utilities is

SELECTIVE DEMOLITION

02 41 00 - 2

undertaken by a Utility Company or others, the Contractor shall coordinate these activities with their own work.

END OF SECTION

SECTION 05 12 00

STRUCTURAL STEEL

PART 1 - GENERAL

1.1 WORK SPECIFIED

Work included: Provide miscellaneous structural steel items including but not limited to accessories as shown on the Drawings, specified herein, and needed for a complete and proper installation.

1.2 SUBMITTALS

- A. Sufficient technical data to demonstrate compliance with the specified requirements.
- B. Complete shop drawings detailing all members, profiles, sizes, spacing, proposed cuts, connections, camber, holes, openings, fasteners, and similar data. Erection plans showing the location and field connection of all members. Identify members by piece numbers which correspond to erection numbers. Structural steel connection details not specifically shown in the Contract Documents shall be detailed by the Contractor and included with shop drawing submittals.
- C. Submit manufacturer's certifications showing that the products meet or exceed the required standards for the following items:
 - 1. Bolts, including nuts and washers.
 - 2. Threaded rods including all hardware.
 - 3. Filler material and flux for welding.
 - 4. Expansion bolts.
- D. Submit Certified Mill Test Reports indicating structural strength, destructive and non-destructive test analysis, chemical and physical properties of each type of steel and conformance with ASTM A6.
- E. Submit welder's certificates certifying welders employed on the Work, verifying AWS qualifications within the previous 12 months.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Quality Assurance
 - 1. Use adequate number of skilled work men and women who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the

- specified requirements and the methods needed for proper performance of the Work of this specification.
2. Perform welding with electric arc process and in accordance with AWS "Code for Arc and Gas Welding in Building Construction".
 3. In addition to complying with pertinent codes and regulations, comply with:
 - a. The American Institute of Steel Construction (AISC) "Steel Construction Manual," Fifteenth Edition.
- B. Structural Steel Shapes shall conform to ASTM A992, A690, or A572 Grade 50.
- C. Steel Angles, Channels and Plates shall conform to ASTM A572 Grade 50.
- D. Anchor rods shall conform to ASTM F1554, for Grades 36, 55 and 105.
- E. Carriage bolts and Lag screws shall conform to ASTM A307, Grade A.
- F. High Strength Structural Bolts: Shall conform to ASTM F3125 Grade A325 with hexagonal heads.
- G. Nuts: Shall be hexagonal and conform to ASTM A563.
- H. Washers (except against timber): Shall conform to ASTM F436.
- I. Threadbar Rods and Nuts: DYWIDAG Threadbar or equivalent accepted by the Engineer, shall conform to ASTM A615 for Grades 60, 70, 80, and 100, and ASTM A722 Grade 150.
- J. Adhesive Anchors: Adhesive shall be HIT RE 500 V3 Injection Adhesive Anchor as manufactured by Hilti Corporation, or equivalent acceptable to the Engineer. Anchor rods shall be as specified above for threadbar anchors.
- K. Expansion bolts: Shall be stainless steel HILTI KWIK BOLT 3, as manufactured by HILTI or equivalent accepted by the Engineer.
- L. Welding Materials: AWS D1.1; Type E70XX or type required for materials being welded.
- M. Grout: Non-shrink, non-metallic, high-performance cement-based grout conforming to ASTM C827 such as Sikagrout 212 as manufactured by Sika Corporation or equivalent accepted by the Engineer.
- N. Fabrication:
 1. Fabricate items of structural steel in accordance with AISC specifications and as shown on the accepted shop drawings.
 2. Properly mark materials for field assembly and for identification of the structure and location intended. Fabricate for delivery sequence which will expedite erection and minimize field handling of materials.

3. Provide bolts, nuts, and washers of all types and sizes required for completion of field erection.
4. Comply with AWS code for procedures, appearance, and quality of welds, and methods used in correcting welded work.
5. Cut, drill, or punch holes perpendicular to metal surfaces. Do not flame cut holes or enlarge holes by burning. Drill holes in bearing plates. No holes will be allowed unless first shown on the shop drawings and accepted by the Engineer.
6. Should holes be required in addition to those provided under this Section, provide all such holes, and strengthen the area as required to compensate but only as accepted by the Engineer.
7. Moment connections shall develop the full strength of joined members. The cold weather welding requirements of AWS shall be required and enforced.
8. Where finishing is required, complete the assembly, including welding of units, before start of finishing.
9. Provide finish surfaces of members exposed in the final structure free from markings, burrs, and other defects.
10. Assemble and weld built-up sections by methods which will produce true alignment of axes without warp.

O. Protective Coating

1. General: Unless specifically noted otherwise, all items scheduled to receive protective coating shall be fully fabricated with holes, cuts, threads, etc. prior to receiving protective coating, prior to delivery to site.
2. Bolts, Nuts, and Washers: All bolts, nuts, and washers shall be hot dipped galvanized in accordance with ASTM A153.
3. Threadbar Rods, and Nuts: Epoxy coated in accordance with ASTM A775.
4. Adhesive Anchor Rods: anchor rods, nuts, and washers shall be hot-dipped galvanized in accordance with ASTM A153.
5. Field Touch-Up of Epoxy-Coated Items: Shall be performed in accordance with Section 09 97 13 Coating on Steel Waterfront Structures.

P. Other Material

Provide other materials, not specifically described but required for a complete and proper installation, as selected by the Contractor subject to the review of the Engineer prior to final installation.

Q. Product Handling and Storage

1. Deliver materials to the job site properly marked to identify the location for which they are intended.
2. Use markings corresponding to markings shown on the reviewed shop drawings.
3. Store in a manner to maintain identification and prevent damage, off the ground, using pallets or other supports, and to permit easy access for inspection.

PART 3 - EXECUTION

3.1 INSTALLATION

A. Surface Conditions

Examine the areas and verify the conditions under which work of this section will be performed. Correct conditions detrimental to timely and proper completion of the Work. Do not proceed until unsatisfactory conditions are corrected.

B. Erection

1. Surveys:
 - a. Establish benchmarks necessary for accurate erection of structural steel.
 - b. Check elevations of concrete surfaces, and locations of anchor bolts and similar items, before erection proceeds.
2. Temporary shoring and bracing:
 - a. Provide temporary shoring and bracing members with connections of sufficient strength to bear imposed loads.
 - b. Provide temporary guy lines to achieve proper alignment of the structure as erection proceeds.
 - c. Remove temporary connections and members when permanent members are in place and final connections are made.
 - d. Field touch-up protective coating where damaged.
3. Anchor bolts:
 - a. Install anchor bolts and other connectors required for securing structural steel to adjacent work as shown on the Contract Drawings.
 - b. Provide templates and other devices as needed for presetting bolts and other anchors to accurate locations.
4. Field assembly:
 - a. Set structural frames accurately to the lines and elevations indicated.
 - b. Align and adjust the members forming part of a complete frame or structure before fastening permanently.
 - c. Clean the bearing surfaces and other surfaces which will be in permanent contact before assembly.
 - d. Adjust as required to compensate for discrepancies in elevation and alignment.
 - e. Level and plumb individual members of the structure within specified AISC tolerances.
 - f. Establish required leveling and plumbing measurements on the mean operating temperature of the structure, making allowances for the difference between temperature at time of erection and the mean temperature at which the structure will be when completed and in service.
 - g. Comply with AISC specifications for bearing, adequacy of temporary connections, alignment, and removal of paint on surfaces adjacent to welds.
5. Gas cutting:
 - a. Do not use gas cutting torches for correcting fabricating errors in structural framing, except on secondary members where acceptable to the Engineer.

- b. When gas cutting is permitted, finish the gas cut section to a sheared appearance acceptable to the Engineer.
6. Expansion Bolts and Adhesive Anchors: Install anchors in strict accordance with manufacturers' written instructions.

END OF SECTION

SECTION 05 50 13

MISCELLANEOUS METAL FABRICATIONS

PART 1 - GENERAL

1.1 WORK SPECIFIED

The Work covered under this Section of these Specifications consists of providing all plant, labor, supervision, equipment, appliances, and materials, and in performing all operations in connection with the installation of metal fabrications (miscellaneous steel), all in strict accordance with the Contract Documents. The Work covered under this Section included, but is not necessarily limited to: rough hardware; pipe supports; railings and related connections; expanded metal mesh; grating; steel plate; steel diamond plate; pipe bollards; and fasteners. Provide accessories as shown on the Contract Documents specified herein and needed for a complete and proper installation.

1.2 SUBMITTALS

- A. The Contractor shall submit shop drawings detailing fabrication and erection of each metal fabrication indicated. Include plans, elevations, sections, and details of metal fabrications and their connections. Show anchorage and accessory items. Provide templates for anchors and bolts specified for installation under other Sections.
- B. Product data for gratings; shop paint products; anchor bolt systems; and grout.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Quality Assurance
 - 1. Use adequate number of skilled work men and women who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the Work of this Section.
 - 2. The Owner reserves the right of approval of any Subcontractor selected for this portion of the Work by the Contractor. Approval will be based, in part, on:
 - a. Documented successful experience in performing work of a similar nature.
 - b. Acceptable schedule of unit prices for measurement and payment in the event of changes in the Work of this Section.
 - 3. Fabricator Qualifications: Firm experienced in producing metal fabrications similar to those indicated for this Project with a record of successful in-service performance, and with sufficient production capacity to produce required units without delaying the Work.

4. Perform welding with electric arc process and in accordance with "Structural Welding Code-Steel" (ANSI/AWS D1.1). All structural welds shall be performed by American Welding Society (AWS) welders certified for the appropriate welding application.
5. In addition to complying with pertinent codes and regulations, comply with:
 - a. The American Institute of Steel Construction (AISC) "Steel Construction Manual," Fifteenth Edition.
6. All connections shall be designed by the steel fabricator except those specifically detailed on the Contract Documents. Submit design calculations for review if requested by Owner.
7. All references to SSPC shall be interpreted as Steel Structures Painting Council Manual, Systems and Specifications, now part of the Association for Materials Protection and Performance (AMPP).

B. Ferrous Metals

1. Steel Plate, Diamond Plate, and Bar Stock: ASTM A36.
2. Steel Pipe: ASTM A53, standard weight (Schedule 40).
3. Welding Rods and Bare Electrodes: Select according to AWS specifications for the metal alloy to be welded.

C. Protective Coating

1. General: Unless specifically noted otherwise, all items scheduled to receive protective coating shall be fully fabricated with holes, cuts, threads, etc. prior to receiving protective coating, prior to delivery to site.
2. Bolts, Nuts, and Washers: All bolts, nuts, and washers shall be hot dipped galvanized in accordance with ASTM A153.
3. Field Touch-Up of Epoxy-Coated Items: Shall be performed in accordance with Section 09 97 13, Coating of Steel Waterfront Structures.
4. Field Touch-Up of Hot-Dipped Galvanized Items: Touch-up shall be performed with Tnemec 90-97 Tnemec-Zinc primer or equivalent accepted by the Engineer. Surface preparation and coating application shall be in strict accordance with manufacturers' written instructions.

D. General Fabrication

1. Form metal fabrications from materials of size, thickness, and shapes indicated but not less than that needed to comply with performance requirements indicated. Work to dimensions indicated or accepted on shop drawings, using proven details of fabrication and support. Use type of materials indicated or specified for various components of each fabrication.
2. Form exposed work true to line and level with accurate angles and surfaces and straight sharp edges.

3. Remove sharp or rough areas on exposed traffic surfaces.
4. Weld corners and seams continuously to comply with the following:
 - a. Use materials and methods that minimize distortion and develop strength and corrosion resistance of base metals.
 - b. Obtain fusion without undercut or overlap.
 - c. Remove welding flux immediately.
 - d. At exposed connections, finish exposed welds and surfaces smooth and blended so that no roughness shows after finishing, and contour of welded surface matches those adjacent.
5. Form exposed connections with hairline joints, flush and smooth, using concealed fasteners wherever possible. Use exposed fasteners of type indicated or, if not indicated, Phillips flathead (countersunk) screws or bolts. Locate joints where least conspicuous.
6. Provide for anchorage of type indicated; coordinate with supporting structure. Fabricate and space anchoring devices to secure metal fabrications rigidly in place and to support indicated loads.
7. Shop Assembly: Preassemble items in shop to the greatest extent possible to minimize field splicing and assembly. Disassemble units only as necessary for shipping and handling limitations. Use connections that maintain structural value of joined pieces. Clearly mark units for reassembly and coordinated installation.
8. Cut, reinforce, drill, and tap metal fabrications as indicated to receive finish hardware, screws, and similar items.
9. Fabricate joints that will be exposed to weather in a manner to prevent water entry or provide weep holes where water may accumulate.

E. Rough Hardware

1. Furnish bent, or otherwise custom-fabricated, bolts, plates, anchors, hangers, dowels, and other miscellaneous steel and iron shapes as required for framing and supporting woodwork, and for anchoring or securing woodwork to concrete or other structures.
2. Fabricate items to sizes, shapes, and dimensions required. Furnish malleable-iron washers for heads and nuts that bear on wood structural connections and furnish steel washers elsewhere.

F. Miscellaneous Steel Trim

1. Unless otherwise indicated, fabricate units from structural steel shapes, plates, and bars of profiles shown with continuously welded joints, and smooth exposed edges. Miter corners and use concealed field splices wherever possible.
2. Provide cutouts, fittings, and anchorages as required to coordinate assembly and installation with other work. Provide anchors, welded to trim, for embedding in concrete or masonry construction, spaced not more than 6 inches from each end, 6 inches from corners, and 24 inches o.c., unless otherwise indicated.
3. Galvanize miscellaneous steel trim at all exterior locations and as indicated.

G. Steel Finishes

1. Rust-inhibitive, Alkyd Primer: Product to be Devguard 4160 manufactured by Devoe Coatings or equivalent accepted by Engineer. Apply 1 coat minimum 2.0-2.5 mils dry film thickness; color to be selected by Owner.
2. Galvanizing: For those items indicated for galvanizing, apply zinc coating by the hot dip process complying with the following requirements:
 - a. ASTM A153 for galvanizing iron and steel hardware.
 - b. ASTM A123 for galvanizing both fabricated and un-fabricated iron and steel products made of uncoated rolled, pressed, and forged shapes, plates, bars, and strip 0.0299 inch thick or thicker.

PART 3 - EXECUTION

3.1 INSTALLATION

A. Field Measurements

Check actual locations of walls and other construction to which metal fabrications must fit by accurate field measurements before fabrication. Show recorded measurements on final shop drawings. Coordinate fabrication schedule with construction progress to avoid delaying the Work. Where field measurements cannot be made without delaying the Work, guarantee dimensions and proceed with fabricating products without field measurements. Coordinate construction to ensure that actual dimensions correspond to guaranteed dimensions. Allow for trimming and fitting.

B. Preparation

1. Coordinate and furnish anchorages, setting drawings, diagrams, templates, instructions, and directions for installing anchorages, including concrete inserts, sleeves, anchor bolts, and miscellaneous items having integral anchors that are to be embedded in concrete or masonry construction. Coordinate delivery of such items to Project site.
2. Set sleeves in concrete with tops flush with finish surface elevations. Protect sleeves from water and concrete entries.

C. General Installation

1. Fastening to In-Place Construction: Provide anchorage devices and fasteners where necessary for securing miscellaneous metal fabrications to in-place construction. Include threaded fasteners for concrete inserts, toggle bolts, through-bolts, and other connectors as required.
2. Cutting, Fitting, and Placement: Perform cutting, drilling, and fitting required for installing miscellaneous metal fabrications. Set metal fabrication accurately in location, alignment, and elevation; with edges and surfaces level, plumb, true, and free of rack; and measured from established lines and levels.

3. Provide temporary bracing or anchors in formwork for items that are to be built into concrete masonry or similar construction.
4. Fit exposed connections accurately together to form hairline joints. Weld connections that are not to be left as exposed joints but cannot be shop-welded because of shipping size limitations. Do not weld, cut, or abrade the surfaces of exterior units that have been hot dip galvanized after fabrication and are intended for bolted or screwed field connections.

D. Field Touch-Up of Finishes

1. Touch-up of Galvanizing: Thoroughly clean galvanized steel by SSPC-SP 3 Power Tool Cleaning method at all damaged, scratched and field-welded galvanized surfaces. Apply a zinc-rich primer such as Cathacoat 304V by Devco Coatings or equivalent accepted by Engineer. Touch-up repair shall conform to ASTM A780 and shall overlap a minimum of 2" with hot dip galvanized surfaces. Allow to dry to a minimum dry film thickness of 2.0-4.0 mils.

END OF SECTION

SECTION 06 13 33

HEAVY TIMBER PIER CONSTRUCTION

PART 1 - GENERAL

1.1 DESCRIPTION OF WORK

The Work covered by this Section of these Specifications consists of furnishing all plant, labor, supervision, equipment, appliances, and materials and in performing all operations in connection with the timber construction, all in strict accordance with this Section of the Specifications and the applicable drawings and subject to the terms and conditions of the Contract.

1.2 QUALITY ASSURANCE

- A. Use adequate number of work men and women who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the work in this Section.
- B. The Owner reserves the right of approval of any Subcontractor pre-qualified and selected for this portion of the Work by the Contractor. Approval will be based, in part, on:
 - 1. Documented successful experience in performing work of a similar nature.
 - 2. Acceptable schedule of unit prices for measurement and payment in the event of changes in the Work of this Section.
- C. Comply with the requirements of the "Wood Engineering Handbook" by U.S. Forest Products Laboratory, except as may be modified herein, and
- D. All visually graded structural lumber and wood construction shall conform to the "National Design Specification for Wood Construction," and its Supplement, "Design Values for Wood Construction" by the National Forest Products Association.

1.3 SUBMITTALS

- A. No later than the time of delivery of materials to the site, the Contractor shall submit certificates as to conformance with the specified species, grade, and treatment prior to installation of any timber or hardware.

1.4 PRODUCT DELIVERY AND STORAGE

- A. The Contractor shall notify the Owner 24 hours in advance of delivery of timber materials. The Contractor guarantees timber shall be stored in a safe manner within Owner designated area provided on the site.

- B. Store off the ground in a manner to prevent damage and to permit easy access for inspection.

PART 2 - PRODUCTS

2.1 TIMBER

- A. Timber shall meet the requirements of the Southern Pine Inspection Bureau Inspection Rule, for Southern Yellow Pine No. 1, Paragraph 508 Marine Grade minimum.
- B. Clean-peel and preservative pressure treat timber in accordance with AWWPA Service Condition Use Category UC5B for Chromated Copper Arsenate (CCA) to the following retentions:
 - 1. All timber components with in-water use except as noted below shall have a minimum retention of 2.5 pounds per cubic foot.
 - 2. Any miscellaneous timber 4 inches thick and smaller with out-of-water use shall have a minimum retention of 0.6 pound per cubic foot.
- C. All material used shall be sound, well-seasoned, and straight grained, free from shakes and large or loose knots, and shall have no decayed wood, worm holes, or any defects which the Owner determines will impair its strength or durability.
- D. Pieces of exceptionally lightweight will not be accepted.
- E. Lumber shall be surfaced four sides unless otherwise noted.
- F. Alternate preservative treatment shall be submitted for review and acceptance by Engineer.

2.2 HARDWARE

- A. All hardware, including all bolts, nuts and washers shall be galvanized steel conforming to ASTM A307, Grade A. Galvanizing shall conform to the requirements of ASTM A153.
- B. The finish of all hardware and metal fittings shall be hot dipped galvanized after fabrication.
- C. Furnish Certificates of Compliance with ASTM Specifications and Standards specified herein. Each certificate to be signed by Contractor and Galvanizer certifying that steel materials, bolts, nuts, washers and items of iron and steel hardware in conformance to specified requirements, and that the galvanizing is in full conformance with these Specifications.
- D. Galvanized materials are to be given passivating treatment to prevent wet storage stain. Treatment shall consist of quenching newly galvanized material in a water quench containing not more than 0.2% sodium dichromate.

PART 3 - EXECUTION

3.1 HANDLING, CUTTING AND FRAMING

- A. Handle lumber and timber carefully, without sudden dropping, breaking of outer fibers, bruising, or penetrating the surface with tools. Accurately cut and frame lumber to a close fit in such a manner that the joints shall have an even bearing over the entire contact surface. All drilled holes and field cuts shall be treated with a preservative (product to be submitted for review by the Contractor and approved by the Owner) in accordance with AWPA M4 - "Standard for the Care of Preservative Treated Wood Products" prior to erection of timber member or installation of bolt.
- B. All lumber shall be accurately cut and framed to a close fit in such a manner that joints shall have even bearing over the entire contact surface. No shimming will be permitted in making joints nor will open joints be accepted.

3.2 HARDWARE

- A. A washer of the size and type specified shall be used under all bolt heads and nuts which would otherwise come in contact with timber. The nuts of all bolts shall be effectively locked after they have been finally tightened.
- B. Field touch-up of hot-dipped galvanizing shall be 90-97 Tneme-Zinc zinc-rich coating as manufactured by Tnemec Company, Inc. of Kansas City, MO, or equivalent accepted by the Owner. Material shall be applied in strict accordance with manufacturers' written instructions.

END OF SECTION

SECTION 31 62 16.13

STEEL PIPE PILES

PART 1 - GENERAL

1.1 DESCRIPTION OF WORK

Work included: The work covered by this section of these Specifications consists of furnishing all plant, labor, supervision, equipment, appliances, and materials and in performing all operations in connection with the installation of the steel pipe piles, all in strict accordance with this Section of the Specifications and the applicable Drawings and subject to the terms and conditions of the Contract. The Work includes providing Wave Equation Analyses for each proposed pile hammer and pile type.

1.2 QUALITY ASSURANCE

- A. Use adequate numbers of skilled workmen who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the Work of this Section.
- B. The Owner reserves the right of approval of any Subcontractor pre-qualified and selected for this portion of the Work by the Contractor. Approval will be based, in part, on documented successful experience in performing work of a similar nature.
- C. Driving of additional piles at the Contractor's own expense may be required by the Owner in the event installation tolerances are exceeded.
- D. The Owner may perform shop inspections during the fabrication of the steel piles. The Contractor shall provide necessary detail on his project schedule and keep the Owner informed as to progress of this work (minimum of one week notice).

1.3 SUBMITTALS

- A. Provide a minimum of 5 days' notice to the Owner prior to driving any piles. Notify the Owner of any changes in the schedule.

1.4 PRODUCT DELIVERY AND STORAGE

The Contractor shall notify the Owner 24 hours in advance of delivery of steel piles. Contractor guarantees that steel piles shall be handled in such a manner as to not induce stresses which will damage the materials and shall be stored in a safe manner within designated areas provided at the site.

PART 2 - PRODUCTS

2.1 STEEL SECTIONS

- A. Welding shall conform to AWS D1.1 Structural Welding Code – Steel.

PART 3 - EXECUTION

3.1 EQUIPMENT

- A. Drive piles with an air, diesel, or hydraulic operated impact hammer with sufficient energy and energy transfer characteristics to drive the piles to the required toe elevations and capacity without damaging the pile head. Use care not to injure piles by over driving as would be indicated by rebound of hammer or staggering of pile. Cut off heads of piles accurately in accordance with the Contract Documents after completion of driving.
- B. Rig the pile driver with fixed leads to guide the hammer from highest to lowest points of travel in a manner permitting free vertical movements of the hammer, and with leads laterally braced to assure firm support of the piles during driving.
- C. The pile is to be located by temporary frames containing members of adequate size to guide and stabilize placement of the pile prior to and during driving. The frames shall be rigidly located such as to keep the pile plumb and in correct position while being driven.

3.2 PILE DRIVING

- A. Drive the piles straight and true at indicated locations, with deviation from the longitudinal axis of not more than 1/4 inch per foot.
- B. Locate the piles within 3 inches of the positions indicated on the Drawings.
- C. Continuously drive each pile to reach the capacity and/or full embedded length called for on the Drawings.
 - 1. Lengths shown on the Drawings are considered average values, and the actual lengths may vary when so accepted by the Owner.
 - 2. Drive piles to achieve driving resistance penetration and refusal values as specified and as accepted by the Owner.
- D. Use suitable cushions or driving heads to avoid damage to the piles, developing proper total driving energy, and directing the energy along the longitudinal center of gravity of the pile.
 - 1. Drive piles to their full penetration without bending, rupturing, or severely damaging the piles.

2. If failure in any of the above respects is encountered, pull the pile, and drive a new pile at no additional cost to the Owner.
 3. If a replacement pile fails to develop full driving resistance, pull the replacement pile, and drive a new pile with larger diameter at no additional cost to the Owner.
- E. Jetting and Pre-drilling
1. Jetting to assist penetration will not be accepted unless accepted by the Owner and Engineer.
 2. Approved pre-drilling to assist penetration may be used where extreme driving resistance is encountered, or where vibrations from driving may be detrimental to adjacent structures.
 3. Make pre-drilled bores 80% of tip diameter and to 80% of the depth of penetration, reserving the lower phases of penetration solely for driving.
- F. Where piles are pushed up by pressure from driving of adjacent piles, re-drive as required and at no additional cost to the Owner.
- G. Record pile driving information, including date of installation, pile number, pile type and installed length, type of hammer and rated energy, date of installation, blow counts or minutes per driven foot/inch, and final tip elevation.

3.3 HANDLING, CUTTING AND FRAMING

Handle piles carefully, without sudden dropping or excessive bending.

3.4 LENGTH AND LOAD REQUIREMENTS

Required tip elevations and/or minimum ultimate load capacities are as indicated on the Drawings.

3.5 OBSTRUCTIONS

If a pile encounters an underground obstruction within 5 feet of the ground surface of such size as to prevent driving the pile to the required driving criteria, the pile must be pulled or cut off at no cost to the Client. If such an obstruction is encountered more than 5 feet below the ground surface, the pile must be cut off and paid for as if a completed pile. In either event, a replacement pile must be installed at a location indicated by the Engineer and paid for as completed pile.

END OF SECTION

SECTION 35 59 13.16

MARINE FENDERS

PART 1 - GENERAL

1.1 DESCRIPTION

The work under this section includes the furnishing of all labor, materials, tools, equipment, and services necessary to provide and install the fender systems as shown on the Contract Drawings.

1.2 QUALITY ASSURANCE

- A. Use adequate number of skilled work men and women who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the Work of this section.
- B. Performance curves: Submit certified performance curves for each difference fender supplied.
- C. Certifications: Submit certified test report or certificates of conformance or compliance, furnished by the manufacturer's testing laboratory or independent testing agency, attesting that each product or material furnished under this specification meets the requirements herein:
 - 1. Rubber compound
 - 2. Steel
 - 3. UHMW Polyethylene
 - 4. Galvanizing
 - 5. Individual chain assembly components
 - 6. Panel protective coating

1.3 SUBMITTALS

Submit:

- A. Sufficient technical data to demonstrate compliance with the specified requirements; Certificates of compliance and shop drawings will be required for all materials entering the final work.
- B. Complete shop drawings detailing all members, profiles, sizes, spacing, connections, holes, openings, fasteners, and similar data. Erection plans showing the location and field connection of all members. Identify members by piece numbers that correspond to erection numbers.

Structural steel connection details not specifically shown in the Contract Documents shall be detailed by the Contractor and included with shop drawing submittals.

- C. Submit manufacturer's certifications showing that the products meet or exceed the required standards for the following items:
1. Rubber fenders.
 2. Steel fender panel.

1.4 PRODUCT HANDLING

Delivery and storage:

- A. Deliver materials to the job site properly marked to identify the location for which they are intended.
- B. Use markings corresponding to markings shown on the reviewed shop drawings.
- C. Store in a manner to maintain identification and prevent damage, off the ground, using pallets or other supports, and to permit easy access for inspection.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Fender System: The system shall consist of one or more molded rubber fender elements, attached frontal panels(s) and any necessary chains.
 1. Rubber Fender Elements: Elements shall be molded of rubber, homogeneous and free from any defects, impurities, pores, or cracks, bonded to integral, steel-mounting plates.
 2. Fender Element Rubber: The rubber from which the elements are molded shall be natural or synthetic conforming to one of the following ASTM D2000 line callouts:

3BA 720 A₁₄, B₁₃, C₁₂, EA₁₄, F₁₇

3BA 620 A₁₄, B₁₃, C₁₂, EA₁₄, F₁₇
 3. Fender Element Steel: The integral steel mounting flanges shall be of ASTM A36

PART 3 - EXECUTION (NOT USED)

END OF SECTION

Attachments

- Attachment 1 Incorporation of Applicable Provisions of the Massachusetts General Laws**
- Attachment 2 Prevailing Wage Rates**
- Attachment 3 Existing Permits**
- ◆ **Order of Conditions and Amendment #1, DEP File no. SE 058-0739 (dated August 15, 2024 and August 14, 2025, respectively)**
 - ◆ **Chapter 91 License #8621 and Addendum #1 (October 16, 2000 and March 19, 2007, respectively)**
 - ◆ **Self-Verification Notice Submittal Packet for the Pier Repair Project to USACE (March 6, 2024)**
 - ◆ **Self-Verification Notification for the General Permits for the Pier Repair Project to USACE (August 26, 2024)**

Attachment 1
Incorporation of Applicable Provisions of the
Massachusetts General Laws

Attachment 1

Incorporation of Applicable Provisions of the Massachusetts General Laws

Certain provisions of the Massachusetts General Laws are applicable to Construction contracts including, but not limited to, those contained in Chapter 30 and Chapter 149. All applicable provisions of the Massachusetts General Laws are incorporated into the Contract as if fully set forth herein and shall prevail over any conflicting provisions of the General Conditions or Supplementary Conditions.

Attachment 2
Prevailing Wage Rates



**THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS
Prevailing Wage Rates**

MAURA HEALEY
Governor

KIM DRISCOLL
Lt. Governor

As determined by the Director under the provisions of the
Massachusetts General Laws, Chapter 149, Sections 26 to 27H

LAUREN JONES
Secretary

MICHAEL FLANAGAN
Director

Awarding Authority: Provincetown - Department of Public Works **City/Town:** PROVINCETOWN
Contract Number:
Description of Work: Replacement of fender piles and safety improvements to the Pier systems
Job Location: 260 Commercial St.

Information about Prevailing Wage Schedules for Awarding Authorities and Contractors

- The wage rates will remain in effect for the duration of the project, except in the case of multi-year public construction projects. For construction projects lasting longer than one year, awarding authorities must request an updated wage schedule no later than two weeks before the anniversary of the date the contract was executed by the awarding authority and the general contractor. For multi-year CM AT RISK projects, the awarding authority must request an annual update no later than two weeks before the anniversary date, determined as the earlier of: (a) the execution date of the GMP Amendment, or (b) the execution date of the first amendment to permit procurement of construction services. The updated wage schedule must be provided to all contractors, including general and sub-contractors, working on the construction project.
- This annual update requirement is generally not applicable to 27F “rental of equipment” contracts. For such contracts, the prevailing wage rates issued by DLS shall remain in effect for the duration of the contract term. However, if the prevailing wage rate sheet issued does not contain wage rates for each year covered by the contract term, the Awarding Authority must request updated rate sheets from DLS and provide them to the contractor to ensure the correct rates are being paid throughout the duration of the contract. Additionally, if an Awarding Authority exercises an option to renew or extend the contract term, they must request updated rate sheets from DLS and provide them to the contractor.
- This wage schedule applies only to the specific project referenced at the top of this page and uniquely identified by the “Wage Request Number” on all pages of this schedule.
- An Awarding Authority must request an updated wage schedule if it has not opened bids or selected a contractor within 90 days of the date of issuance of the wage schedule. For CM AT RISK projects (bid pursuant to G.L. c.149A), the earlier of: (a) the execution date of the GMP Amendment, or (b) the bid for the first construction scope of work must be within 90-days of the wage schedule issuance date.
- The wage schedule shall be incorporated in any advertisement or call for bids for the project as required by M.G.L. c. 149, § 27. The wage schedule shall be made a part of the contract awarded for the project. The wage schedule must be posted in a conspicuous place at the work site for the life of the project in accordance with M.G.L. c. 149 § 27. The wages listed on the wage schedule must be paid to employees performing construction work on the project whether they are employed by the prime contractor, a filed sub-bidder, or a sub-contractor.
- Apprentices working on the project are required to be registered with the Massachusetts Division of Apprentice Standards (DAS). Apprentices must keep their apprentice identification card on their persons during all work hours on the project. An apprentice registered with DAS may be paid the lower apprentice wage rate at the applicable step as provided on the prevailing wage schedule. **Any apprentice not registered with DAS regardless of whether they are registered with another federal, state, local, or private agency must be paid the journeyworker's rate.**
- Every contractor or subcontractor working on the construction project must submit weekly payroll reports and a Statement of Compliance directly to the awarding authority by mail or email and keep them on file for three years. Each weekly payroll report must contain: the employee’s name, address, occupational classification, hours worked, and wages paid. Do not submit weekly payroll reports to DLS. For a sample payroll reporting form go to <http://www.mass.gov/dols/pw>.
- Contractors with questions about the wage rates or classifications included on the wage schedule have an affirmative obligation to inquire with DLS at (617) 626-6953.
- Contractors must obtain the wage schedules from awarding authorities. Failure of a contractor or subcontractor to pay the prevailing wage rates listed on the wage schedule to all employees who perform construction work on the project is a violation of the law and subjects the contractor or subcontractor to civil and criminal penalties.
- Employees not receiving the prevailing wage rate set forth on the wage schedule may file a complaint with the Fair Labor Division of the office of the Attorney General at (617) 727-3465.

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
(2 AXLE) DRIVER - EQUIPMENT	1/1/2026	\$40.95	\$16.17	\$21.78	\$0.00	\$0.00	\$78.90
TEAMSTERS JOINT COUNCIL NO. 10	6/1/2026	\$41.95	\$16.17	\$21.78	\$0.00	\$0.00	\$79.90
TEAMSTERS JOINT COUNCIL NO. 10 ZONE B	12/1/2026	\$41.95	\$16.17	\$23.52	\$0.00	\$0.00	\$81.64
	1/1/2027	\$41.95	\$16.77	\$23.52	\$0.00	\$0.00	\$82.24
(3 AXLE) DRIVER - EQUIPMENT	1/1/2026	\$41.02	\$16.17	\$21.78	\$0.00	\$0.00	\$78.97
TEAMSTERS JOINT COUNCIL NO. 10	6/1/2026	\$42.02	\$16.17	\$21.78	\$0.00	\$0.00	\$79.97
TEAMSTERS JOINT COUNCIL NO. 10 ZONE B	12/1/2026	\$42.02	\$16.17	\$23.52	\$0.00	\$0.00	\$81.71
	1/1/2027	\$42.02	\$16.77	\$23.52	\$0.00	\$0.00	\$82.31
(4 & 5 AXLE) DRIVER - EQUIPMENT	1/1/2026	\$41.14	\$16.17	\$21.78	\$0.00	\$0.00	\$79.09
TEAMSTERS JOINT COUNCIL NO. 10	6/1/2026	\$42.14	\$16.17	\$21.78	\$0.00	\$0.00	\$80.09
TEAMSTERS JOINT COUNCIL NO. 10 ZONE B	12/1/2026	\$42.14	\$16.17	\$23.52	\$0.00	\$0.00	\$81.83
	1/1/2027	\$42.14	\$16.77	\$23.52	\$0.00	\$0.00	\$82.43
ADS/SUBMERSIBLE PILOT	8/1/2024	\$117.16	\$10.08	\$11.62	\$12.67	\$0.00	\$151.53
PILE DRIVER LOCAL 56							
PILE DRIVER LOCAL 56 (ZONE 2)							
For apprentice rates see "Apprentice- PILE DRIVER"							
AIR TRACK OPERATOR	12/1/2025	\$41.22	\$10.65	\$9.75	\$9.11	\$0.00	\$70.73
LABORERS	6/1/2026	\$42.66	\$10.65	\$9.75	\$9.11	\$0.00	\$72.17
LABORERS - ZONE 2	12/1/2026	\$44.10	\$10.65	\$9.75	\$9.11	\$0.00	\$73.61
	6/1/2027	\$45.55	\$10.65	\$9.75	\$9.11	\$0.00	\$75.06
	12/1/2027	\$47.00	\$10.65	\$9.75	\$9.11	\$0.00	\$76.51
	6/1/2028	\$48.50	\$10.65	\$9.75	\$9.11	\$0.00	\$78.01
	12/1/2028	\$50.00	\$10.65	\$9.75	\$9.11	\$0.00	\$79.51
For apprentice rates see "Apprentice- LABORER"							
AIR TRACK OPERATOR (HEAVY & HIGHWAY)	12/1/2025	\$41.22	\$10.65	\$9.75	\$9.21	\$0.00	\$70.83
LABORERS	6/1/2026	\$42.66	\$10.65	\$9.75	\$9.21	\$0.00	\$72.27
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$44.10	\$10.65	\$9.75	\$9.21	\$0.00	\$73.71
For apprentice rates see "Apprentice- LABORER (Heavy and Highway)"							
ASBESTOS REMOVER - PIPE / MECH. EQUIPT.	12/1/2025	\$44.80	\$14.50	\$4.30	\$6.75	\$0.00	\$70.35
HEAT & FROST INSULATORS LOCAL 6							
HEAT & FROST INSULATORS LOCAL 6 (BOSTON)							
ASPHALT RAKER	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
LABORERS - ZONE 2	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01
For apprentice rates see "Apprentice- LABORER"							
ASPHALT RAKER (HEAVY & HIGHWAY)	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.21	\$0.00	\$70.33
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.21	\$0.00	\$71.77
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.21	\$0.00	\$73.21

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
For apprentice rates see "Apprentice- LABORER (Heavy and Highway)							
ASPHALT/CONCRETE/CRUSHER PLANT-ON SITE	12/1/2025	\$59.28	\$16.05	\$13.25	\$3.25	\$0.00	\$91.83
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$60.58	\$16.05	\$13.25	\$3.25	\$0.00	\$93.13
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$62.03	\$16.05	\$13.25	\$3.25	\$0.00	\$94.58
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
BACKHOE/FRONT-END LOADER	12/1/2025	\$59.28	\$16.05	\$13.25	\$3.25	\$0.00	\$91.83
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$60.58	\$16.05	\$13.25	\$3.25	\$0.00	\$93.13
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$62.03	\$16.05	\$13.25	\$3.25	\$0.00	\$94.58
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
BARCO-TYPE JUMPING TAMPER	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
LABORERS - ZONE 2	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01
For apprentice rates see "Apprentice- LABORER"							
BLOCK PAVER, RAMMER / CURB SETTER	12/1/2025	\$41.22	\$10.65	\$9.75	\$9.11	\$0.00	\$70.73
LABORERS	6/1/2026	\$42.66	\$10.65	\$9.75	\$9.11	\$0.00	\$72.17
LABORERS - ZONE 2	12/1/2026	\$44.10	\$10.65	\$9.75	\$9.11	\$0.00	\$73.61
	6/1/2027	\$45.55	\$10.65	\$9.75	\$9.11	\$0.00	\$75.06
	12/1/2027	\$47.00	\$10.65	\$9.75	\$9.11	\$0.00	\$76.51
	6/1/2028	\$48.50	\$10.65	\$9.75	\$9.11	\$0.00	\$78.01
	12/1/2028	\$50.00	\$10.65	\$9.75	\$9.11	\$0.00	\$79.51
For apprentice rates see "Apprentice- LABORER"							
BLOCK PAVER, RAMMER / CURB SETTER (HEAVY & HIGHWAY)	12/1/2025	\$41.22	\$10.65	\$9.75	\$9.21	\$0.00	\$70.83
LABORERS	6/1/2026	\$42.66	\$10.65	\$9.75	\$9.21	\$0.00	\$72.27
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$44.10	\$10.65	\$9.75	\$9.21	\$0.00	\$73.71
For apprentice rates see "Apprentice- LABORER (Heavy and Highway)							
BOILER MAKER	1/1/2024	\$48.12	\$7.07	\$14.60	\$6.00	\$0.00	\$75.79
BOILERMAKERS LOCAL 29							
BOILERMAKERS LOCAL 29							

Apprentice: BOILER MAKER							
Effective Date: 1/1/2024							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	65.00	\$31.28	\$7.07	\$9.32	\$3.90	\$0.00	\$51.57
2	65.00	\$31.28	\$7.07	\$9.32	\$3.90	\$0.00	\$51.57
3	70.00	\$33.68	\$7.07	\$10.03	\$4.20	\$0.00	\$54.98
4	75.00	\$36.09	\$7.07	\$10.74	\$4.50	\$0.00	\$58.40
5	80.00	\$38.50	\$7.07	\$11.45	\$4.80	\$0.00	\$61.82
6	85.00	\$40.90	\$7.07	\$12.18	\$5.10	\$0.00	\$65.25

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
Apprentice: BOILER MAKER							
Effective Date: 1/1/2024							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
7	90.00	\$43.31	\$7.07	\$12.88	\$5.40	\$0.00	\$68.66
8	95.00	\$45.71	\$7.07	\$13.62	\$5.70	\$0.00	\$72.10

Apprentice to Journeyworker Ratio: 1:4

BRICK/STONE/ARTIFICIAL MASONRY (INCL. MASONRY WATERPROOFING)	2/1/2026	\$67.95	\$12.84	\$15.57	\$8.02	\$0.00	\$104.38
BRICKLAYERS LOCAL 3	8/1/2026	\$70.15	\$12.84	\$15.57	\$8.02	\$0.00	\$106.58
BRICKLAYERS LOCAL 3 (NEW BEDFORD)	2/1/2027	\$71.55	\$12.84	\$15.57	\$8.02	\$0.00	\$107.98

Apprentice: BRICK/STONE/ARTIFICIAL MASONRY (INCL. MASONRY WATERPROOFING)							
Effective Date: 2/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$33.98	\$12.84	\$15.57	\$8.02	\$0.00	\$70.41
2	60.00	\$40.77	\$12.84	\$15.57	\$8.02	\$0.00	\$77.20
3	70.00	\$47.57	\$12.84	\$15.57	\$8.02	\$0.00	\$84.00
4	80.00	\$54.36	\$12.84	\$15.57	\$8.02	\$0.00	\$90.79
5	90.00	\$61.16	\$12.84	\$15.57	\$8.02	\$0.00	\$97.59

Apprentice: BRICK/STONE/ARTIFICIAL MASONRY (INCL. MASONRY WATERPROOFING)							
Effective Date: 8/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$35.08	\$12.84	\$15.57	\$8.02	\$0.00	\$71.51
2	60.00	\$42.09	\$12.84	\$15.57	\$8.02	\$0.00	\$78.52
3	70.00	\$49.11	\$12.84	\$15.57	\$8.02	\$0.00	\$85.54
4	80.00	\$56.12	\$12.84	\$15.57	\$8.02	\$0.00	\$92.55
5	90.00	\$63.14	\$12.84	\$15.57	\$8.02	\$0.00	\$99.57

Apprentice to Journeyworker Ratio: 1:5

BULLDOZER/GRADER/SCRAPER OPERATING ENGINEERS LOCAL 4	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

CAISSON & UNDERPINNING BOTTOM MAN LABORERS	12/1/2025	\$49.10	\$10.65	\$9.75	\$9.80	\$0.00	\$79.30
LABORERS - FOUNDATION AND MARINE	6/1/2026	\$50.65	\$10.65	\$9.75	\$9.80	\$0.00	\$80.85
LABORERS	12/1/2026	\$52.15	\$10.65	\$9.75	\$9.80	\$0.00	\$82.35

For apprentice rates see "Apprentice- LABORER"

CAISSON & UNDERPINNING LABORER LABORERS	12/1/2025	\$47.95	\$10.65	\$9.75	\$9.80	\$0.00	\$78.15
LABORERS	6/1/2026	\$49.50	\$10.65	\$9.75	\$9.80	\$0.00	\$79.70

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
LABORERS - FOUNDATION AND MARINE	12/1/2026	\$51.00	\$10.65	\$9.75	\$9.80	\$0.00	\$81.20

For apprentice rates see "Apprentice- LABORER"

CAISSON & UNDERPINNING TOP MAN LABORERS	12/1/2025	\$48.28	\$10.65	\$9.75	\$9.80	\$0.00	\$78.48
LABORERS - FOUNDATION AND MARINE	6/1/2026	\$49.83	\$10.65	\$9.75	\$9.80	\$0.00	\$80.03
LABORERS - FOUNDATION AND MARINE	12/1/2026	\$51.33	\$10.65	\$9.75	\$9.80	\$0.00	\$81.53

For apprentice rates see "Apprentice- LABORER"

CARBIDE CORE DRILL OPERATOR LABORERS	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
LABORERS - ZONE 2	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01

For apprentice rates see "Apprentice- LABORER"

CARPENTER	3/1/2026	\$51.35	\$10.58	\$11.47	\$8.50	\$0.00	\$81.90
CARPENTERS	9/1/2026	\$52.60	\$10.58	\$11.47	\$8.50	\$0.00	\$83.15
CARPENTERS -ZONE 2 (Eastern Massachusetts)	3/1/2027	\$53.85	\$10.58	\$11.47	\$8.50	\$0.00	\$84.40

Apprentice: CARPENTER							
Effective Date: 3/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	45.00	\$23.11	\$10.58	\$0.00	\$1.73	\$0.00	\$35.42
2	45.00	\$23.11	\$10.58	\$0.00	\$1.73	\$0.00	\$35.42
3	55.00	\$28.24	\$10.58	\$0.00	\$3.40	\$0.00	\$42.22
4	55.00	\$28.24	\$10.58	\$0.00	\$3.40	\$0.00	\$42.22
5	70.00	\$35.95	\$10.58	\$11.41	\$5.10	\$0.00	\$63.04
6	70.00	\$35.95	\$10.58	\$11.41	\$5.10	\$0.00	\$63.04
7	80.00	\$41.08	\$10.58	\$11.44	\$6.80	\$0.00	\$69.90
8	80.00	\$41.08	\$10.58	\$11.44	\$6.80	\$0.00	\$69.90

Apprentice: CARPENTER							
Effective Date: 9/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	45.00	\$23.67	\$10.58	\$0.00	\$1.73	\$0.00	\$35.98
2	45.00	\$23.67	\$10.58	\$0.00	\$1.73	\$0.00	\$35.98
3	55.00	\$28.93	\$10.58	\$0.00	\$3.40	\$0.00	\$42.91
4	55.00	\$28.93	\$10.58	\$0.00	\$3.40	\$0.00	\$42.91
5	70.00	\$36.82	\$10.58	\$11.41	\$5.10	\$0.00	\$63.91
6	70.00	\$36.82	\$10.58	\$11.41	\$5.10	\$0.00	\$63.91
7	80.00	\$42.08	\$10.58	\$11.44	\$6.80	\$0.00	\$70.90
8	80.00	\$42.08	\$10.58	\$11.44	\$6.80	\$0.00	\$70.90

Apprentice to Journeyworker Ratio: 1:5

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
CARPENTER WOOD FRAME	10/1/2025	\$27.75	\$7.02	\$3.80	\$1.00	\$0.00	\$39.57
CARPENTERS	10/1/2026	\$28.85	\$7.02	\$3.80	\$1.00	\$0.00	\$40.67
CARPENTERS-ZONE 3 (Wood Frame)							
All Aspects of New Wood Frame Work							

Apprentice: CARPENTER WOOD FRAME							
Effective Date: 10/1/2025							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	60.00	\$16.65	\$7.02	\$0.00	\$0.00	\$0.00	\$23.67
2	60.00	\$16.65	\$7.02	\$0.00	\$0.00	\$0.00	\$23.67
3	65.00	\$18.04	\$7.02	\$0.00	\$1.00	\$0.00	\$26.06
4	70.00	\$19.43	\$7.02	\$0.00	\$1.00	\$0.00	\$27.45
5	75.00	\$20.81	\$7.02	\$3.80	\$1.00	\$0.00	\$32.63
6	80.00	\$22.20	\$7.02	\$3.80	\$1.00	\$0.00	\$34.02
7	85.00	\$23.59	\$7.02	\$3.80	\$1.00	\$0.00	\$35.41
8	90.00	\$24.98	\$7.02	\$3.80	\$1.00	\$0.00	\$36.80

Apprentice: CARPENTER WOOD FRAME							
Effective Date: 10/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	60.00	\$17.31	\$7.02	\$0.00	\$0.00	\$0.00	\$24.33
2	60.00	\$17.31	\$7.02	\$0.00	\$0.00	\$0.00	\$24.33
3	65.00	\$18.75	\$7.02	\$0.00	\$1.00	\$0.00	\$26.77
4	70.00	\$20.20	\$7.02	\$0.00	\$1.00	\$0.00	\$28.22
5	75.00	\$21.64	\$7.02	\$3.80	\$1.00	\$0.00	\$33.46
6	80.00	\$23.08	\$7.02	\$3.80	\$1.00	\$0.00	\$34.90
7	85.00	\$24.52	\$7.02	\$3.80	\$1.00	\$0.00	\$36.34
8	90.00	\$25.97	\$7.02	\$3.80	\$1.00	\$0.00	\$37.79

Apprentice to Journeyworker Ratio: 1:5

CEMENT MASONRY/PLASTERING	1/1/2026	\$53.24	\$13.35	\$16.43	\$7.78	\$1.80	\$92.60
PLASTERERS AND CEMENT MASONS LOCAL 534	7/1/2026	\$54.49	\$13.35	\$16.43	\$7.78	\$1.80	\$93.85
Plasterers and Cement Masons - Zone 1	1/1/2027	\$55.94	\$13.35	\$16.43	\$7.78	\$1.80	\$95.30
	7/1/2027	\$57.29	\$13.35	\$16.43	\$7.78	\$1.80	\$96.65
	1/1/2028	\$58.64	\$13.35	\$16.43	\$7.78	\$1.80	\$98.00

Apprentice: CEMENT MASONRY/PLASTERING							
Effective Date: 1/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$26.62	\$13.35	\$16.43	\$0.00	\$0.00	\$56.40
2	60.00	\$31.94	\$13.35	\$16.43	\$7.78	\$1.80	\$71.30
3	65.00	\$34.61	\$13.35	\$16.43	\$7.78	\$1.80	\$73.97
4	70.00	\$37.27	\$13.35	\$16.43	\$7.78	\$1.80	\$76.63

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
Apprentice: CEMENT MASONRY/PLASTERING							
Effective Date: 1/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
5	75.00	\$39.93	\$13.35	\$16.43	\$7.78	\$1.80	\$79.29
6	80.00	\$42.59	\$13.35	\$16.43	\$7.78	\$1.80	\$81.95
7	90.00	\$47.92	\$13.35	\$16.43	\$0.00	\$0.00	\$77.70
Apprentice: CEMENT MASONRY/PLASTERING							
Effective Date: 7/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$27.25	\$13.35	\$16.43	\$0.00	\$0.00	\$57.03
2	60.00	\$32.69	\$13.35	\$16.43	\$7.78	\$1.80	\$72.05
3	65.00	\$35.42	\$13.35	\$16.43	\$7.78	\$1.80	\$74.78
4	70.00	\$38.14	\$13.35	\$16.43	\$7.78	\$1.80	\$77.50
5	75.00	\$40.87	\$13.35	\$16.43	\$7.78	\$1.80	\$80.23
6	80.00	\$43.59	\$13.35	\$16.43	\$7.78	\$1.80	\$82.95
7	90.00	\$49.04	\$13.35	\$0.00	\$7.78	\$0.00	\$70.17
Apprentice to Journeyworker Ratio: 1:5							
CHAIN SAW OPERATOR	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
LABORERS - ZONE 2	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01
For apprentice rates see "Apprentice- LABORER"							
CLAM SHELLS/SLURRY BUCKETS/HEADING MACHINES	12/1/2025	\$60.48	\$16.05	\$13.25	\$3.25	\$0.00	\$93.03
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$61.81	\$16.05	\$13.25	\$3.25	\$0.00	\$94.36
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$63.29	\$16.05	\$13.25	\$3.25	\$0.00	\$95.84
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
COMPRESSOR OPERATOR	12/1/2025	\$37.97	\$16.05	\$13.25	\$3.25	\$0.00	\$70.52
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$38.83	\$16.05	\$13.25	\$3.25	\$0.00	\$71.38
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$39.78	\$16.05	\$13.25	\$3.25	\$0.00	\$72.33
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
DELEADER (BRIDGE)	1/1/2026	\$59.56	\$10.35	\$12.00	\$12.60	\$0.00	\$94.51
PAINTERS LOCAL 35							
PAINTERS LOCAL 35 - ZONE 2							

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
Apprentice: DELEADER (BRIDGE)							
Effective Date: 1/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$29.78	\$10.35	\$0.00	\$0.00	\$0.00	\$40.13
2	55.00	\$32.76	\$10.35	\$0.00	\$6.93	\$0.00	\$50.04
3	60.00	\$35.74	\$10.35	\$0.00	\$7.56	\$0.00	\$53.65
4	65.00	\$38.71	\$10.35	\$0.00	\$8.19	\$0.00	\$57.25
5	70.00	\$41.69	\$10.35	\$12.00	\$8.82	\$0.00	\$72.86
6	75.00	\$44.67	\$10.35	\$12.00	\$9.45	\$0.00	\$76.47
7	80.00	\$47.65	\$10.35	\$12.00	\$10.08	\$0.00	\$80.08
8	90.00	\$53.60	\$10.35	\$12.00	\$11.34	\$0.00	\$87.29

Apprentice to Journeyworker Ratio: 1:1

DEMO: ADZEMAN LABORERS	12/1/2025	\$48.00	\$10.65	\$9.75	\$9.65	\$0.00	\$78.05
LABORERS - ZONE 2	6/1/2026	\$49.55	\$10.65	\$9.75	\$9.65	\$0.00	\$79.60
	12/7/2026	\$51.05	\$10.65	\$9.75	\$9.65	\$0.00	\$81.10
	6/7/2027	\$52.65	\$10.65	\$9.75	\$9.65	\$0.00	\$82.70
	12/6/2027	\$54.25	\$10.65	\$9.75	\$9.65	\$0.00	\$84.30
	6/5/2028	\$55.93	\$10.65	\$9.75	\$9.65	\$0.00	\$85.98
	12/4/2028	\$57.60	\$10.65	\$9.75	\$9.65	\$0.00	\$87.65

For apprentice rates see "Apprentice- LABORER"

DEMO: BACKHOE/LOADER/HAMMER OPERATOR LABORERS	12/1/2025	\$49.00	\$10.65	\$9.75	\$9.65	\$0.00	\$79.05
LABORERS - ZONE 2	6/1/2026	\$50.55	\$10.65	\$9.75	\$9.65	\$0.00	\$80.60
	12/7/2026	\$52.05	\$10.65	\$9.75	\$9.65	\$0.00	\$82.10
	6/7/2027	\$53.65	\$10.65	\$9.75	\$9.65	\$0.00	\$83.70
	12/6/2027	\$55.25	\$10.65	\$9.75	\$9.65	\$0.00	\$85.30
	6/5/2028	\$56.93	\$10.65	\$9.75	\$9.65	\$0.00	\$86.98
	12/4/2028	\$58.60	\$10.65	\$9.75	\$9.65	\$0.00	\$88.65

For apprentice rates see "Apprentice- LABORER"

DEMO: BURNERS LABORERS	12/1/2025	\$48.75	\$10.65	\$9.75	\$9.65	\$0.00	\$78.80
LABORERS - ZONE 2	6/1/2026	\$50.30	\$10.65	\$9.75	\$9.65	\$0.00	\$80.35
	12/7/2026	\$51.80	\$10.65	\$9.75	\$9.65	\$0.00	\$81.85
	6/7/2027	\$53.40	\$10.65	\$9.75	\$9.65	\$0.00	\$83.45
	12/6/2027	\$55.00	\$10.65	\$9.75	\$9.65	\$0.00	\$85.05
	6/5/2028	\$56.68	\$10.65	\$9.75	\$9.65	\$0.00	\$86.73
	12/4/2028	\$58.35	\$10.65	\$9.75	\$9.65	\$0.00	\$88.40

For apprentice rates see "Apprentice- LABORER"

DEMO: CONCRETE CUTTER/SAWYER LABORERS	12/1/2025	\$49.00	\$10.65	\$9.75	\$9.65	\$0.00	\$79.05
LABORERS - ZONE 2	6/1/2026	\$50.55	\$10.65	\$9.75	\$9.65	\$0.00	\$80.60
	12/7/2026	\$52.05	\$10.65	\$9.75	\$9.65	\$0.00	\$82.10
	6/7/2027	\$53.65	\$10.65	\$9.75	\$9.65	\$0.00	\$83.70
	12/6/2027	\$55.25	\$10.65	\$9.75	\$9.65	\$0.00	\$85.30
	6/5/2028	\$56.93	\$10.65	\$9.75	\$9.65	\$0.00	\$86.98
	12/4/2028	\$58.60	\$10.65	\$9.75	\$9.65	\$0.00	\$88.65

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
For apprentice rates see "Apprentice- LABORER"							
DEMO: JACKHAMMER OPERATOR	12/1/2025	\$48.75	\$10.65	\$9.75	\$9.65	\$0.00	\$78.80
LABORERS	6/1/2026	\$50.30	\$10.65	\$9.75	\$9.65	\$0.00	\$80.35
LABORERS - ZONE 2	12/7/2026	\$51.80	\$10.65	\$9.75	\$9.65	\$0.00	\$81.85
	6/7/2027	\$53.40	\$10.65	\$9.75	\$9.65	\$0.00	\$83.45
	12/6/2027	\$55.00	\$10.65	\$9.75	\$9.65	\$0.00	\$85.05
	6/5/2028	\$56.68	\$10.65	\$9.75	\$9.65	\$0.00	\$86.73
	12/4/2028	\$58.35	\$10.65	\$9.75	\$9.65	\$0.00	\$88.40
For apprentice rates see "Apprentice- LABORER"							
DEMO: WRECKING LABORER	12/1/2025	\$48.00	\$10.65	\$9.75	\$9.65	\$0.00	\$78.05
LABORERS	6/1/2026	\$49.55	\$10.65	\$9.75	\$9.65	\$0.00	\$79.60
LABORERS - ZONE 2	12/7/2026	\$51.05	\$10.65	\$9.75	\$9.65	\$0.00	\$81.10
	6/7/2027	\$52.65	\$10.65	\$9.75	\$9.65	\$0.00	\$82.70
	12/6/2027	\$54.25	\$10.65	\$9.75	\$9.65	\$0.00	\$84.30
	6/5/2028	\$55.93	\$10.65	\$9.75	\$9.65	\$0.00	\$85.98
	12/4/2028	\$57.60	\$10.65	\$9.75	\$9.65	\$0.00	\$87.65
For apprentice rates see "Apprentice- LABORER"							
DIRECTIONAL DRILL MACHINE OPERATOR	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
DIVER	8/1/2024	\$78.11	\$10.08	\$11.62	\$12.67	\$0.00	\$112.48
PILE DRIVER LOCAL 56							
PILE DRIVER LOCAL 56 (ZONE 2)							
as of 8-1-24, Apprentices with diving licenses begin at second year. % of Diver wage 70/80/90 2A \$69.83, 3A \$91.79,4A \$102.14 Total Rate							
DIVER TENDER	8/1/2024	\$51.97	\$10.08	\$11.62	\$12.67	\$0.00	\$86.34
PILE DRIVER LOCAL 56							
PILE DRIVER LOCAL 56 (ZONE 2)							
as of 8-1-24, Apprentices with diving licenses begin at second year. % of Piledriver wage 70/80/90 2A \$54.20, 3A \$73.93,4A \$82.05 Total Rate							
DIVER TENDER (EFFLUENT)	8/1/2024	\$83.69	\$10.08	\$11.62	\$12.67	\$0.00	\$118.06
PILE DRIVER LOCAL 56							
PILE DRIVER LOCAL 56 (ZONE 2)							
For apprentice rates see "Apprentice- PILE DRIVER"							
DIVER/SLURRY (EFFLUENT)	8/1/2024	\$117.16	\$10.08	\$11.62	\$12.67	\$0.00	\$151.53
PILE DRIVER LOCAL 56							
PILE DRIVER LOCAL 56 (ZONE 2)							
For apprentice rates see "Apprentice- PILE DRIVER"							
DRAWBRIDGE OPERATOR (Construction)	7/1/2020	\$26.77	\$6.67	\$3.93	\$0.00	\$0.16	\$37.53
DRAWBRIDGE - SEIU LOCAL 888							
DRAWBRIDGE - SEIU LOCAL 888							
ELECTRICIAN	9/1/2025	\$52.25	\$12.25	\$14.86	\$3.75	\$0.00	\$83.11
ELECTRICIANS LOCAL 223	9/1/2026	\$54.72	\$12.50	\$15.56	\$4.00	\$0.00	\$86.78
ELECTRICIANS LOCAL 223							

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
Apprentice: ELEVATOR CONSTRUCTOR							
Effective Date: 1/1/2027							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$40.28	\$0.00	\$0.00	\$0.00	\$0.00	\$40.28
2	55.00	\$44.30	\$16.48	\$11.16	\$11.00	\$0.00	\$82.94
3	65.00	\$52.36	\$16.48	\$11.16	\$11.00	\$0.00	\$91.00
4	70.00	\$56.39	\$16.48	\$11.16	\$11.00	\$0.00	\$95.03
5	80.00	\$64.44	\$16.48	\$11.16	\$11.00	\$0.00	\$103.08
Apprentice to Journeyworker Ratio: 1:1							
ELEVATOR CONSTRUCTOR HELPER	1/1/2026	\$54.08	\$16.38	\$11.06	\$10.07	\$0.00	\$91.59
ELEVATOR CONSTRUCTORS LOCAL 4	1/1/2027	\$56.39	\$16.48	\$11.16	\$11.00	\$0.00	\$95.03
For apprentice rates see "Apprentice - ELEVATOR CONSTRUCTOR"							
FENCE & GUARD RAIL ERECTOR (HEAVY & HIGHWAY)	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.21	\$0.00	\$70.33
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.21	\$0.00	\$71.77
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.21	\$0.00	\$73.21
For apprentice rates see "Apprentice- LABORER (Heavy and Highway)"							
FIELD ENG.INST.PERSON-BLDG,SITE,HVY/HWY	11/1/2025	\$53.56	\$16.05	\$13.25	\$3.25	\$0.00	\$86.11
OPERATING ENGINEERS LOCAL 4	5/1/2026	\$55.00	\$16.05	\$13.25	\$3.25	\$0.00	\$87.55
OPERATING ENGINEERS LOCAL 4	11/1/2026	\$56.29	\$16.05	\$13.25	\$3.25	\$0.00	\$88.84
	5/1/2027	\$57.72	\$16.05	\$13.25	\$3.25	\$0.00	\$90.27
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
FIELD ENG.PARTY CHIEF-BLDG,SITE,HVY/HWY	11/1/2025	\$55.17	\$16.05	\$13.25	\$3.25	\$0.00	\$87.72
OPERATING ENGINEERS LOCAL 4	5/1/2026	\$56.62	\$16.05	\$13.25	\$3.25	\$0.00	\$89.17
OPERATING ENGINEERS LOCAL 4	11/1/2026	\$57.92	\$16.05	\$13.25	\$3.25	\$0.00	\$90.47
	5/1/2027	\$59.37	\$16.05	\$13.25	\$3.25	\$0.00	\$91.92
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
FIELD ENG.ROD PERSON-BLDG,SITE,HVY/HWY	11/1/2025	\$26.03	\$16.05	\$13.25	\$3.25	\$0.00	\$58.58
OPERATING ENGINEERS LOCAL 4	5/1/2026	\$26.88	\$16.05	\$13.25	\$3.25	\$0.00	\$59.43
OPERATING ENGINEERS LOCAL 4	11/1/2026	\$27.64	\$16.05	\$13.25	\$3.25	\$0.00	\$60.19
	5/1/2027	\$28.49	\$16.05	\$13.25	\$3.25	\$0.00	\$61.04
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
FIRE ALARM INSTALLER	9/1/2025	\$52.25	\$12.25	\$14.86	\$3.75	\$0.00	\$83.11
ELECTRICIANS LOCAL 223	9/1/2026	\$54.72	\$12.50	\$15.56	\$4.00	\$0.00	\$86.78
ELECTRICIANS LOCAL 223							
For apprentice rates see "Apprentice- ELECTRICIAN"							
FIRE ALARM REPAIR / MAINTENANCE	9/1/2025	\$52.25	\$12.25	\$14.86	\$3.75	\$0.00	\$83.11
/ COMMISSIONING	9/1/2026	\$54.72	\$12.50	\$15.56	\$4.00	\$0.00	\$86.78
ELECTRICIANS LOCAL 223							
ELECTRICIANS LOCAL 223							
For apprentice rates see "Apprentice- TELECOMMUNICATIONS TECHNICIAN"							

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
FIREMAN (ASST. ENGINEER)	12/1/2025	\$47.69	\$16.05	\$13.25	\$3.25	\$0.00	\$80.24
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$48.75	\$16.05	\$13.25	\$3.25	\$0.00	\$81.30
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$49.93	\$16.05	\$13.25	\$3.25	\$0.00	\$82.48

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

FLAGGER & SIGNALER (HEAVY & HIGHWAY)	12/1/2025	\$28.09	\$10.65	\$9.75	\$9.21	\$0.00	\$57.70
LABORERS	6/1/2026	\$29.21	\$10.65	\$9.75	\$9.21	\$0.00	\$58.82
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$29.21	\$10.65	\$9.75	\$9.21	\$0.00	\$58.82

For apprentice rates see "Apprentice- LABORER (Heavy and Highway)"

FLOORCOVERER	3/1/2024	\$48.93	\$10.33	\$11.47	\$8.80	\$0.00	\$79.53
FLOORCOVERERS LOCAL 2168							
FLOORCOVERERS LOCAL 2168 ZONE II							

Apprentice: FLOORCOVERER							
Effective Date: 3/1/2024							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$24.47	\$10.33	\$0.00	\$1.76	\$0.00	\$36.56
2	55.00	\$26.91	\$10.33	\$0.00	\$1.76	\$0.00	\$39.00
3	60.00	\$29.36	\$10.33	\$0.00	\$3.52	\$0.00	\$43.21
4	65.00	\$31.80	\$10.33	\$0.00	\$3.52	\$0.00	\$45.65
5	70.00	\$34.25	\$10.33	\$11.47	\$5.28	\$0.00	\$61.33
6	75.00	\$36.70	\$10.33	\$11.47	\$5.28	\$0.00	\$63.78
7	80.00	\$39.14	\$10.33	\$11.47	\$7.04	\$0.00	\$67.98
8	85.00	\$41.59	\$10.33	\$11.47	\$7.04	\$0.00	\$70.43

Apprentice Notes	
Steps are 750 hrs.	

Apprentice to Journeyworker Ratio: 1:1

FORK LIFT/CHERRY PICKER	12/1/2025	\$59.28	\$16.05	\$13.25	\$3.25	\$0.00	\$91.83
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$60.58	\$16.05	\$13.25	\$3.25	\$0.00	\$93.13
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$62.03	\$16.05	\$13.25	\$3.25	\$0.00	\$94.58

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

GENERATOR/LIGHTING PLANT/HEATERS	12/1/2025	\$37.97	\$16.05	\$13.25	\$3.25	\$0.00	\$70.52
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$38.83	\$16.05	\$13.25	\$3.25	\$0.00	\$71.38
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$39.78	\$16.05	\$13.25	\$3.25	\$0.00	\$72.33

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

GLAZIER (GLASS PLANK/AIR BARRIER/INTERIOR SYSTEMS)	6/1/2025	\$43.13	\$10.80	\$8.25	\$5.50	\$0.00	\$67.68
GLAZIERS LOCAL 1333	6/1/2026	\$44.73	\$11.20	\$8.40	\$6.05	\$0.00	\$70.38
GLAZIERS LOCAL 1333	6/1/2027	\$46.73	\$11.60	\$8.55	\$6.60	\$0.00	\$73.48
	6/1/2028	\$48.73	\$12.00	\$8.70	\$7.20	\$0.00	\$76.63

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
Apprentice: HOISTING ENGINEER/CRANES/GRADALLS							
Effective Date: 6/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	55.00	\$33.32	\$0.00	\$0.00	\$0.00	\$0.00	\$33.32
2	60.00	\$36.35	\$16.05	\$13.25	\$3.25	\$0.00	\$68.90
3	65.00	\$39.38	\$16.05	\$13.25	\$3.25	\$0.00	\$71.93
4	70.00	\$42.41	\$16.50	\$13.25	\$3.25	\$0.00	\$75.41
5	75.00	\$45.44	\$16.50	\$13.25	\$3.25	\$0.00	\$78.44
6	80.00	\$48.46	\$16.50	\$13.25	\$3.25	\$0.00	\$81.46
7	85.00	\$51.49	\$16.50	\$13.25	\$3.25	\$0.00	\$84.49
8	90.00	\$54.52	\$16.50	\$13.25	\$3.25	\$0.00	\$87.52
Apprentice to Journeyworker Ratio: 1:6							
HVAC (DUCTWORK) SHEETMETAL WORKERS LOCAL 17	10/1/2025	\$44.05	\$14.91	\$13.35	\$6.15	\$2.24	\$80.70
SHEETMETAL WORKERS LOCAL 17 - B	4/1/2026	\$45.55	\$14.91	\$13.35	\$6.15	\$2.24	\$82.20
For apprentice rates see "Apprentice- SHEET METAL WORKER"							
HVAC (ELECTRICAL CONTROLS) ELECTRICIANS LOCAL 223	9/1/2025	\$52.25	\$12.25	\$14.86	\$3.75	\$0.00	\$83.11
ELECTRICIANS LOCAL 223	9/1/2026	\$54.72	\$12.50	\$15.56	\$4.00	\$0.00	\$86.78
For apprentice rates see "Apprentice- ELECTRICIAN"							
HVAC (TESTING AND BALANCING - AIR) SHEETMETAL WORKERS LOCAL 17	10/1/2025	\$44.05	\$14.91	\$13.35	\$6.15	\$2.24	\$80.70
SHEETMETAL WORKERS LOCAL 17 - B	4/1/2026	\$45.55	\$14.91	\$13.35	\$6.15	\$2.24	\$82.20
For apprentice rates see "Apprentice- SHEET METAL WORKER"							
HVAC (TESTING AND BALANCING -WATER) PLUMBERS & PIPEFITTERS LOCAL 51	8/25/2025	\$55.24	\$10.80	\$16.80	\$4.60	\$0.00	\$87.44
PLUMBERS & PIPEFITTERS LOCAL 51							
For apprentice rates see "Apprentice- PIPEFITTER" or "PLUMBER/PIPEFITTER"							
HVAC MECHANIC PLUMBERS & PIPEFITTERS LOCAL 51	8/25/2025	\$55.24	\$10.80	\$16.80	\$4.60	\$0.00	\$87.44
PLUMBERS & PIPEFITTERS LOCAL 51							
For apprentice rates see "Apprentice- PIPEFITTER" or "PLUMBER/PIPEFITTER"							
HYDRAULIC DRILLS LABORERS	12/1/2025	\$41.22	\$10.65	\$9.75	\$9.11	\$0.00	\$70.73
LABORERS - ZONE 2	6/1/2026	\$42.66	\$10.65	\$9.75	\$9.11	\$0.00	\$72.17
	12/1/2026	\$44.10	\$10.65	\$9.75	\$9.11	\$0.00	\$73.61
	6/1/2027	\$45.55	\$10.65	\$9.75	\$9.11	\$0.00	\$75.06
	12/1/2027	\$47.00	\$10.65	\$9.75	\$9.11	\$0.00	\$76.51
	6/1/2028	\$48.50	\$10.65	\$9.75	\$9.11	\$0.00	\$78.01
	12/1/2028	\$50.00	\$10.65	\$9.75	\$9.11	\$0.00	\$79.51
For apprentice rates see "Apprentice- LABORER"							
HYDRAULIC DRILLS (HEAVY & HIGHWAY) LABORERS	12/1/2025	\$41.22	\$10.65	\$9.75	\$9.21	\$0.00	\$70.83
	6/1/2026	\$42.66	\$10.65	\$9.75	\$9.21	\$0.00	\$72.27

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$44.10	\$10.65	\$9.75	\$9.21	\$0.00	\$73.71

For apprentice rates see "Apprentice- LABORER (Heavy and Highway)

INSULATOR (PIPES & TANKS)	9/1/2025	\$60.34	\$14.75	\$9.52	\$10.09	\$0.00	\$94.70
HEAT & FROST INSULATORS LOCAL 6	9/1/2026	\$63.76	\$14.75	\$9.52	\$10.09	\$0.00	\$98.12
HEAT & FROST INSULATORS LOCAL 6 (BOSTON)							

Apprentice: INSULATOR (PIPES & TANKS)							
Effective Date: 9/1/2025							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$30.17	\$14.75	\$9.27	\$5.05	\$0.00	\$59.24
2	60.00	\$36.20	\$14.75	\$9.32	\$6.05	\$0.00	\$66.32
3	70.00	\$42.24	\$14.75	\$9.37	\$7.06	\$0.00	\$73.42
4	80.00	\$48.27	\$14.75	\$9.42	\$8.07	\$0.00	\$80.51

Apprentice: INSULATOR (PIPES & TANKS)							
Effective Date: 9/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$31.88	\$14.75	\$9.27	\$5.05	\$0.00	\$60.95
2	60.00	\$38.26	\$14.75	\$9.32	\$6.05	\$0.00	\$68.38
3	70.00	\$44.63	\$14.75	\$9.37	\$7.06	\$0.00	\$75.81
4	80.00	\$51.01	\$14.75	\$9.42	\$8.07	\$0.00	\$83.25

Apprentice to Journeyworker Ratio: 1:4

IRONWORKER/WELDER	3/16/2021	\$42.46	\$7.70	\$12.10	\$5.00	\$0.00	\$67.26
IRONWORKERS LOCAL 37							
IRONWORKERS LOCAL 37							

Apprentice: IRONWORKER/WELDER							
Effective Date: 3/16/2021							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	70.00	\$29.72	\$7.70	\$12.10	\$5.00	\$0.00	\$54.52
2	75.00	\$31.85	\$7.70	\$12.10	\$5.00	\$0.00	\$56.65
3	80.00	\$33.97	\$7.70	\$12.10	\$5.00	\$0.00	\$58.77
4	85.00	\$36.09	\$7.70	\$12.10	\$5.00	\$0.00	\$60.89
5	90.00	\$38.21	\$7.70	\$12.10	\$5.00	\$0.00	\$63.01
6	95.00	\$40.34	\$7.70	\$12.10	\$5.00	\$0.00	\$65.14

Apprentice to Journeyworker Ratio: 1:4

JACKHAMMER & PAVING BREAKER OPERATOR	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
LABORERS - ZONE 2	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01

For apprentice rates see "Apprentice- LABORER"

LABORER	12/1/2025	\$40.47	\$10.65	\$9.75	\$9.11	\$0.00	\$69.98
LABORERS	6/1/2026	\$41.91	\$10.65	\$9.75	\$9.11	\$0.00	\$71.42
LABORERS - ZONE 2	12/1/2026	\$43.35	\$10.65	\$9.75	\$9.11	\$0.00	\$72.86
	6/1/2027	\$44.80	\$10.65	\$9.75	\$9.11	\$0.00	\$74.31
	12/1/2027	\$46.25	\$10.65	\$9.75	\$9.11	\$0.00	\$75.76
	6/1/2028	\$47.75	\$10.65	\$9.75	\$9.11	\$0.00	\$77.26
	12/1/2028	\$49.25	\$10.65	\$9.75	\$9.11	\$0.00	\$78.76

Apprentice: LABORER							
Effective Date: 12/1/2025							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	60.00	\$25.03	\$10.15	\$9.50	\$9.11	\$0.00	\$53.79
2	70.00	\$29.20	\$10.15	\$9.50	\$9.11	\$0.00	\$57.96
3	80.00	\$33.38	\$10.15	\$9.50	\$9.11	\$0.00	\$62.14
4	90.00	\$37.55	\$10.15	\$9.50	\$9.11	\$0.00	\$66.31

Apprentice: LABORER							
Effective Date: 6/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	60.00	\$25.15	\$10.65	\$9.75	\$9.11	\$0.00	\$54.66
2	70.00	\$29.34	\$10.65	\$9.75	\$9.11	\$0.00	\$58.85
3	80.00	\$33.53	\$10.65	\$9.75	\$9.11	\$0.00	\$63.04
4	90.00	\$37.72	\$10.65	\$9.75	\$9.11	\$0.00	\$67.23

Apprentice to Journeyworker Ratio: 1:5

LABORER (HEAVY & HIGHWAY)	12/1/2025	\$40.47	\$10.65	\$9.75	\$9.21	\$0.00	\$70.08
LABORERS	6/1/2026	\$41.91	\$10.65	\$9.75	\$9.21	\$0.00	\$71.52
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$43.35	\$10.65	\$9.75	\$9.21	\$0.00	\$72.96

Apprentice: LABORER (HEAVY & HIGHWAY)							
Effective Date: 12/1/2025							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	60.00	\$25.03	\$10.15	\$9.50	\$9.21	\$0.00	\$53.89
2	70.00	\$29.20	\$10.15	\$9.50	\$9.21	\$0.00	\$58.06
3	80.00	\$33.38	\$10.15	\$9.50	\$9.21	\$0.00	\$62.24
4	90.00	\$37.55	\$10.15	\$9.50	\$9.21	\$0.00	\$66.41

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
Apprentice: LABORER (HEAVY & HIGHWAY)							
Effective Date: 6/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	60.00	\$25.15	\$10.65	\$9.75	\$9.21	\$0.00	\$54.76
2	70.00	\$29.34	\$10.65	\$9.75	\$9.21	\$0.00	\$58.95
3	80.00	\$33.53	\$10.65	\$9.75	\$9.21	\$0.00	\$63.14
4	90.00	\$37.72	\$10.65	\$9.75	\$9.10	\$0.00	\$67.22
Apprentice to Journeyworker Ratio: 1:5							
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LABORER: CARPENTER TENDER LABORERS	12/1/2025	\$40.47	\$10.65	\$9.75	\$9.11	\$0.00	\$69.98
LABORERS - ZONE 2	6/1/2026	\$41.91	\$10.65	\$9.75	\$9.11	\$0.00	\$71.42
	12/1/2026	\$43.35	\$10.65	\$9.75	\$9.11	\$0.00	\$72.86
	6/1/2027	\$44.80	\$10.65	\$9.75	\$9.11	\$0.00	\$74.31
	12/1/2027	\$46.25	\$10.65	\$9.75	\$9.11	\$0.00	\$75.76
	6/1/2028	\$47.75	\$10.65	\$9.75	\$9.11	\$0.00	\$77.26
	12/1/2028	\$49.25	\$10.65	\$9.75	\$9.11	\$0.00	\$78.76
For apprentice rates see "Apprentice- LABORER"							
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LABORER: CEMENT FINISHER TENDER LABORERS	12/1/2025	\$40.47	\$10.65	\$9.75	\$9.11	\$0.00	\$69.98
LABORERS - ZONE 2	6/1/2026	\$41.91	\$10.65	\$9.75	\$9.11	\$0.00	\$71.42
	12/1/2026	\$43.35	\$10.65	\$9.75	\$9.11	\$0.00	\$72.86
	6/1/2027	\$44.80	\$10.65	\$9.75	\$9.11	\$0.00	\$74.31
	12/1/2027	\$46.25	\$10.65	\$9.75	\$9.11	\$0.00	\$75.76
	6/1/2028	\$47.75	\$10.65	\$9.75	\$9.11	\$0.00	\$77.26
	12/1/2028	\$49.25	\$10.65	\$9.75	\$9.11	\$0.00	\$78.76
For apprentice rates see "Apprentice- LABORER"							
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LABORER: HAZARDOUS WASTE/ASBESTOS REMOVER LABORERS	12/1/2025	\$40.56	\$10.65	\$9.75	\$9.65	\$0.00	\$70.61
LABORERS - ZONE 2	6/1/2026	\$42.00	\$10.65	\$9.75	\$9.65	\$0.00	\$72.05
	12/7/2026	\$43.44	\$10.65	\$9.75	\$9.65	\$0.00	\$73.49
	6/7/2027	\$44.89	\$10.65	\$9.75	\$9.65	\$0.00	\$74.94
	12/6/2027	\$46.34	\$10.65	\$9.75	\$9.65	\$0.00	\$76.39
	6/5/2028	\$47.84	\$10.65	\$9.75	\$9.65	\$0.00	\$77.89
	12/4/2028	\$49.34	\$10.65	\$9.75	\$9.65	\$0.00	\$79.39
For apprentice rates see "Apprentice- LABORER"							
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LABORER: MASON TENDER LABORERS	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS - ZONE 2	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01
For apprentice rates see "Apprentice- LABORER"							
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LABORER: MASON TENDER (HEAVY & HIGHWAY) LABORERS	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.21	\$0.00	\$70.33
	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.21	\$0.00	\$71.77

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.21	\$0.00	\$73.21

For apprentice rates see "Apprentice- LABORER (Heavy and Highway)

LABORER: MULTI-TRADE TENDER LABORERS	12/1/2025	\$40.47	\$10.65	\$9.75	\$9.11	\$0.00	\$69.98
LABORERS - ZONE 2	6/1/2026	\$41.91	\$10.65	\$9.75	\$9.11	\$0.00	\$71.42
	12/1/2026	\$43.35	\$10.65	\$9.75	\$9.11	\$0.00	\$72.86
	6/1/2027	\$44.80	\$10.65	\$9.75	\$9.11	\$0.00	\$74.31
	12/1/2027	\$46.25	\$10.65	\$9.75	\$9.11	\$0.00	\$75.76
	6/1/2028	\$47.75	\$10.65	\$9.75	\$9.11	\$0.00	\$77.26
	12/1/2028	\$49.25	\$10.65	\$9.75	\$9.11	\$0.00	\$78.76

For apprentice rates see "Apprentice- LABORER"

LABORER: TREE REMOVER LABORERS	12/1/2025	\$40.47	\$10.65	\$9.75	\$9.11	\$0.00	\$69.98
LABORERS - ZONE 2	6/1/2026	\$41.91	\$10.65	\$9.75	\$9.11	\$0.00	\$71.42
	12/1/2026	\$43.35	\$10.65	\$9.75	\$9.11	\$0.00	\$72.86
	6/1/2027	\$44.80	\$10.65	\$9.75	\$9.11	\$0.00	\$74.31
	12/1/2027	\$46.25	\$10.65	\$9.75	\$9.11	\$0.00	\$75.76
	6/1/2028	\$47.75	\$10.65	\$9.75	\$9.11	\$0.00	\$77.26
	12/1/2028	\$49.25	\$10.65	\$9.75	\$9.11	\$0.00	\$78.76

This classification applies to the removal of standing trees, and the trimming and removal of branches and limbs when related to public works construction or site clearance incidental to construction . For apprentice rates see "Apprentice- LABORER"

LASER BEAM OPERATOR LABORERS	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS - ZONE 2	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01

For apprentice rates see "Apprentice- LABORER"

LASER BEAM OPERATOR (HEAVY & HIGHWAY) LABORERS	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.21	\$0.00	\$70.33
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.21	\$0.00	\$71.77
	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.21	\$0.00	\$73.21

For apprentice rates see "Apprentice- LABORER (Heavy and Highway)

MARBLE & TILE FINISHERS BRICKLAYERS LOCAL 3	2/1/2026	\$52.08	\$12.84	\$15.57	\$5.78	\$0.00	\$86.27
BRICKLAYERS LOCAL 3 - MARBLE & TILE	8/1/2026	\$53.84	\$12.84	\$15.57	\$5.78	\$0.00	\$88.03
	2/1/2027	\$54.96	\$12.84	\$15.57	\$5.78	\$0.00	\$89.15

Apprentice: MARBLE & TILE FINISHERS							
Effective Date: 2/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$26.04	\$12.84	\$15.57	\$5.78	\$0.00	\$60.23
2	60.00	\$31.25	\$12.84	\$15.57	\$5.78	\$0.00	\$65.44
3	70.00	\$36.46	\$12.84	\$15.57	\$5.78	\$0.00	\$70.65
4	80.00	\$41.66	\$12.84	\$15.57	\$5.78	\$0.00	\$75.85
5	90.00	\$46.87	\$12.84	\$15.57	\$5.78	\$0.00	\$81.06

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
Apprentice: MARBLE & TILE FINISHERS							
Effective Date: 8/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$26.92	\$12.84	\$15.57	\$5.78	\$0.00	\$61.11
2	60.00	\$32.30	\$12.84	\$15.57	\$5.78	\$0.00	\$66.49
3	70.00	\$37.69	\$12.84	\$15.57	\$5.78	\$0.00	\$71.88
4	80.00	\$43.07	\$12.84	\$15.57	\$5.78	\$0.00	\$77.26
5	90.00	\$48.46	\$12.84	\$15.57	\$5.78	\$0.00	\$82.65
Apprentice to Journeyworker Ratio: 1:5							
MARBLE MASONS,TILELAYERS & TERRAZZO MECH	2/1/2026	\$67.97	\$12.84	\$15.57	\$7.99	\$0.00	\$104.37
BRICKLAYERS LOCAL 3	8/1/2026	\$70.17	\$12.84	\$15.57	\$7.99	\$0.00	\$106.57
BRICKLAYERS LOCAL 3 - MARBLE & TILE	2/1/2027	\$71.57	\$12.84	\$15.57	\$7.99	\$0.00	\$107.97

Apprentice: MARBLE MASONS,TILELAYERS & TERRAZZO MECH							
Effective Date: 2/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$33.99	\$12.84	\$15.57	\$7.99	\$0.00	\$70.39
2	60.00	\$40.78	\$12.84	\$15.57	\$7.99	\$0.00	\$77.18
3	70.00	\$47.58	\$12.84	\$15.57	\$7.99	\$0.00	\$83.98
4	80.00	\$54.38	\$12.84	\$15.57	\$7.99	\$0.00	\$90.78
5	90.00	\$61.17	\$12.84	\$15.57	\$7.99	\$0.00	\$97.57

Apprentice: MARBLE MASONS,TILELAYERS & TERRAZZO MECH							
Effective Date: 8/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$35.09	\$12.84	\$15.57	\$7.99	\$0.00	\$71.49
2	60.00	\$42.10	\$12.84	\$15.57	\$7.99	\$0.00	\$78.50
3	70.00	\$49.12	\$12.84	\$15.57	\$7.99	\$0.00	\$85.52
4	80.00	\$56.14	\$12.84	\$15.57	\$7.99	\$0.00	\$92.54
5	90.00	\$63.15	\$12.84	\$15.57	\$7.99	\$0.00	\$99.55

Apprentice to Journeyworker Ratio: 1:5

MECH. SWEEPER OPERATOR (ON CONST. SITES)	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

MECHANICS MAINTENANCE	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
MILLWRIGHT (Zone 2)	1/5/2026	\$47.36	\$10.08	\$11.47	\$10.00	\$0.00	\$78.91
MILLWRIGHTS LOCAL 1121							
MILLWRIGHTS LOCAL 1121 - Zone 2							

Apprentice: MILLWRIGHT (Zone 2)							
Effective Date: 1/5/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	55.00	\$26.05	\$10.08	\$0.00	\$5.50	\$0.00	\$41.63
2	65.00	\$30.78	\$10.08	\$0.00	\$6.50	\$0.00	\$47.36
3	75.00	\$35.52	\$10.08	\$11.47	\$7.50	\$0.00	\$64.57
4	85.00	\$40.26	\$10.08	\$11.47	\$8.50	\$0.00	\$70.31

Apprentice Notes

Step 1&2 Appr. indentured after 1/6/2020 receive no pension,

Apprentice to Journeyworker Ratio: 1:4

MORTAR MIXER LABORERS	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS - ZONE 2	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01

For apprentice rates see "Apprentice- LABORER"

OILER (OTHER THAN TRUCK CRANES,GRADALLS)	12/1/2025	\$25.68	\$16.05	\$13.25	\$3.25	\$0.00	\$58.23
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$26.27	\$16.05	\$13.25	\$3.25	\$0.00	\$58.82
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$26.94	\$16.05	\$13.25	\$3.25	\$0.00	\$59.49

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

OILER (TRUCK CRANES, GRADALLS)	12/1/2025	\$31.65	\$16.05	\$13.25	\$3.25	\$0.00	\$64.20
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$32.37	\$16.05	\$13.25	\$3.25	\$0.00	\$64.92
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$33.17	\$16.05	\$13.25	\$3.25	\$0.00	\$65.72

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

OTHER POWER DRIVEN EQUIPMENT - CLASS II	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

PAINTER (BRIDGES/TANKS)	1/1/2026	\$59.56	\$10.35	\$12.00	\$12.50	\$0.00	\$94.41
PAINTERS LOCAL 35							
PAINTERS LOCAL 35 - ZONE 2							

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
Apprentice: PAINTER / TAPER (BRUSH, REPAINT)							
Effective Date: 1/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
8	90.00	\$42.41	\$10.35	\$12.00	\$11.34	\$0.00	\$76.10
Apprentice to Journeyworker Ratio: 1:1							
PAINTER TRAFFIC MARKINGS (HEAVY/HIGHWAY) LABORERS	12/1/2025	\$40.47	\$10.65	\$9.75	\$9.21	\$0.00	\$70.08
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	6/1/2026	\$41.91	\$10.65	\$9.75	\$9.21	\$0.00	\$71.52
	12/1/2026	\$43.35	\$10.65	\$9.75	\$9.21	\$0.00	\$72.96
For apprentice rates see "Apprentice- LABORER (Heavy and Highway)"							
PANEL & PICKUP TRUCKS DRIVER	1/1/2026	\$40.78	\$16.17	\$21.78	\$0.00	\$0.00	\$78.73
TEAMSTERS JOINT COUNCIL NO. 10	6/1/2026	\$41.78	\$16.17	\$21.78	\$0.00	\$0.00	\$79.73
TEAMSTERS JOINT COUNCIL NO. 10 ZONE B	12/1/2026	\$41.78	\$16.17	\$23.52	\$0.00	\$0.00	\$81.47
	1/1/2027	\$41.78	\$16.77	\$23.52	\$0.00	\$0.00	\$82.07
PIER AND DOCK CONSTRUCTOR (UNDERPINNING AND DECK)	8/1/2024	\$51.97	\$10.08	\$11.62	\$12.67	\$0.00	\$86.34
PILE DRIVER LOCAL 56							
PILE DRIVER LOCAL 56 (ZONE 2)							
For apprentice rates see "Apprentice- PILE DRIVER"							
PILE DRIVER	8/1/2024	\$51.97	\$10.08	\$11.62	\$12.67	\$0.00	\$86.34
PILE DRIVER LOCAL 56							
PILE DRIVER LOCAL 56 (ZONE 2)							
Apprentice: PILE DRIVER							
Effective Date: 8/1/2024							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	45.00	\$23.39	\$10.08	\$0.00	\$2.53	\$0.00	\$36.00
2	55.00	\$28.58	\$10.08	\$0.00	\$5.07	\$0.00	\$43.73
3	70.00	\$36.38	\$10.08	\$11.62	\$7.60	\$0.00	\$65.68
4	80.00	\$41.58	\$10.08	\$11.62	\$10.14	\$0.00	\$73.42
Apprentice to Journeyworker Ratio: 1:5							
PIPELAYER LABORERS	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS - ZONE 2	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01
For apprentice rates see "Apprentice- LABORER"							
PIPELAYER (HEAVY & HIGHWAY) LABORERS	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.21	\$0.00	\$70.33
	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.21	\$0.00	\$71.77

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.21	\$0.00	\$73.21

For apprentice rates see "Apprentice- LABORER (Heavy and Highway)

PLUMBER & PIPEFITTER	8/25/2025	\$55.24	\$10.80	\$16.80	\$4.60	\$0.00	\$87.44
PLUMBERS & PIPEFITTERS LOCAL 51							
PLUMBERS & PIPEFITTERS LOCAL 51							

Apprentice: PLUMBER & PIPEFITTER							
Effective Date: 8/25/2025							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	40.00	\$22.10	\$10.15	\$2.50	\$0.00	\$0.00	\$34.75
2	50.00	\$27.62	\$10.15	\$2.50	\$0.00	\$0.00	\$40.27
3	60.00	\$33.14	\$10.15	\$8.40	\$0.50	\$0.00	\$52.19
4	70.00	\$38.67	\$10.15	\$13.44	\$0.80	\$0.00	\$63.06
5	80.00	\$44.19	\$10.15	\$16.80	\$1.00	\$0.00	\$72.14

Apprentice to Journeyworker Ratio: 1:3

PNEUMATIC CONTROLS (TEMP.)	8/25/2025	\$55.24	\$10.80	\$16.80	\$4.60	\$0.00	\$87.44
PLUMBERS & PIPEFITTERS LOCAL 51							
PLUMBERS & PIPEFITTERS LOCAL 51							

For apprentice rates see "Apprentice- PIPEFITTER" or "PLUMBER/PIPEFITTER"

PNEUMATIC DRILL/TOOL OPERATOR	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
LABORERS - ZONE 2	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01

For apprentice rates see "Apprentice- LABORER"

PNEUMATIC DRILL/TOOL OPERATOR (HEAVY & HIGHWAY)	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.21	\$0.00	\$70.33
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.21	\$0.00	\$71.77
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.21	\$0.00	\$73.21

For apprentice rates see "Apprentice- LABORER (Heavy and Highway)

POWDERMAN & BLASTER	12/1/2025	\$41.47	\$10.65	\$9.75	\$9.11	\$0.00	\$70.98
LABORERS	6/1/2026	\$42.91	\$10.65	\$9.75	\$9.11	\$0.00	\$72.42
LABORERS - ZONE 2	12/1/2026	\$44.35	\$10.65	\$9.75	\$9.11	\$0.00	\$73.86
	6/1/2027	\$45.80	\$10.65	\$9.75	\$9.11	\$0.00	\$75.31
	12/1/2027	\$47.25	\$10.65	\$9.75	\$9.11	\$0.00	\$76.76
	6/1/2028	\$48.75	\$10.65	\$9.75	\$9.11	\$0.00	\$78.26
	12/1/2028	\$50.25	\$10.65	\$9.75	\$9.11	\$0.00	\$79.76

For apprentice rates see "Apprentice- LABORER"

POWDERMAN & BLASTER (HEAVY & HIGHWAY)	12/1/2025	\$41.47	\$10.65	\$9.75	\$9.21	\$0.00	\$71.08
LABORERS	6/1/2026	\$42.91	\$10.65	\$9.75	\$9.21	\$0.00	\$72.52
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$44.35	\$10.65	\$9.75	\$9.21	\$0.00	\$73.96

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
For apprentice rates see "Apprentice- LABORER (Heavy and Highway)"							
POWER SHOVEL/DERRICK/TRENCHING MACHINE	12/1/2025	\$59.28	\$16.05	\$13.25	\$3.25	\$0.00	\$91.83
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$60.58	\$16.05	\$13.25	\$3.25	\$0.00	\$93.13
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$62.03	\$16.05	\$13.25	\$3.25	\$0.00	\$94.58
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
PUMP OPERATOR (CONCRETE)	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
PUMP OPERATOR (DEWATERING, OTHER)	12/1/2025	\$37.97	\$16.05	\$13.25	\$3.25	\$0.00	\$70.52
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$38.83	\$16.05	\$13.25	\$3.25	\$0.00	\$71.38
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$39.78	\$16.05	\$13.25	\$3.25	\$0.00	\$72.33
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
READY-MIX CONCRETE DRIVER TEAMSTERS 653 TEAMSTERS 653 - Southeastern Concrete (Weymouth)	8/1/2023	\$25.00	\$13.91	\$6.90	\$0.00	\$0.00	\$45.81
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
RECLAIMERS	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
RIDE-ON MOTORIZED BUGGY OPERATOR LABORERS	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS - ZONE 2	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01
For apprentice rates see "Apprentice- LABORER"							
ROLLER/SPREADER/MULCHING MACHINE	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
ROOFER (Inc.Roofing Waterproofing &Roofing Damproofg) ROOFERS LOCAL 33 ROOFERS LOCAL 33	2/1/2026	\$53.53	\$14.53	\$12.67	\$9.03	\$0.00	\$89.76

Apprentice: ROOFER (Inc.Roofing Waterproofing &Roofing Damproofg)							
Effective Date: 2/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$26.77	\$14.53	\$6.52	\$9.03	\$0.00	\$56.85
2	60.00	\$32.12	\$14.53	\$12.67	\$9.03	\$0.00	\$68.35

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
Apprentice: SHEETMETAL WORKER							
Effective Date: 4/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
7	70.00	\$31.89	\$14.91	\$12.28	\$4.31	\$1.78	\$65.17
8	75.00	\$34.16	\$14.91	\$12.28	\$4.61	\$1.86	\$67.82
9	80.00	\$36.44	\$14.91	\$12.28	\$4.92	\$1.93	\$70.48
10	85.00	\$38.72	\$14.91	\$12.28	\$5.23	\$2.00	\$73.14

Apprentice to Journeyworker Ratio: 1:4

SPECIALIZED EARTH MOVING EQUIP < 35 TONS TEAMSTERS JOINT COUNCIL NO. 10	1/1/2026	\$41.24	\$16.17	\$21.78	\$0.00	\$0.00	\$79.19
TEAMSTERS JOINT COUNCIL NO. 10 ZONE B	6/1/2026	\$42.24	\$16.17	\$21.78	\$0.00	\$0.00	\$80.19
	12/1/2026	\$42.24	\$16.17	\$23.52	\$0.00	\$0.00	\$81.93
	1/1/2027	\$42.24	\$16.77	\$23.52	\$0.00	\$0.00	\$82.53
SPECIALIZED EARTH MOVING EQUIP > 35 TONS TEAMSTERS JOINT COUNCIL NO. 10	1/1/2026	\$41.53	\$16.17	\$21.78	\$0.00	\$0.00	\$79.48
TEAMSTERS JOINT COUNCIL NO. 10 ZONE B	6/1/2026	\$42.53	\$16.17	\$21.78	\$0.00	\$0.00	\$80.48
	12/1/2026	\$42.53	\$16.17	\$23.52	\$0.00	\$0.00	\$82.22
	1/1/2027	\$42.53	\$16.77	\$23.52	\$0.00	\$0.00	\$82.82
SPRINKLER FITTER SPRINKLER FITTERS LOCAL 550 SPRINKLER FITTERS LOCAL 550 - (Section B) Zone 2	1/1/2026	\$64.85	\$13.45	\$7.45	\$18.25	\$0.00	\$104.00

Apprentice: SPRINKLER FITTER							
Effective Date: 1/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	0.00	\$22.70	\$13.45	\$13.84	\$0.00	\$0.00	\$49.99
2	0.00	\$25.94	\$13.45	\$14.75	\$0.00	\$0.00	\$54.14
3	0.00	\$29.18	\$13.45	\$15.67	\$0.00	\$0.00	\$58.30
4	0.00	\$32.43	\$13.45	\$16.57	\$0.00	\$0.00	\$62.45
5	0.00	\$35.67	\$13.45	\$17.49	\$0.00	\$0.00	\$66.61
6	0.00	\$38.91	\$13.45	\$18.40	\$0.00	\$0.00	\$70.76
7	0.00	\$42.15	\$13.45	\$19.32	\$0.00	\$0.00	\$74.92
8	0.00	\$45.40	\$13.45	\$20.22	\$0.00	\$0.00	\$79.07
9	0.00	\$48.64	\$13.45	\$21.15	\$0.00	\$0.00	\$83.24
10	0.00	\$51.88	\$13.45	\$22.05	\$0.00	\$0.00	\$87.38

Apprentice Notes
Apprentice entered prior 9/30/10:

Apprentice to Journeyworker Ratio: 1:3

STEAM BOILER OPERATOR OPERATING ENGINEERS LOCAL 4	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
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For apprentice rates see "Apprentice- OPERATING ENGINEERS"

TAMPERS, SELF-PROPELLED OR TRACTOR DRAWN OPERATING ENGINEERS LOCAL 4	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

TELECOMMUNICATION TECHNICIAN	9/1/2025	\$42.52	\$12.00	\$12.05	\$3.25	\$0.00	\$69.82
TELECOMMUNICATION TECHNICIAN ELECTRICIANS LOCAL 223	9/1/2026	\$44.41	\$12.25	\$12.59	\$3.50	\$0.00	\$72.75
ELECTRICIANS LOCAL 223	9/1/2027	\$46.51	\$12.50	\$13.18	\$3.75	\$0.00	\$75.94

For apprentice rates and ratios see "Apprentice- ELECTRICIAN"

TERRAZZO FINISHERS BRICKLAYERS LOCAL 3	2/1/2026	\$66.89	\$12.84	\$15.57	\$8.02	\$0.00	\$103.32
BRICKLAYERS LOCAL 3	8/1/2026	\$69.09	\$12.84	\$15.57	\$8.02	\$0.00	\$105.52
BRICKLAYERS LOCAL 3 - MARBLE & TILE	2/1/2027	\$70.49	\$12.84	\$15.57	\$8.02	\$0.00	\$106.92

Apprentice: TERRAZZO FINISHERS							
Effective Date: 2/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$33.45	\$12.84	\$15.57	\$8.02	\$0.00	\$69.88
2	60.00	\$40.13	\$12.84	\$15.57	\$8.02	\$0.00	\$76.56
3	70.00	\$46.82	\$12.84	\$15.57	\$8.02	\$0.00	\$83.25
4	80.00	\$53.51	\$12.84	\$15.57	\$8.02	\$0.00	\$89.94
5	90.00	\$60.20	\$12.84	\$15.57	\$8.02	\$0.00	\$96.63

Apprentice: TERRAZZO FINISHERS							
Effective Date: 8/1/2026							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
1	50.00	\$34.55	\$12.84	\$15.57	\$8.02	\$0.00	\$70.98
2	60.00	\$41.45	\$12.84	\$15.57	\$8.02	\$0.00	\$77.88
3	70.00	\$48.36	\$12.84	\$15.57	\$8.02	\$0.00	\$84.79
4	80.00	\$55.27	\$12.84	\$15.57	\$8.02	\$0.00	\$91.70
5	90.00	\$62.18	\$12.84	\$15.57	\$8.02	\$0.00	\$98.61

Apprentice to Journeyworker Ratio: 1:5

TEST BORING DRILLER LABORERS	12/1/2025	\$51.95	\$10.65	\$9.75	\$9.80	\$0.00	\$82.15
LABORERS - FOUNDATION AND MARINE	6/1/2026	\$53.50	\$10.65	\$9.75	\$9.80	\$0.00	\$83.70
LABORERS - FOUNDATION AND MARINE	12/1/2026	\$55.00	\$10.65	\$9.75	\$9.80	\$0.00	\$85.20

For apprentice rates see "Apprentice- LABORER"

TEST BORING DRILLER HELPER LABORERS	12/1/2025	\$48.07	\$10.65	\$9.75	\$9.80	\$0.00	\$78.27
LABORERS - FOUNDATION AND MARINE	6/1/2026	\$49.62	\$10.65	\$9.75	\$9.80	\$0.00	\$79.82
LABORERS - FOUNDATION AND MARINE	12/1/2026	\$51.12	\$10.65	\$9.75	\$9.80	\$0.00	\$81.32

For apprentice rates see "Apprentice- LABORER"

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
TEST BORING LABORER	12/1/2025	\$47.95	\$10.65	\$9.75	\$9.80	\$0.00	\$78.15
LABORERS	6/1/2026	\$49.50	\$10.65	\$9.75	\$9.80	\$0.00	\$79.70
LABORERS - FOUNDATION AND MARINE	12/1/2026	\$51.00	\$10.65	\$9.75	\$9.80	\$0.00	\$81.20
For apprentice rates see "Apprentice- LABORER"							
TRACTORS/PORTABLE STEAM GENERATORS	12/1/2025	\$58.62	\$16.05	\$13.25	\$3.25	\$0.00	\$91.17
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$59.90	\$16.05	\$13.25	\$3.25	\$0.00	\$92.45
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$61.34	\$16.05	\$13.25	\$3.25	\$0.00	\$93.89
For apprentice rates see "Apprentice- OPERATING ENGINEERS"							
TRAILERS FOR EARTH MOVING EQUIPMENT	1/1/2026	\$41.82	\$16.17	\$21.78	\$0.00	\$0.00	\$79.77
TEAMSTERS JOINT COUNCIL NO. 10	6/1/2026	\$42.82	\$16.17	\$21.78	\$0.00	\$0.00	\$80.77
TEAMSTERS JOINT COUNCIL NO. 10 ZONE B	12/1/2026	\$42.82	\$16.17	\$23.52	\$0.00	\$0.00	\$82.51
	1/1/2027	\$42.82	\$16.77	\$23.52	\$0.00	\$0.00	\$83.11
TUNNEL WORK - COMPRESSED AIR	12/1/2025	\$60.18	\$10.65	\$9.75	\$10.25	\$0.00	\$90.83
LABORERS	6/1/2026	\$61.73	\$10.65	\$9.75	\$10.25	\$0.00	\$92.38
LABORERS (COMPRESSED AIR)	12/1/2026	\$63.23	\$10.65	\$9.75	\$10.25	\$0.00	\$93.88
For apprentice rates see "Apprentice- LABORER"							
TUNNEL WORK - COMPRESSED AIR (HAZ. WASTE)	12/1/2025	\$62.18	\$10.65	\$9.75	\$10.25	\$0.00	\$92.83
LABORERS	6/1/2026	\$63.73	\$10.65	\$9.75	\$10.25	\$0.00	\$94.38
LABORERS (COMPRESSED AIR)	12/1/2026	\$65.23	\$10.65	\$9.75	\$10.25	\$0.00	\$95.88
For apprentice rates see "Apprentice- LABORER"							
TUNNEL WORK - FREE AIR	12/1/2025	\$52.25	\$10.65	\$9.75	\$10.25	\$0.00	\$82.90
LABORERS	6/1/2026	\$53.80	\$10.65	\$9.75	\$10.25	\$0.00	\$84.45
LABORERS (FREE AIR TUNNEL)	12/1/2026	\$55.30	\$10.65	\$9.75	\$10.25	\$0.00	\$85.95
For apprentice rates see "Apprentice- LABORER"							
TUNNEL WORK - FREE AIR (HAZ. WASTE)	12/1/2025	\$54.25	\$10.65	\$9.75	\$10.25	\$0.00	\$84.90
LABORERS	6/1/2026	\$55.80	\$10.65	\$9.75	\$10.25	\$0.00	\$86.45
LABORERS (FREE AIR TUNNEL)	12/1/2026	\$57.30	\$10.65	\$9.75	\$10.25	\$0.00	\$87.95
For apprentice rates see "Apprentice- LABORER"							
VAC-HAUL	1/1/2026	\$41.24	\$16.17	\$21.78	\$0.00	\$0.00	\$79.19
TEAMSTERS JOINT COUNCIL NO. 10	6/1/2026	\$42.24	\$16.17	\$21.78	\$0.00	\$0.00	\$80.19
TEAMSTERS JOINT COUNCIL NO. 10 ZONE B	12/1/2026	\$42.24	\$16.17	\$23.52	\$0.00	\$0.00	\$81.93
	1/1/2027	\$42.24	\$16.77	\$23.52	\$0.00	\$0.00	\$82.53
WAGON DRILL OPERATOR	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.11	\$0.00	\$70.23
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.11	\$0.00	\$71.67
LABORERS - ZONE 2	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.11	\$0.00	\$73.11
	6/1/2027	\$45.05	\$10.65	\$9.75	\$9.11	\$0.00	\$74.56
	12/1/2027	\$46.50	\$10.65	\$9.75	\$9.11	\$0.00	\$76.01
	6/1/2028	\$48.00	\$10.65	\$9.75	\$9.11	\$0.00	\$77.51
	12/1/2028	\$49.50	\$10.65	\$9.75	\$9.11	\$0.00	\$79.01
For apprentice rates see "Apprentice- LABORER"							
WAGON DRILL OPERATOR (HEAVY & HIGHWAY)	12/1/2025	\$40.72	\$10.65	\$9.75	\$9.21	\$0.00	\$70.33

Construction

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
LABORERS	6/1/2026	\$42.16	\$10.65	\$9.75	\$9.21	\$0.00	\$71.77
LABORERS - ZONE 2 (HEAVY & HIGHWAY)	12/1/2026	\$43.60	\$10.65	\$9.75	\$9.21	\$0.00	\$73.21

For apprentice rates see "Apprentice- LABORER (Heavy and Highway)"

WASTE WATER PUMP OPERATOR	12/1/2025	\$59.28	\$16.05	\$13.25	\$3.25	\$0.00	\$91.83
OPERATING ENGINEERS LOCAL 4	6/1/2026	\$60.58	\$16.05	\$13.25	\$3.25	\$0.00	\$93.13
OPERATING ENGINEERS LOCAL 4	12/1/2026	\$62.03	\$16.05	\$13.25	\$3.25	\$0.00	\$94.58

For apprentice rates see "Apprentice- OPERATING ENGINEERS"

WATER METER INSTALLER	8/25/2025	\$55.24	\$10.80	\$16.80	\$4.60	\$0.00	\$87.44
PLUMBERS & PIPEFITTERS LOCAL 51							
PLUMBERS & PIPEFITTERS LOCAL 51							

For apprentice rates see "Apprentice- PLUMBER/PIPEFITTER" or "PLUMBER/GASFITTER"

Marine Drilling

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
BLASTER MARINE DRILLING MARINE DRILLING	1/1/2018	\$41.82	\$7.63	\$2.35	\$1.25	\$0.00	\$53.05
BOAT CAPTAIN MARINE DRILLING MARINE DRILLING	1/1/2018	\$33.87	\$7.63	\$2.35	\$0.95	\$0.00	\$44.80
BOAT CAPTAIN / Over 1,000 hp MARINE DRILLING MARINE DRILLING	1/1/2018	\$38.06	\$7.63	\$2.35	\$1.25	\$0.00	\$49.29
CORE DRILLER MARINE DRILLING MARINE DRILLING	1/1/2018	\$31.43	\$7.63	\$2.25	\$0.65	\$0.00	\$41.96
CORE DRILLER HELPER MARINE DRILLING MARINE DRILLING	1/1/2018	\$28.47	\$7.63	\$2.35	\$0.65	\$0.00	\$39.10
DRILLER MARINE DRILLING MARINE DRILLING	1/1/2018	\$39.70	\$7.63	\$2.35	\$1.25	\$0.00	\$50.93
ENGINEER MARINE DRILLING MARINE DRILLING	1/1/2018	\$39.69	\$7.63	\$2.25	\$1.25	\$0.00	\$50.82
HELPER MARINE DRILLING MARINE DRILLING	1/1/2018	\$34.24	\$7.63	\$2.35	\$0.65	\$0.00	\$44.87
MACHINIST MARINE DRILLING MARINE DRILLING	1/1/2018	\$38.88	\$7.63	\$2.35	\$0.95	\$0.00	\$49.81
OILER - MARINE DRILLING MARINE DRILLING MARINE DRILLING	1/1/2018	\$34.24	\$7.63	\$2.35	\$0.65	\$0.00	\$44.87
TUG DECKHAND MARINE DRILLING MARINE DRILLING	1/1/2018	\$27.61	\$7.63	\$2.35	\$0.65	\$0.00	\$38.24
WELDER MARINE DRILLING MARINE DRILLING	1/1/2018	\$38.88	\$7.63	\$2.35	\$0.95	\$0.00	\$49.81

Op Eng Marine (Dredging Work)

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
BOAT OPERATOR OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$29.26	\$7.63	\$2.35	\$0.95	\$0.00	\$40.19
CERTIFIED WELDER OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$31.09	\$7.63	\$2.35	\$1.25	\$0.00	\$42.32
CHIEF WELDER/ CHIEF MATE OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$33.02	\$7.63	\$2.35	\$1.25	\$0.00	\$44.25
DERRICK / SPIDER / SPILLBARGE OPERATOR OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$33.02	\$7.63	\$2.35	\$1.25	\$0.00	\$44.25
DRAG BARGE OPERATOR / WELDER / MATE OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$30.24	\$7.63	\$2.35	\$0.95	\$0.00	\$41.17
ENGINEER / ELECTRICIAN OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$33.02	\$7.63	\$2.35	\$1.25	\$0.00	\$44.25
LICENSED BOAT OPERATOR OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$33.02	\$7.63	\$2.35	\$1.25	\$0.00	\$44.25
LICENSED TUG OPERATOR OVER 1000HP OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$38.18	\$7.63	\$2.35	\$1.25	\$0.00	\$49.41
MAINTENANCE ENGINEER OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$33.03	\$7.63	\$2.35	\$1.25	\$0.00	\$44.26
OILER - MARINE DIVISION OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$24.30	\$7.63	\$2.35	\$0.65	\$0.00	\$34.93
OPERATOR / LEVERMAN OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$38.18	\$7.63	\$2.35	\$1.25	\$0.00	\$49.41
RODMAN / SCOWMAN OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$24.30	\$7.63	\$2.35	\$0.65	\$0.00	\$34.93
SHOREMAN / DECKHAND OPERATING ENGINEERS LOCAL 4 OPERATING ENGINEERS - MARINE DIVISION	10/1/2017	\$24.30	\$7.63	\$2.35	\$0.65	\$0.00	\$34.93

Outside Electrical

Classification	Effective Date	Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate
CABLE TECHNICIAN (Power Zone)	8/31/2025	\$36.55	\$10.75	\$1.10	\$1.00	\$0.00	\$49.40
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/30/2026	\$38.13	\$11.00	\$1.14	\$1.00	\$0.00	\$51.27
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/29/2027	\$39.65	\$11.25	\$1.19	\$1.00	\$0.00	\$53.09
For apprentice rates see "Apprentice- LINEMAN"							
CABLEMAN (Underground Ducts & Cables)	8/31/2025	\$51.78	\$10.75	\$1.55	\$10.71	\$0.00	\$74.79
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/30/2026	\$54.02	\$11.00	\$1.62	\$11.14	\$0.00	\$77.78
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/29/2027	\$56.17	\$11.25	\$1.69	\$11.57	\$0.00	\$80.68
For apprentice rates see "Apprentice- LINEMAN"							
DRIVER / GROUNDMAN CDL	8/31/2025	\$42.64	\$10.75	\$1.28	\$10.45	\$0.00	\$65.12
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/30/2026	\$44.49	\$11.00	\$1.33	\$10.80	\$0.00	\$67.62
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/29/2027	\$46.26	\$11.25	\$1.39	\$11.15	\$0.00	\$70.05
For apprentice rates see "Apprentice- LINEMAN"							
DRIVER / GROUNDMAN -Inexperienced (<2000 Hrs)	8/31/2025	\$33.51	\$10.75	\$1.01	\$1.00	\$0.00	\$46.27
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/30/2026	\$34.95	\$11.00	\$1.05	\$1.00	\$0.00	\$48.00
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/29/2027	\$36.64	\$11.25	\$1.09	\$1.00	\$0.00	\$49.98
For apprentice rates see "Apprentice- LINEMAN"							
EQUIPMENT OPERATOR (Class A CDL)	8/31/2025	\$51.78	\$10.75	\$1.55	\$14.79	\$0.00	\$78.87
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/30/2026	\$54.02	\$11.00	\$1.62	\$15.22	\$0.00	\$81.86
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/29/2027	\$56.17	\$11.25	\$1.69	\$15.65	\$0.00	\$84.76
For apprentice rates see "Apprentice- LINEMAN"							
EQUIPMENT OPERATOR (Class B CDL)	8/31/2025	\$45.69	\$10.75	\$1.37	\$11.27	\$0.00	\$69.08
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/30/2026	\$47.66	\$11.00	\$1.43	\$11.65	\$0.00	\$71.74
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/29/2027	\$49.56	\$11.25	\$1.49	\$12.03	\$0.00	\$74.33
For apprentice rates see "Apprentice- LINEMAN"							
GROUNDMAN	8/31/2025	\$33.51	\$10.75	\$1.01	\$1.00	\$0.00	\$46.27
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/30/2026	\$34.95	\$11.00	\$1.05	\$1.00	\$0.00	\$48.00
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/29/2027	\$36.34	\$11.25	\$1.09	\$1.00	\$0.00	\$49.68
For apprentice rates see "Apprentice- LINEMAN"							
GROUNDMAN -Inexperienced (<2000 Hrs.)	8/31/2025	\$27.41	\$10.75	\$0.82	\$1.00	\$0.00	\$39.98
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/30/2026	\$28.60	\$11.00	\$0.86	\$1.00	\$0.00	\$41.46
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/29/2027	\$29.74	\$11.25	\$0.89	\$1.00	\$0.00	\$42.88
For apprentice rates see "Apprentice- LINEMAN"							
JOURNEYMAN LINEMAN	8/31/2025	\$60.92	\$10.75	\$1.83	\$18.00	\$0.00	\$91.50
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/30/2026	\$63.55	\$11.00	\$1.91	\$18.50	\$0.00	\$94.96
OUTSIDE ELECTRICAL WORKERS - EAST LOCAL 104	8/29/2027	\$66.08	\$11.25	\$1.98	\$19.00	\$0.00	\$98.31

Apprentice: JOURNEYMAN LINEMAN							
Effective Date: 8/31/2025							
Step	Percent	Apprentice Base Wage	Health	Pension	Annuity	Supplemental Unemployment	Total Rate

Additional Apprentice Information

All apprentices must be registered with the Division of Apprenticeship Training(DAS) in accordance with M.G.L.c. 23, §§ 11E-11L. Minimum wage rates for apprentices employed on public works projects are listed above as a percentage of the hourly prevailing wage rate established by the Commissioner under the provisions of M.G.L.c. 149, §§ 26-27D.

Apprentice ratios are established by DAS pursuant to M.G.L.c. 23, §§ 11E-11L. Ratios are expressed as the allowable number of apprentices to journeymen or fraction thereof, unless otherwise specified. The ratios listed herein have been taken from relevant private collective bargaining agreements(CBAs) and are provided for illustrative purposes only. They have not been independently verified as being accurate or continuing to be accurate.

Parties having questions regarding what ratio to use should contact DAS.

Attachment 3

Existing Permits

- ◆ **Order of Conditions and Amendment #1, DEP File no. SE 058-0739 (dated August 15, 2024 and August 14, 2025, respectively)**
- ◆ **Chapter 91 License #8621 and Addendum #1 (October 16, 2000 and March 19, 2007, respectively)**
- ◆ **Self-Verification Notice Submittal Packet for the Pier Repair Project to USACE (March 6, 2024)**
- ◆ **Self-Verification Notification for the General Permits for the Pier Repair Project to USACE (August 26, 2024)**

**Order of Conditions and Amendment #1, DEP File no. SE 058-0739
(dated August 15, 2024 and August 14, 2025, respectively)**



PROVINCETOWN CONSERVATION COMMISSION

**OFFICE OF COMMUNITY DEVELOPMENT
TOWN OF PROVINCETOWN
260 COMMERCIAL STREET
PROVINCETOWN, MASSACHUSETTS 02657
(508) 487-7020**



By Hand Delivery

August 15, 2024

Jamie Demetriou
MacMillan Pier – Harbormaster's Office
Provincetown MA 02657

RE: Order of Conditions, DEP File no. SE 058-0739, Case no. CON-24-83
MacMillan Pier, Provincetown, MA

Dear Jamie:

Enclosed is the original Order of Conditions referenced above, which was approved by the Provincetown Conservation Commission at its public hearing on August 6, 2024. The Order must be recorded at the Barnstable County Registry of Deeds or filed with the Barnstable Registration District of the Land Court, as applicable, and the recording/filing information must be provided to the Conservation Commission prior to commencement of work.

Please let me know when this project will commence so that we can schedule a pre-construction site visit. If you have any questions, please feel free to contact me by phone at (508) 487-7000 x571 or by email at mmillett@provincetown-ma.gov.

Regards,

Melyssa Millett
Conservation Agent & Environmental Planner

Enclosures

cc: DEP Southeast Region (by eDEP)
Property File



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

A. General Information

- 1. Conservation Commission PROVINCETOWN
- 2. Issuance a. OOC b. Amended OOC
- 3. Applicant Details
 - a. First Name JAIME b. Last Name DEMTRIOU
 - c. Organization MACMILLAN PIER - PIER MANAGER
 - d. Mailing Address 24 MACMILLAN WHARF
 - e. City/Town PROVINCETOWN f. State MA g. Zip Code 02657
- 4. Property Owner
 - a. First Name b. Last Name
 - c. Organization TOWN OF PROVINCETOWN
 - d. Mailing Address 260 COMMERCIAL STREET
 - e. City/Town PROVINCETOWN f. State MA g. Zip Code 02657
- 5. Project Location
 - a. Street Address 1 MACMILLAN PIER
 - b. City/Town PROVINCETOWN c. Zip Code 02657
 - d. Assessors Map/Plat# 11-3 e. Parcel/Lot# 9-0
 - f. Latitude 42.05025N g. Longitude 70.18297W
- 6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
BARNSTABLE		6010	127
- 7. Dates
 - a. Date NOI Filed : 7/10/2024 b. Date Public Hearing Closed: 8/6/2024 c. Date Of Issuance: 8/15/2024
- 8. Final Approved Plans and Other Documents
 - a. Plan Title: b. Plan Prepared by: c. Plan Signed/Stamped by: d. Revised Final Date: e. Scale:
 - SEE ATTACHMENT
 - A

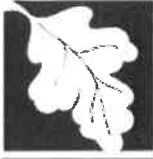
B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act
Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

a. <input type="checkbox"/> Public Water Supply	b. <input checked="" type="checkbox"/> Land Containing Shellfish	c. <input type="checkbox"/> Prevention of Pollution
d. <input type="checkbox"/> Private Water Supply	e. <input checked="" type="checkbox"/> Fisheries	f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat
g. <input type="checkbox"/> Ground Water Supply	h. <input checked="" type="checkbox"/> Storm Damage Prevention	i. <input checked="" type="checkbox"/> Flood Control

2. Commission hereby finds the project, as proposed, is:



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 MassDEP File #:058-0739
 eDEP Transaction #:1776565
 City/Town:PROVINCETOWN

Approved subject to:

- a. The following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

- b. The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a). _____ a. linear feet

Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
	Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____	_____		



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 MassDEP File #:058-0739
 eDEP Transaction #:1776565
 City/Town:PROVINCETOWN

	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
---------------	---------------------	----------------------	----------------------	-----------------------

10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input checked="" type="checkbox"/> Land Under the Ocean	<u>63</u>	<u>63</u>		
	a. square feet	b. square feet		
	<u>0</u>			
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u>	<u> </u>		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u>	<u> </u>		
	a. square feet	b. square feet		

22. Restoration/Enhancement (For Approvals Only)



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c & d or B.17.c & d above, please entered the additional amount here.

_____ a. square feet of BVW

_____ b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

_____ a. number of new stream crossings

_____ b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has 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. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work..
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

" Massachusetts Department of Environmental Protection"



**Massachusetts Department of Environmental
Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

[or 'MassDEP']

File Number : "058-0739"

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;
 - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
 - b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per



**Massachusetts Department of Environmental
Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

- the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

Credits) shall not be altered without the prior written approval of the issuing authority.

- 1) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby (check one that applies):

- a. DENIES the proposed work which cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw _____

2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

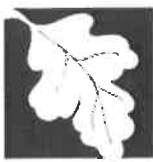
- b. APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw PROVINCETOWN
WETLANDS
PROTECTION
BYLAW AND
REGULATIONS

2. Citation _____

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows:
SEE ATTACHMENT A



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

8/15/2024
1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

3
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Nathaniel Mayo

Joseph Cooper

Mark Adams

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

G. Recording Information

This Order of Conditions must be 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. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
058-0739
 MassDEP File #

eDEP Transaction #
Provincetown
 City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

8/15/24
 1. Date of Issuance

Please indicate the number of members who will sign this form.

3
 2. Number of Signers

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Provincetown Conservation Commission

Signature <u>[Handwritten Signature]</u>	<u>Alfred Famiglietti, Chair</u> Printed Name
Signature <u>[Handwritten Signature]</u>	<u>Nathaniel Mayo, Vice Chair</u> Printed Name
Signature <u>[Handwritten Signature]</u>	<u>Oriana Conklin</u> Printed Name
Signature <u>[Handwritten Signature]</u>	<u>Joseph Cooper</u> Printed Name
Signature <u>[Handwritten Signature]</u>	<u>Mark Adams</u> Printed Name
Signature _____	<u>Emma Fillion, Alternate</u> Printed Name
Signature _____	Printed Name
Signature _____	Printed Name

by hand delivery on
8/15/24
 Date

by certified mail, return receipt requested, on

 Date



PROVINCETOWN CONSERVATION COMMISSION
OFFICE OF COMMUNITY DEVELOPMENT
TOWN OF PROVINCETOWN
260 COMMERCIAL STREET
PROVINCETOWN, MASSACHUSETTS 02657
TELEPHONE: 508.487.7000 EXT. 554
FAX: 508.487.7040



SPECIAL ORDER OF CONDITIONS

- FOR:** Town of Provincetown, Municipal Pier Rehabilitation Proposal, including all phases of replacing 79 timber fender piles within existing footprints, replacing 555 linear feet of fendering wales and chocks, replacing two emergency access ladders, installing three new ladders, repairing 150 linear feet of ladder bracing supports, repairing seven timber push piles, and installing a new crane to improve offloading efficiency.
DEP # SE 058-0739
- JURISDICTION:** M.G.L. Ch.131, sec. 40 (Wetlands Protection Act)
310 CMR 10.00 (Regulations for the Act)
Provincetown Local Bylaw Chapter 12
- SCOPE:** The above cited references provide jurisdiction over the following relevant wetland resource areas: nearshore land under the ocean (inshore, subtidal and intertidal); offshore land under the ocean; a designated port area; beaches, including but not limited to, from the exposed intertidal to the upper foreshore summer berm, winter berm and/or storm berm and continuing to the base of the nearest coastal bank or fore dune; dunes (natural coastal formations created by deposition of wind and/or water); and coastal banks.
- PURPOSE:** To protect the following relevant public interests within these resource areas, regardless of ownership: flood control; storm damage prevention; pollution prevention; land containing shellfish; fisheries; wildlife habitat; and recreation.
- DATED:** AUGUST 15, 2024
- FINAL APPROVED PLANS AND DOCUMENTS:**
“MacMillan Pier Rehabilitation”; Prepared by Foth Infrastructure and Environment LLC.; Stamped by Scott Skuncik PE; dated 2/7/2024, revised 7/10/2024; scale= as noted.

Notice of Intent, dated July 10, 2024, and supplemental information.

SECTION I. PRE-CONSTRUCTION

1. The burden of compliance for this Special Order of Conditions, including those identified as being in effect in perpetuity, shall be on the applicant. The Pier Manager shall act as the applicant's liaison and shall be responsible for the applicant's compliance. The Director of the Department of Public Works shall be copied on all reports and correspondence regarding this Special Order of Conditions.
2. Permitted activity is hereby restricted to the limits of work and activities specified in the Notice of Intent materials and on the approved plan of record, dated and identified as such, submitted to the Commission for this proposal.
3. Proof of recording of these approved Special Order of Conditions, the plan of record and other materials at the Barnstable County Registry of Deeds shall be provided by Pier Manager prior to the commencement of permitted activity on any site.
4. Changes or alterations to the plan of record shall require the submission to the Conservation Agent by the Pier Manager of a written request, accompanied by revised plans, to amend the existing Special Order of Conditions prior to the commencement of said changes.
5. The project's file number, issued by the Department of Environmental Protection, and the Special Orders of Conditions shall be weatherproofed and posted in a clearly visible location on all activity sites, along with the Commission's office phone number, 487-7020, for further information. Posting sites shall include, but not be limited to, the Pier area, Town Landings (beach side) at Gosnold, Court, Freeman and Johnson Streets (which postings shall be readable from both directions) and land-based staging areas for the storage of materials. The maintenance of these postings, and their replacement when necessary, shall be the sole responsibility of the applicant.
6. A site conference shall be held at least forty-eight hours prior to the commencement of permitted activity for the purpose of reviewing and discussing the Special Orders of Conditions. The specific timing and location of this conference shall be jointly determined by the Conservation Agent, the Pier Manager, and the Director of the Department of Public Works. In attendance at this meeting shall be the Pier Manager, the Conservation Agent, and any Commissioner wishing to attend, the prime contractor, other contractors or subcontractors as determined by the applicant and/or prime contractor who can potentially benefit from a more complete understanding of the Special Order of Conditions for this project and abutters and other interested parties who have indicated a desire to be so informed.
7. The Pier Manager may initiate, when appropriate, additional construction meetings with contractors, the DPW, the Conservation Agent and project engineers. These meetings will include discussions regarding environmental risk assessments and other issues related to the project.
8. Spill Prevention - The facility shall have on-site, or readily available, a MassDEP spill

prevention trailer in case of the inadvertent discharge of petrochemicals. The trailer shall contain absorbent pads and booms, mops and floating barrier booms in several sizes. The applicant shall ensure that staff is trained in the identification of spill types and in the deployment of remediation and containment equipment.

9. Spill Prevention - All mechanized vehicles under contract, subcontract or lease, participating in any manner in any phase of activity within the resource areas, shall carry absorbent materials or ensure the ready availability of the spill prevention trailer to immediately respond to the inadvertent discharge of petrochemicals.
10. Spill Prevention - Fuel transfer activity – Protocols for this activity shall follow best management practices and Massachusetts State Fire Marshal guidelines to regulate safe transfer of any fuel and to mitigate inadvertent discharges within the resource areas.
11. Erosion control standards are to be maintained where applicable to prevent the migration of non-indigenous silt, sediment, particulates or fines, into the resource areas. Floating silt curtains shall be installed when in-water work is taking place. Erosion controls shall remain in place until conservation agent approval for removal is received in writing.
12. No in-water, silt-producing activities such as pile driving, or removal should take place from February 1 – June 30 of any year.
13. Confinement of food trash shall be as specified in pertinent bidding documents and construction standards. Food debris shall at all times be confined to appropriate containers, which shall be emptied on a regular basis.
14. Air and waterborne dispersal of non-indigenous materials from this project into the resource areas is prohibited. Supplies, materials, and wastes must be secured to prevent windblown debris.
15. This document shall be included in all construction contracts and subcontracts. Specifications in this Special Order of Conditions shall supersede any conflicting contract requirements. The applicant shall be responsible for providing copies of these Special Conditions to project engineers, contractors and, if required by unforeseen circumstance, their successors.
16. Violation of any condition of this Order shall be responded to with immediate notification of the Pier Manager by the Conservation Agent and additional enforcement action may be taken. An Enforcement Order issued by the Commission may require that job site activity cease and desist, that resource area alterations are corrected and resource areas returned to their original condition, that a restoration plan is filed with the Commission or that a public hearing is scheduled.
17. Other applicable approvals from federal, state and local permitting agencies shall be obtained by the applicant prior to the commencement of activities permitted by the Commission.

SECTION II. CONSTRUCTION

1. Performance standards shall include, but not be limited to, the prohibition of any discharge of concrete, petrochemicals, solvents or solvent-based products, preservatives or physical debris into the resource areas.
2. Temporary areas, such as the Municipal Parking Lot, shall be utilized for the storage of materials and shall not in any manner impact the resource areas. Material will be secured to prevent windblown debris.
3. Materials will be handled and staged to prevent windblown debris from packaging, strapping, plastic wrap, or loose materials.
4. Details of the Project Narrative, Construction Protocol, and the Final Approved Plans shall be incorporated in these Conditions.
5. As much work as possible shall be conducted from the pier to minimize impacts to wildlife and/or wetlands. If the construction protocol requires use of a barge, the applicant shall contact the Harbormaster and provide dates, placement, and barge information to both the Harbormaster and Conservation Agent as soon as possible. The applicant shall monitor tidal heights to ensure that the barge is not sitting on the coastal beach at any time. If a barge is used, the applicant and contractor shall notify the Harbormaster and Conservation Agent at least 72 hours in advance. The construction barge should not anchor within eelgrass habitat and should be staged outside eelgrass habitat when not directly involved in construction activities.
6. All materials and debris shall be properly stored within the work area and shall not be stored on the coastal beach. Temporary areas, such as the Municipal Parking Lot, utilized for the storage of materials shall not in any manner impact the resource areas. Material will be secured to prevent windblown debris. Debris shall either be removed from the worksite daily or stored within covered dumpsters placed on existing pavement or other disturbed area. All equipment and materials shall be removed upon project completion. The site shall be cleaned up immediately following the completion of construction.
7. The conservation agent shall be informed of any proposed changes to approved plans or construction sequence, which shall require either written conservation agent approval or, if significant, filing of a new application.
8. An emergency spill kit shall be kept on site to remediate any leaks or spills from equipment or vehicles used during construction. Fueling, cleaning, or repairs of equipment may not occur within 100ft of any wetland resource area, and they shall be inspected daily for leaks.

SECTION III. POST-CONSTRUCTION

1. Erosion controls shall be removed only upon written receipt of conservation agent approval.
2. The Pier Manager shall be responsible for the proper and regular maintenance of the pier components to prevent degradation and loss of its structural integrity. This shall be an ongoing maintenance condition which shall not expire upon the issuance of a certificate of compliance.
3. Upon completion of construction, the Pier Manager shall submit written notification thereof to the conservation agent, who shall promptly schedule a site visit to confirm that the work has been substantially completed in accordance with the approved plans, and the applicant shall thereafter submit a Request for a Certificate of Compliance to the Conservation Commission. 'As built' plans, stamped by a professional engineer, shall also be submitted to the Commission at that time.



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1921720
City/Town:PROVINCETOWN

A. General Information

1. Conservation Commission PROVINCETOWN
2. Issuance a. OOC b. Amended OOC

3. Applicant Details
a. First Name JAIME b. Last Name DEMTRIOU
c. Organization MACMILLAN PIER - PIER MANAGER
d. Mailing Address 24 MACMILLAN WHARF
e. City/Town PROVINCETOWN f. State MA g. Zip Code 02657

4. Property Owner
a. First Name b. Last Name
c. Organization
d. Mailing Address
e. City/Town f. State g. Zip Code

5. Project Location
a. Street Address 1 MACMILLAN PIER
b. City/Town PROVINCETOWN c. Zip Code 02657
d. Assessors 11-3 e. Parcel/Lot# 9
Map/Plat#
f. Latitude 42.05025N g. Longitude 70.18297W

6. Property recorded at the Registry of Deed for:
a. County b. Certificate c. Book d. Page
BARNSTABLE DEED 6010 127
BARNSTABLE ORDER 36537 1

7. Dates
a. Date NOI Filed : 7/10/2024 b. Date Public Hearing Closed: 8/5/2025 c. Date Of Issuance: 8/14/2025

8. Final Approved Plans and Other Documents

a. Plan Title: b. Plan Prepared by: c. Plan Signed/Stamped by: d. Revised Final Date: e. Scale:
SEE ATTACHMENT
A

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act
Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

a. <input type="checkbox"/> Public Water Supply	b. <input type="checkbox"/> Land Containing Shellfish	c. <input type="checkbox"/> Prevention of Pollution
d. <input type="checkbox"/> Private Water Supply	e. <input type="checkbox"/> Fisheries	f. <input type="checkbox"/> Protection of Wildlife Habitat
g. <input type="checkbox"/> Ground Water Supply	h. <input type="checkbox"/> Storm Damage Prevention	i. <input type="checkbox"/> Flood Control



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 MassDEP File #:058-0739
 eDEP Transaction #:1921720
 City/Town:PROVINCETOWN

2. Commission hereby finds the project, as proposed, is:

Approved subject to:

- a. The following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

- b. The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a). _____ a. linear feet

Inland Resource Area Impacts:(For Approvals Only):				
Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1921720
City/Town:PROVINCETOWN

9. Riverfront Area

	<u> </u>	<u> </u>		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft				
	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft				
	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
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10. Designated Port Areas

Indicate size under Land Under the Ocean, below

11. Land Under the Ocean

<u>63</u>	<u>63</u>
a. square feet	b. square feet
<u>0</u>	
c. c/y dredged	d. c/y dredged

12. Barrier Beaches

Indicate size under Coastal Beaches and/or Coastal Dunes below

13. Coastal Beaches

<u> </u>	<u> </u>	<u> </u>	<u> </u>
a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment

14. Coastal Dunes

<u> </u>	<u> </u>	<u> </u>	<u> </u>
a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment

15. Coastal Banks

<u> </u>	<u> </u>
a. linear feet	b. linear feet

16. Rocky Intertidal Shores

<u> </u>	<u> </u>
a. square feet	b. square feet

17. Salt Marshes

<u> </u>	<u> </u>	<u> </u>	<u> </u>
a. square feet	b. square feet	c. square feet	d. square feet

18. Land Under Salt Ponds

<u> </u>	<u> </u>
a. square feet	b. square feet

<u> </u>	<u> </u>
c. c/y dredged	d. c/y dredged

19. Land Containing Shellfish

<u> </u>	<u> </u>	<u> </u>	<u> </u>
a. square feet	b. square feet	c. square feet	d. square feet

20. Fish Runs

Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above

<u> </u>	<u> </u>
c. c/y dredged	d. c/y dredged

21. Land Subject to Coastal Storm Flowage

<u> </u>	<u> </u>
a. square feet	b. square feet

22.



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1921720
City/Town:PROVINCETOWN

Restoration/Enhancement (For Approvals Only)

If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c & d or B.17.c & d above, please entered the additional amount here.

_____ a. square feet of BVW

_____ b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

_____ a. number of new stream crossings

_____ b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has 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. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work..
10. A sign shall be displayed at the site not less then two square feet or more than three square feet in size bearing the words,



**Massachusetts Department of Environmental
Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1921720
City/Town:PROVINCETOWN

" Massachusetts Department of Environmental Protection"
[or 'MassDEP']
File Number : "058-0739"

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;
 - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
 - b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is



**Massachusetts Department of Environmental
Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1921720
City/Town:PROVINCETOWN

- fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
 - d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
 - e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
 - f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
 - g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
 - h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
 - i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
 - j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
 - k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1921720
City/Town:PROVINCETOWN

defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby (check one that applies):

a. DENIES the proposed work which cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

- 1. Municipal Ordinance or Bylaw _____
- 2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. APPROVES the proposed work, subject to the following additional conditions.

- 1. Municipal Ordinance or Bylaw PROVINCETOWN
WETLANDS
PROTECTION
BYLAW AND
REGULATIONS
- 2. Citation _____

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows:
SEE ATTACHMENT A



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 MassDEP File #:058-0739
 eDEP Transaction #:1921720
 City/Town:PROVINCETOWN

E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

8/15/2024
 1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

3
 2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Nathaniel Mayo

Mark Adams

Sylvia Tomayko-Peters

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

G. Recording Information

This Order of Conditions must be 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. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
058-0739
 MassDEP File #

eDEP Transaction #
Provincetown
 City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

8/14/25
 1. Date of Issuance

3
 2. Number of Signers

Provincetown Conservation Commission


 Signature

Nathaniel Mayo, Chair

Printed Name


 Signature

Mark Adams, Vice Chair


Printed Name

Signature

Oriana Conklin

Printed Name

Signature


 Signature

Joseph Cooper

Printed Name

Signature

Sylvia Tomayko-Peters

Printed Name

Signature

Emma Fillion, Alternate

Printed Name

Signature

Marianne Clements, Alternate

Printed Name

Signature

Printed Name

by hand delivery on

8/14/25
 Date

by certified mail, return receipt requested, on

Date



PROVINCETOWN CONSERVATION COMMISSION
OFFICE OF COMMUNITY DEVELOPMENT
TOWN OF PROVINCETOWN
260 COMMERCIAL STREET
PROVINCETOWN, MASSACHUSETTS 02657
TELEPHONE: 508.487.7000 EXT. 554
FAX: 508.487.7040



SPECIAL ORDER OF CONDITIONS

- FOR:** Town of Provincetown, Municipal Pier Rehabilitation Proposal, including all phases of replacing 79 timber fender piles within existing footprints, 555 linear feet of fendering wales and chocks, two emergency access ladders, 150 linear feet of ladder bracing supports, seven timber push piles, and installing three new ladders and a new crane to improve offloading efficiency. DEP # SE 058-0739 **Amended to include 6 additional piles and 2 additional ladders within approved work limit.**
- JURISDICTION:** M.G.L. Ch.131, sec. 40 (Wetlands Protection Act)
310 CMR 10.00 (Regulations for the Act)
Provincetown Local Bylaw Chapter 12
- SCOPE:** The above cited references provide jurisdiction over the following relevant wetland resource areas: nearshore land under the ocean (inshore, subtidal and intertidal); offshore land under the ocean; a designated port area; beaches, including but not limited to, from the exposed intertidal to the upper foreshore summer berm, winter berm and/or storm berm and continuing to the base of the nearest coastal bank or fore dune; dunes (natural coastal formations created by deposition of wind and/or water); and coastal banks.
- PURPOSE:** To protect the following relevant public interests within these resource areas, regardless of ownership: flood control; storm damage prevention; pollution prevention; land containing shellfish; fisheries; wildlife habitat; and recreation.
- DATED:** AUGUST 15, 2024, **AMENDED AUGUST 14, 2025.**
- FINAL APPROVED PLANS AND DOCUMENTS:**
“MacMillan Pier Rehabilitation”; Prepared by Foth Infrastructure and Environment LLC.; Stamped by Scott Skuncik PE; dated 2/7/2024, **revised 7/5/2025**; scale= as noted.

Notice of Intent, dated July 10, 2024, and supplemental information.

SECTION I. PRE-CONSTRUCTION

1. The burden of compliance for this Special Order of Conditions, including those identified as being in effect in perpetuity, shall be on the applicant. The Pier Manager shall act as the applicant's liaison and shall be responsible for the applicant's compliance. The Director of the Department of Public Works shall be copied on all reports and correspondence regarding this Special Order of Conditions.
2. Permitted activity is hereby restricted to the limits of work and activities specified in the Notice of Intent materials and on the approved plan of record, dated and identified as such, submitted to the Commission for this proposal.
3. Proof of recording of these approved Special Order of Conditions, the plan of record and other materials at the Barnstable County Registry of Deeds shall be provided by Pier Manager prior to the commencement of permitted activity on any site.
4. Changes or alterations to the plan of record shall require the submission to the Conservation Agent by the Pier Manager of a written request, accompanied by revised plans, to amend the existing Special Order of Conditions prior to the commencement of said changes.
5. The project's file number, issued by the Department of Environmental Protection, and the Special Orders of Conditions shall be weatherproofed and posted in a clearly visible location on all activity sites, along with the Commission's office phone number, 487-7020, for further information. Posting sites shall include, but not be limited to, the Pier area, Town Landings (beach side) at Gosnold, Court, Freeman and Johnson Streets (which postings shall be readable from both directions) and land-based staging areas for the storage of materials. The maintenance of these postings, and their replacement when necessary, shall be the sole responsibility of the applicant.
6. A site conference shall be held at least forty-eight hours prior to the commencement of permitted activity for the purpose of reviewing and discussing the Special Orders of Conditions. The specific timing and location of this conference shall be jointly determined by the Conservation Agent, the Pier Manager, and the Director of the Department of Public Works. In attendance at this meeting shall be the Pier Manager, the Conservation Agent, and any Commissioner wishing to attend, the prime contractor, other contractors or subcontractors as determined by the applicant and/or prime contractor who can potentially benefit from a more complete understanding of the Special Order of Conditions for this project and abutters and other interested parties who have indicated a desire to be so informed.
7. The Pier Manager may initiate, when appropriate, additional construction meetings with contractors, the DPW, the Conservation Agent and project engineers. These meetings will include discussions regarding environmental risk assessments and other issues related to the project.
8. Spill Prevention - The facility shall have on-site, or readily available, a MassDEP spill

prevention trailer in case of the inadvertent discharge of petrochemicals. The trailer shall contain absorbent pads and booms, mops and floating barrier booms in several sizes. The applicant shall ensure that staff is trained in the identification of spill types and in the deployment of remediation and containment equipment.

9. Spill Prevention - All mechanized vehicles under contract, subcontract or lease, participating in any manner in any phase of activity within the resource areas, shall carry absorbent materials or ensure the ready availability of the spill prevention trailer to immediately respond to the inadvertent discharge of petrochemicals.
10. Spill Prevention - Fuel transfer activity – Protocols for this activity shall follow best management practices and Massachusetts State Fire Marshal guidelines to regulate safe transfer of any fuel and to mitigate inadvertent discharges within the resource areas.
11. Erosion control standards are to be maintained where applicable to prevent the migration of non-indigenous silt, sediment, particulates or fines, into the resource areas. Floating silt curtains shall be installed when in-water work is taking place. Erosion controls shall remain in place until conservation agent approval for removal is received in writing.
12. No in-water, silt-producing activities such as pile driving, or removal should take place from February 1 – June 30 of any year.
13. Confinement of food trash shall be as specified in pertinent bidding documents and construction standards. Food debris shall at all times be confined to appropriate containers, which shall be emptied on a regular basis.
14. Air and waterborne dispersal of non-indigenous materials from this project into the resource areas is prohibited. Supplies, materials, and wastes must be secured to prevent windblown debris.
15. This document shall be included in all construction contracts and subcontracts. Specifications in this Special Order of Conditions shall supersede any conflicting contract requirements. The applicant shall be responsible for providing copies of these Special Conditions to project engineers, contractors and, if required by unforeseen circumstance, their successors.
16. Violation of any condition of this Order shall be responded to with immediate notification of the Pier Manager by the Conservation Agent and additional enforcement action may be taken. An Enforcement Order issued by the Commission may require that job site activity cease and desist, that resource area alterations are corrected and resource areas returned to their original condition, that a restoration plan is filed with the Commission or that a public hearing is scheduled.
17. Other applicable approvals from federal, state and local permitting agencies shall be obtained by the applicant prior to the commencement of activities permitted by the Commission.

SECTION II. CONSTRUCTION

1. Performance standards shall include, but not be limited to, the prohibition of any discharge of concrete, petrochemicals, solvents or solvent-based products, preservatives or physical debris into the resource areas.
2. Temporary areas, such as the Municipal Parking Lot, shall be utilized for the storage of materials and shall not in any manner impact the resource areas. Material will be secured to prevent windblown debris.
3. Materials will be handled and staged to prevent windblown debris from packaging, strapping, plastic wrap, or loose materials.
4. Details of the Project Narrative, Construction Protocol, and the Final Approved Plans shall be incorporated in these Conditions.
5. As much work as possible shall be conducted from the pier to minimize impacts to wildlife and/or wetlands. If the construction protocol requires use of a barge, the applicant shall contact the Harbormaster and provide dates, placement, and barge information to both the Harbormaster and Conservation Agent as soon as possible. The applicant shall monitor tidal heights to ensure that the barge is not sitting on the coastal beach at any time. If a barge is used, the applicant and contractor shall notify the Harbormaster and Conservation Agent at least 72 hours in advance. The construction barge should not anchor within eelgrass habitat and should be staged outside eelgrass habitat when not directly involved in construction activities.
6. All materials and debris shall be properly stored within the work area and shall not be stored on the coastal beach. Temporary areas, such as the Municipal Parking Lot, utilized for the storage of materials shall not in any manner impact the resource areas. Material will be secured to prevent windblown debris. Debris shall either be removed from the worksite daily or stored within covered dumpsters placed on existing pavement or other disturbed area. All equipment and materials shall be removed upon project completion. The site shall be cleaned up immediately following the completion of construction.
7. The conservation agent shall be informed of any proposed changes to approved plans or construction sequence, which shall require either written conservation agent approval or, if significant, filing of a new application.
8. An emergency spill kit shall be kept on site to remediate any leaks or spills from equipment or vehicles used during construction. Fueling, cleaning, or repairs of equipment may not occur within 100ft of any wetland resource area, and they shall be inspected daily for leaks.

SECTION III. POST-CONSTRUCTION

1. Erosion controls shall be removed only upon written receipt of conservation agent approval.
2. The Pier Manager shall be responsible for the proper and regular maintenance of the pier components to prevent degradation and loss of its structural integrity. This shall be an ongoing maintenance condition which shall not expire upon the issuance of a certificate of compliance.
3. Upon completion of construction, the Pier Manager shall submit written notification thereof to the conservation agent, who shall promptly schedule a site visit to confirm that the work has been substantially completed in accordance with the approved plans, and the applicant shall thereafter submit a Request for a Certificate of Compliance to the Conservation Commission. 'As built' plans, stamped by a professional engineer, shall also be submitted to the Commission at that time.

**Chapter 91 License #8621 and Addendum #1
(October 16, 2000 and March 19, 2007, respectively)**



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION

20 RIVERSIDE DRIVE, LAKEVILLE, MA 02347 508-946-2700

ARGEO PAUL CELLUCCI
Governor

JANE SWIFT
Lieutenant Governor

BOB DURAND
Secretary

LAUREN A. LISS
Commissioner

OCT 1 6 2000

Town of Provincetown
C/o Fay, Spofford & Thorndike, Inc.
5 Burlington Woods
Burlington, MA 01803

RE: Waterways Application No. W99-9339/License No. 8621
Provincetown Harbor, Provincetown, Barnstable County

Dear Sir:

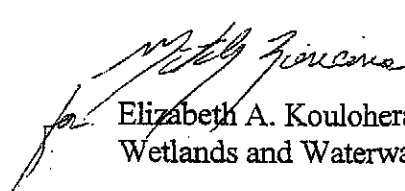
Following an in-depth review of the referenced file, the Department of Environmental Protection has approved the enclosed license authorizing you to perform certain activities pursuant to G.L. Chapter 91 and regulations 10 CMR 9.00. It is the Department's opinion that, as conditioned herein, the authorized structures and uses adequately protect the public rights in trustlands.

This license must be recorded at the referenced Registry of Deeds within 60 days from date of issuance or it will be rendered void. To document this recording, please complete and submit the enclosed Notification Form to the Department prior to commencing with any work or change in use authorized herein. In addition, the work or change in use authorized by this license can not commence if the Department receives a request for an adjudicatory hearing. Also, upon completion of the licensed project, you are required to submit a written request to the Department for a Certificate of Compliance in accordance with 310 CMR 9.19.

Please note that any unauthorized substantial change in use or substantial structural alteration of any structure or fill authorized by this license shall render it void. Therefore, it is recommended that you contact the Department prior to performing any alterations or use modifications for review and, if necessary, approval pursuant to MGL c. 91.

If you have any questions concerning this license, please contact Fran Jordan at (508) 946-2735.


Very truly yours,


Elizabeth A. Kouloheras, Chief
Wetlands and Waterways Program

Enclosure

This information is available in alternate format by calling our ADA Coordinator at (617) 574-6872.

DEP on the World Wide Web: <http://www.magnet.state.ma.us/dep>

 Printed on Recycled Paper

The Commonwealth of Massachusetts

No. 8621



Town of Provincetown

Whereas,

of -- Provincetown -- in the County of -- Barnstable -- and Commonwealth aforesaid, has applied to the Department of Environmental Protection for license to -- reconstruct and maintain MacMillan Pier including: major pier expansion; fender piles, commercial floating docks, two handicapped access ramps, one at the southeastern terminus of MacMillan Pier and a non-mechanical access ramp at the courtesy dock located along the southeastern edge of the bulkhead, gangways, recreational courtesy dock, finger pier extension; stormwater treatment facility, new headwalls, outfall pipes, tidegates, utilities, public handicapped accessible restrooms subject to completion of the Town's proposed sewer system, and a pile held barge; construct and maintain a temporary pile supported bridge; relocate and maintain a roadway, utilities and portion of a pier; establish a reconfiguration zone; dredge; and provide beach nourishment --

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 -- Board of Selectmen -- of the Town of -- Provincetown. --

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 --

Town of Provincetown --, 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, to -- reconstruct and maintain MacMillan Pier including: major pier expansion; fender piles, commercial floating docks, two handicapped access ramps, one at the southeastern terminus of MacMillan Pier and a non-mechanical ramp at the courtesy dock located along the southeastern edge of the bulkhead, gangways, recreational courtesy dock, finger pier extension; stormwater treatment facility, new headwalls, outfall pipes, tidegates, utilities, public handicapped accessible restrooms subject to completion of the Town's proposed sewer system, and a pile held barge; construct and maintain a temporary pile supported bridge; relocate a roadway, utilities and portion of a pier; establish a reconfiguration zone; dredge; and provide beach nourishment --

in and over the waters of the -- Provincetown Harbor -- in the -- Town -- of -- Provincetown -- and in accordance with the locations shown and details indicated on the accompanying DEP Plan No. 8621 (22 sheets).

The structures hereby authorized shall be limited to the following uses: to provide for commercial and public recreational docking and boating access to navigable waters; to provide a waterborne passenger transportation facility; commercial fishing and fish processing facilities and related support services; the conveyance of water and waste water; to control water levels; transmission of electricity and telecommunications; public access to waterfront open space for passive recreational purposes; public access to waterfront open space for recreational purposes; and shoreline stabilization for the protection of water-dependent uses.

This license is issued for an unlimited term in accordance with 310 CMR 9.15(1)(c).

Structures at MacMillan Pier have been previously authorized by:

MacMillan Wharf as it exists today was constructed by the Commonwealth of Massachusetts, Department of Public Works, Division of Waterways in 1955 in accordance with State Contract No. 1461. The base of MacMillan Wharf, consist in part of the town of Provincetown Municipal Wharf parking lot, was authorized by D.P.W. Waterways License No.'s 4055 and 4460, and by legislative action under Chapter 588 of the Acts of 1961. A number of additional Waterways licenses have been issued for activities and structures on the project site. A complete list is on file with the Department. Fill and structures authorized by said licenses shall be maintained in conformance with the terms and conditions of said authorizations.

SPECIAL WATERWAYS CONDITIONS:

1. The Licensee shall continue to allow public water transportation and commercial fishing docking facility ("the facility") on the easterly and westerly sides of MacMillian Pier, as shown on sheet 3 of 22 of the license plan as 11 existing ramps and floats. Said docking facility shall be maintained by and shall only be available for passenger pickup and drop off and for the delivery of supplies by and to the water transportation providers and commercial fisherman (the "operators") identified in Special Condition 6; such limitations shall not apply to any floats or docking facilities which the Town might later choose to add to MacMillan Pier in locations other than those shown on the above mentioned plan. In the event that MacMillan Pier is physically reorganized, the location of the facility shall be subject to the provisions of Special Condition 8.
2. The facility shall be available to the operators from April 1 through and including November 30 each year.
3. The facility shall be maintained in part by the Licensee and in part by the Operators. The Operators shall maintain in good repair all berthing floats placed in the waterways and all gangways connecting the floats to MacMillian Pier. All other structures authorized herein shall be maintained by the licensee, unless otherwise stipulated in a lease agreement with the Operators.
4. Maintenance, insurance and other direct costs of the gangways and berthing floats shall be borne by the Operators. The Town may set reasonable fees for the use of gangways and floats.
5. The operators of the facility specified in Special Condition 6 shall provide a wide range of water transportation services to the public passengers for hire. At a minimum, such services may include; whale-watching excursions, sailing charters, sport-fishing excursions, and commercial fishing tours. All uses at the MacMillan Pier shall also be consistent with this license and the approved Provincetown Harbor Plan, dated May 4, 1999 and Harbor Regulations.
6. The operators of the facility specified in Special Condition 1 shall be the following businesses which are the businesses grandfathered and recognized by the Town of Provincetown as in good standing in accordance with Provincetown General by-laws, section 7-1-3. These businesses, as of the date of the license are:

Edward J. Salvador
 Dolphin Fleet of Provincetown, Inc.
 Ranger Fleet, Inc.
 Louigis Lobster Float, Inc.
 Peter Pannoni & Sons
 Shady Lady, Inc./Cape Cod Bay Sails, Inc.

John R. Henrique, Inc.
 John R. Woods, Inc.
 Portuguese Princess Excursions, Inc.
 Cee Jay Corporation
 Schooner Hindu, Inc.

7. The Special Conditions are further conditioned upon the following: No ownership interest by an operator shall be transferred, and no stock in a corporate operator shall be transferred, pledged or issued without first obtaining the permission of the board of Selectmen. The word "transferred" shall mean any conveyance of use, control, ownership, or beneficial interest by sale, assignment, gift, pledge, lease or contract. Within fourteen days after receipt of any such application, the Board of Selectmen shall cause a notice thereon to be published at the expense of the applicant. The notice shall set forth the name of the applicant, and specify the nature of the transfer. The Board of Selectmen may deny the application only if either the transferor or transferee has been convicted of a felony or if either party owes state or local taxes, fees or assessments. Approval of any such transfer by the Board shall transfer to the resulting operator all of the rights, duties, obligations and privileges of its transferor under this license.
8. It is hereby acknowledged that the purpose of the MacMillan Pier license (reconfiguration zone) is to allow the Town maximum flexibility in dealing with future harbor needs. Should MacMillan Pier be physically reorganized, the businesses or entities identified in Special Condition 1 shall be reassigned space in accordance with the directives of the Marine Superintendent, who shall attempt to locate the public water transportation and commercial fishing docking facility described in special Condition 1 as proximate to the land as feasible and as consistent with maintenance of vehicular, pedestrian and boating safety.
9. Any business or entity either specifically described in the Special Conditions, or which uses the facility subject to this license, shall defend, indemnify and hold harmless the Town of Provincetown from liability for events or circumstances occurring on floats and gangways arising out of its use of such areas, including but not limited to, any injuries to persons or property, or discharges of pollution or harmful substances.
10. The Department may approve, on an individual basis, modifications to construction activities, temporary structures, and fill which represent an insignificant deviation from the original specifications of the License, in terms of size, configuration, materials, or other relevant design or fabrication parameters as determined by the Department within all areas delineated as "Limits of Construction" on license plans. Such approval shall be in accordance with the following procedure:
 - a. the Licensee shall submit a written request describing the proposed modifications to the work accompanied by plans, for prior review and approval of the Department; and
 - b. the Licensee shall concurrently provide copies of the request and plans to the Provincetown Board of Selectmen and Conservation Commission. The Department will consider comments submitted within ten (10) days of DEP's receipt of the request.
11. The Licensee shall ensure, to the greatest extent possible, that existing utility services serving existing water-dependent users are not disrupted during construction activities. In the event a shutdown is necessary, the Licensee shall alert all affected property owners, no less than 24 hours in advance of the time and duration of said shutdown.
12. The Licensee shall maintain pedestrian access to and along the waterfront and vehicular access to water-dependent users throughout construction.
13. The Licensee shall submit to the Department as a modification to this license, final design plans for the final construction and maintenance of the water transportation docking facility and terminal. The water transportation docking facility and terminal shall be located to accommodate a number of different types of vessels, passengers thoroughway and comply with state and federal laws for handicap accessibility, including future exterior shelter and enclosed waiting areas with adequate seating, public amenities, restrooms, pedestrian walkways, bicycle access and parking, safety railings, appropriate lighting, and trash receptacles. In the mean time this area shall be made available to the public for passive recreational purposes.
14. The Licensee shall construct and maintain an expanded public walkway on the westside of the pier as located and described on sheets 3 and 4 of 22 of the license plans. All kiosks, tickets booths, and other structures located on the pedestrian walkways shall be located as close to the western edge of the pier as is safe and practicable so as not to impede the free flow of pedestrian access along said walkway. The proposed walkway on the eastside is being considered pending funding.
15. The Licensee shall construct and maintain, in good repair, a courtesy dock, to be used by noncommercial vessels. Said dock shall be open free of charge, to the general public on a first come first serve basis with appropriate signage. Signage shall indicate "Public Courtesy Dock", for a maximum time limit of 15 minutes or as determined by the Harbormaster.

16. The Licensee shall remove and properly dispose of approximately 140 piles. All piles shall be removed in their entirety when feasible, at a minimum piles are to be removed to the mud line. All removal activities and disposal of said piles shall be in strict conformance with federal, state and local statutes.
17. The Licensee shall temporarily relocate the roadway, bridge and utilities. The temporary relocation, use and operation of said structures are authorized through the period of reconstruction of MacMillan Pier.
18. The Licensee shall remove and properly dispose of all temporary structures no later than six (6) months after completion of construction or after such time as the structures are no longer required to support construction activities. Temporary structures are defined as those structures, which will be used to aid in the construction of permanent structures and will be used for an interim duration until such time as final construction has been completed. The structures to be removed in their entirety shall include but not be limited to such temporary structures as: erosion and sedimentation control systems; temporary bridge, roadway, utilities and support systems for the pier.
19. The public open spaces and pedestrian walkways associated with the water transportation facility specified in Special Conditions 13 and 14 shall be available to the general public, free of charge subject to reasonable rules as described in Special Condition 20. These facilities shall be accessible 24 hour a day unless the Department approves other hours of operation in accordance with Special Condition 21.
20. The Licensee may adopt rules governing the publicly accessible areas of the site, subject to review and written approval by the Department, as are necessary for the protection of public health and safety and private property, and to ensure public use and enjoyment.
21. The Licensee shall place and maintain in good repair appropriate signage of an adequate size to be clearly visible to pedestrians. Said signage shall be placed to encourage public patronage of the facilities, state the hours of public access, any reasonable rules for their use in accordance with Special Conditions 20, the Waterways license number and the location within the municipality where a copy of the license may be inspected by the public.
22. Any reconfiguration authorized under this license may proceed upon written approval by the Department, but without further licensing action if:
 1. the Licensee submits to the Department a written request and plan for reconfiguration which does not extend beyond the delineation zone and which does not result in an increase in the area of waterway occupied from that which was originally licensed;
 2. the Licensee submits to the Department a statement affirming that the material submitted to the Department has, at the time of such submittal, also been sent to the Conservation Commission and the Harbormaster of the affected municipality, and that said Conservation Commission and Harbormaster has been informed that they have 30 days to register, with the Department, any objections to the proposed reconfiguration plan; and
 3. all other applicable permits have been obtained, including any required approval under the Wetlands Protection Act.

At the expiration of this license, MacMillan Pier shall be maintained in the last approved configuration.

23. The "floating docks" as indicated on sheets 2 and 11 of 23, located on the eastern side of the pier shall be used for "small-boat commercial fishery" vessels. The northern most floats of the "floating docks" shall be maintained for the exclusive use of the small boat fisheries. Any commercial berth authorized herein shall be assigned in a fair and equitable manner, via a waiting list or other appropriate unbiased means. Any contract or other agreement for the exclusive use of berths authorized herein shall have a maximum term of one year and may be renewable upon expiration on an annual basis. In the event the "small-boat commercial fishery" does not occupy the complete facility those vacant slips may be assigned via a waiting list or other appropriate unbiased means to recreational vessels. The "small-boat commercial fishery" in no case shall occupy less than 75% of the facility, anything less will require prior review and approval by the Department.

24. Vehicle parking as located and described on sheet 3 of 22 of the license plans shall be restricted to commercial vehicles only for: loading, unloading, servicing and maintenance of vessels, or accessory uses to commercial operations. Noncommercial vehicles are prohibited from parking on MacMillan Pier, except as required by the Architectural Access Board (AAB) compliance.
25. During construction activities a resident engineer, contractor or designee shall be available 24 hours per day to address pedestrian access, vehicular access to water dependent users, and resolve emergency situations which may arise. A twenty-four hour phone number shall be posted at the construction site.
26. The License shall store and maintain, in accordance with the United States Coast Guard Guidelines, absorbent materials and spill control booms to immediately respond to inadvertent discharge of petrochemicals within the confines of the facility.
27. In partial compensation for private use of structures on trustlands of the Commonwealth, which interferes with the rights of the public to use such lands, the Licensee shall allow the public to pass on foot, for any purpose and from dawn to dusk, within the area of the subject property lying seaward of the high water mark. This condition shall not be construed to prevent the Licensee from taking reasonable measures to discourage unlawful activities by users of the area(s) intended for public passage, including but not limited to trespassing on the adjacent private areas and deposit of refuse of any kind or nature in the water or on the shore. Further, the exercise by the public of free on-foot passage in accordance with this condition shall be considered a permitted use to which the limited liability provisions of M.G.L. c.21, s.17c apply.
28. 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 or more one year periods without public notice, provided that the Applicant submits to the Department, thirty (30) days prior to the expiration of said construction period, a written to extend the period and provides an adequate justification for said extension.
29. The Licensee shall request in writing that the Department issues a Certificate of Compliance in accordance with 310 CMR 9.19. The request shall be accompanied by a certification by a registered professional engineer licensed in the Commonwealth that the project was completed in accordance with the License.

SPECIAL DREDGE CONDITIONS:

1. Dredging, approximately 12,400 cubic yards, shall be performed by mechanical methods in the area to the west of the pier "the fairway".
2. Dredging shall be to a maximum of 10 feet below mean low water (MLW) datum with an allowable one (1) foot over dredge in "the fairway".
3. Sediments from the west of the pier "the fairway" shall be de-watered and trucked to the Bourne Landfill.
4. Dredging, approximately 11,000 cubic yards, shall be performed by hydraulic methods on the east side of the pier.
5. Dredging shall be to a maximum of 6 feet below MLW datum, with an allowable one (1) foot over dredge on the eastside.
6. Dredge material from the eastside of the pier shall be used as beach nourishment along Commercial Street, opposite the Holiday Inn, and conveyed via pipeline from the dredge.
7. Maintenance dredging may be performed for a period of ten (10) years subsequent to the date of issuance of license.

Any future dredging beyond that which is specifically authorized under License Plan No. 8621, as indicated on sheets 15 and 16 of 22, shall require the submittal of a new permit application.

Please see pages 6 and 7 for additional conditions to this license.

Duplicate of said plan, number 8621 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.

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 Waterways 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 Waterways License void.
 4. This Waterways 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 Waterways 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 Waterways 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.
 7. This Waterways 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, G.L. Chapter 131, s.40.
 8. This Waterways 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 DEP, Division of Water Pollution Control.
 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.
 - 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.
- 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.

STANDARD WATERWAYS DREDGING CONDITIONS

1. This Waterways License is issued subject to all applicable federal, state, county, and municipal laws, ordinances, by-laws, and regulations, including but not limited to, a valid Order of Conditions issued pursuant to the Wetlands Protection Act, M.G.L. Chapter 131, s.40. In particular, this issuance is subject to the provisions of Sections 52 to 56, inclusive of Chapter 91 of the General Law and its Regulations 310 CMR 9.40(5), which provides, in part, that the transportation and dumping of dredge material shall be done under the supervision of the Department, and, when required, the Licensee shall provide at his/her expense a dredge inspector approved by the Department.
2. This Waterways License is issued upon the express condition that the dredging, transport and/or disposal of dredged material shall be in strict conformance with the Water Quality Certificate issued by the DEP, Waterways Regulation Program.
3. All subsequent maintenance dredging, and transport and disposal of dredged material during the term of this License shall conform to the standards and conditions applied to the original dredging operation performed under this License.
4. After completion of the work hereby authorized, the Licensee shall furnish to the Department a suitable plan showing the depths at mean low water over the area dredged. Dredging under this License shall be conducted so as to cause no unnecessary obstruction of the free passage of vessels, and care shall be taken to cause no shoaling. If, however, any shoaling is caused, the Licensee shall, at his/her expense, remove the shoal areas. The Licensee shall pay all costs associated with such work. Nothing in this License shall be construed to impair the legal rights of any person, or to authorize dredging on land not owned by the Licensee without consent of the owner(s) of such property.
5. The Licensee 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, suits, damages, costs and expenses incurred by reason thereof.
6. The Licensee shall, at least three days prior to the commencement of any dredging in tide water, give written notice to the Department of the location and amount of the proposed work, and or the time at which work is expected to begin.
7. Whosoever violates any provision of this License shall be subject to a fine of \$25,000 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 \$25,000 per day for each day such violation occurs or continues.


License No. 8621

The amount of tide-water displaced by the work hereby authorized has been ascertained by said Department, and compensation thereof has been made by the said - Town of Provincetown -- 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. (0.0 cy = \$0.00)

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 plan are recorded within 60 days from the date hereof, in the Registry of Deeds for the County of Barnstable.

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this 16th day of October in the year two thousand.

Commissioner  Department of

Program Chief  Environmental Protection

THE COMMONWEALTH OF MASSACHUSETTS

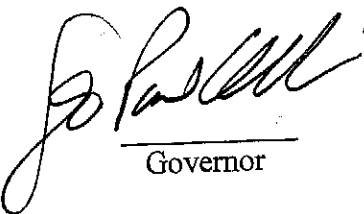
This license is approved in consideration of the payment into the treasury of the Commonwealth by the said - Town of Provincetown --

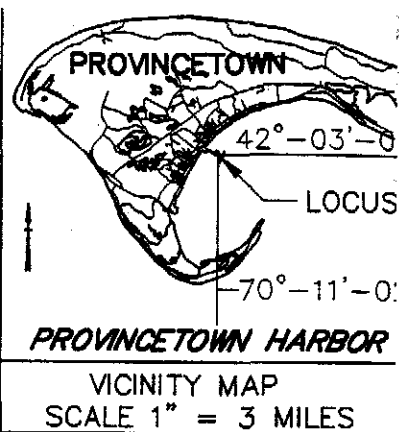
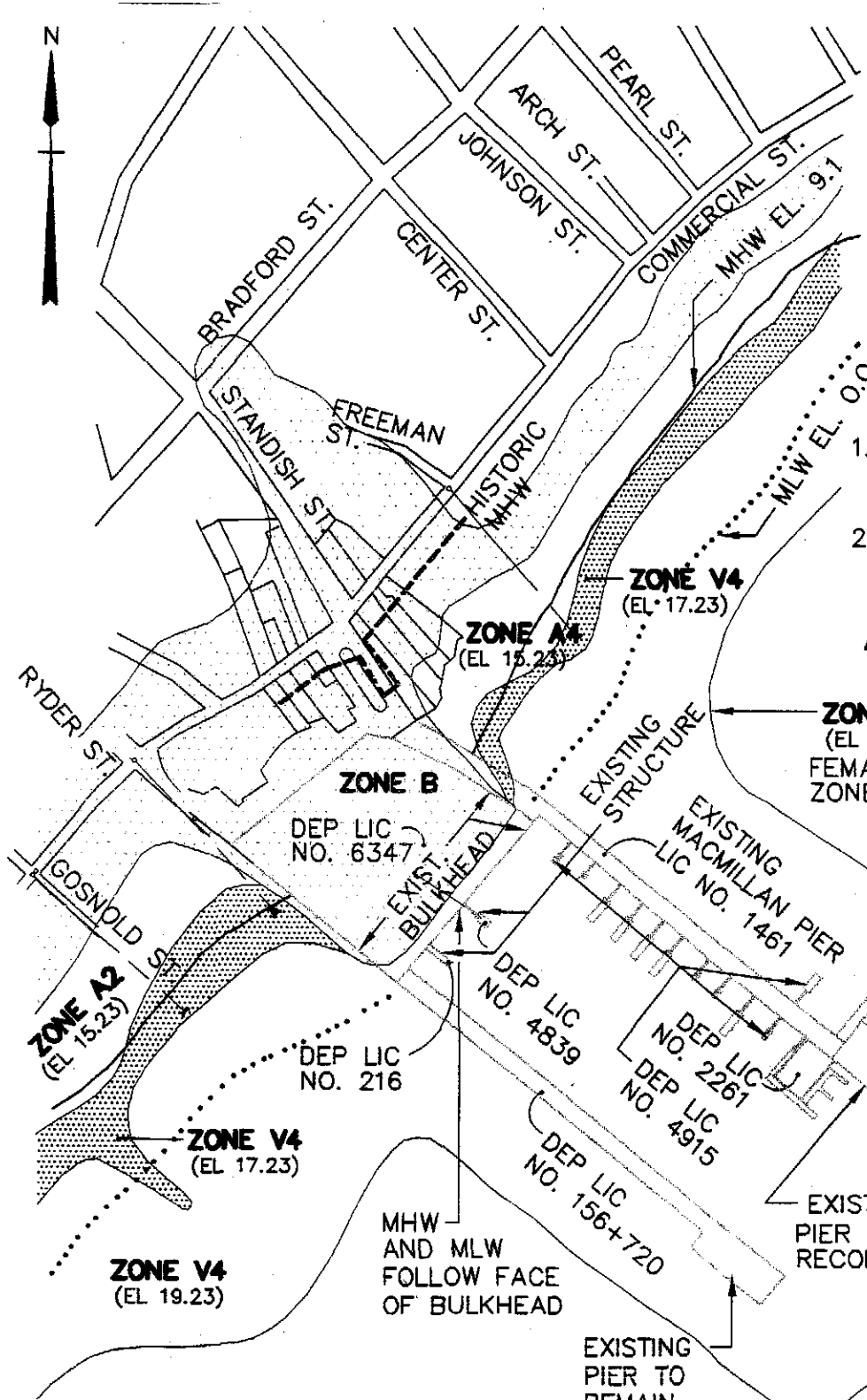
of the further sum of - zero dollars and zero cents (\$0.00) --

the amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

Approved by the Governor.

BOSTON,


Governor



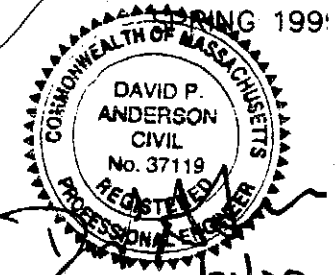
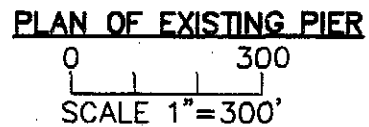
NOTES:
 1. CONTOURS AND ELEVATION ARE REFERENCED TO MEAN LOW WATER EL 0.0
 2. SEE SHEET 16 FOR BEACH NOURISHMENT SITE.

PROVINCETOWN HARBOR



EXISTING PIER DEP LIC NO. 1383

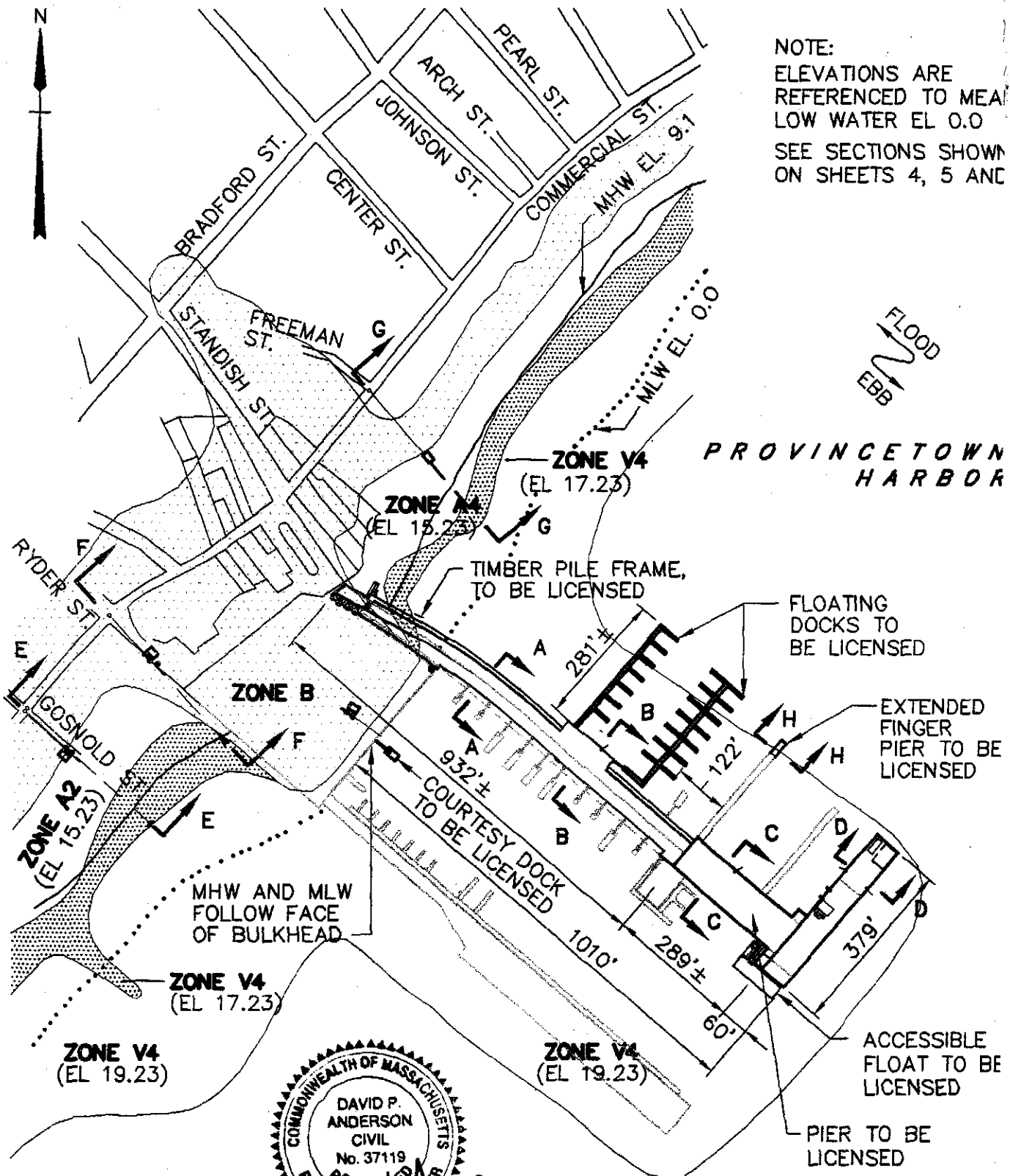
PORTION OF EXIST WHARF REMOVE! SPRING 1999



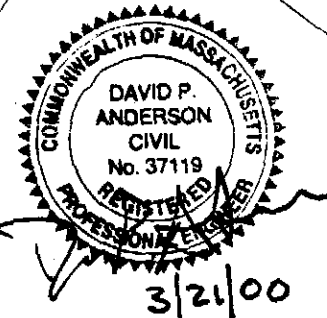
MARCH 21, 2000 (REVISED) 3/21/00
~~AUGUST 27, 1999~~ SHEET 1 OF 2

PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS BURLINGTON, MASS.

LICENSE PLAN NO. 8621
 Approved by Department of Environmental Protection of Massachusetts
Verna J. Davies
Stacy Ellet
 OCT 18 2000

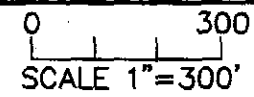


NOTE:
 ELEVATIONS ARE
 REFERENCED TO MEAN
 LOW WATER EL. 0.0
 SEE SECTIONS SHOWN
 ON SHEETS 4, 5 AND

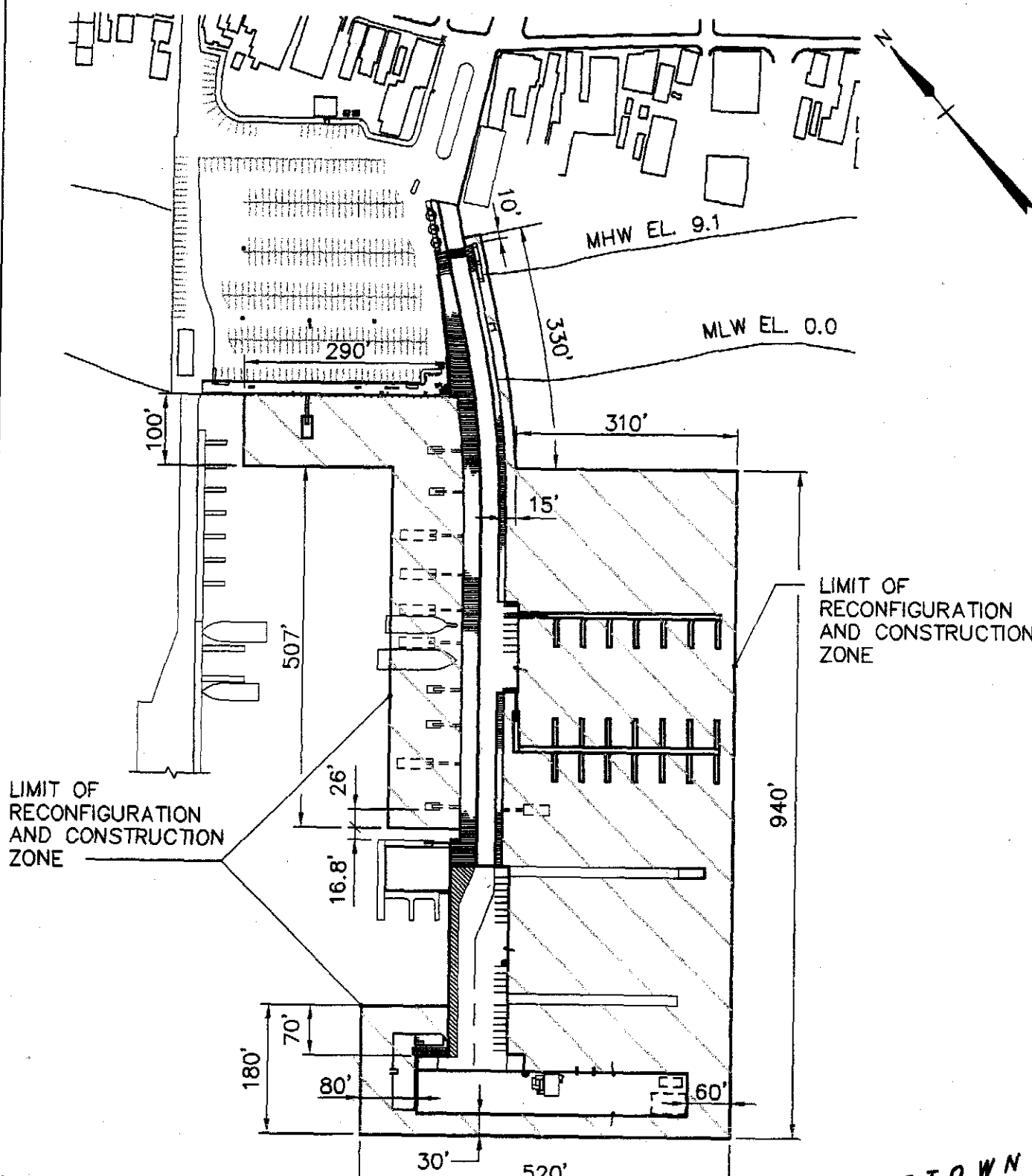


LICENSE PLAN NO. 8621
 Approved by Department of Environmental Protection
 Date **OCT 16 2000**

PIER RECONSTRUCTION PLAN



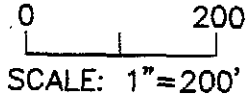
PLAN ACCOMPANYING PETITION OF
 TOWN OF PROVINCETOWN TO LICENSE,
 RECONSTRUCT AND MAINTAIN
 MACMILLAN PIER, DREDGE AND PERFORM
 BEACH NOURISHMENT IN PROVINCETOWN
 HARBOR, TOWN OF PROVINCETOWN
 FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
 BURLINGTON, MASS.



LICENSE PLAN NO. 8621

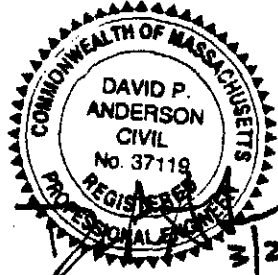
Approved by Department of Environmental Protection
 Date OCT 16 2000

**PLAN OF RECONFIGURATION
 AND CONSTRUCTION ZONE**

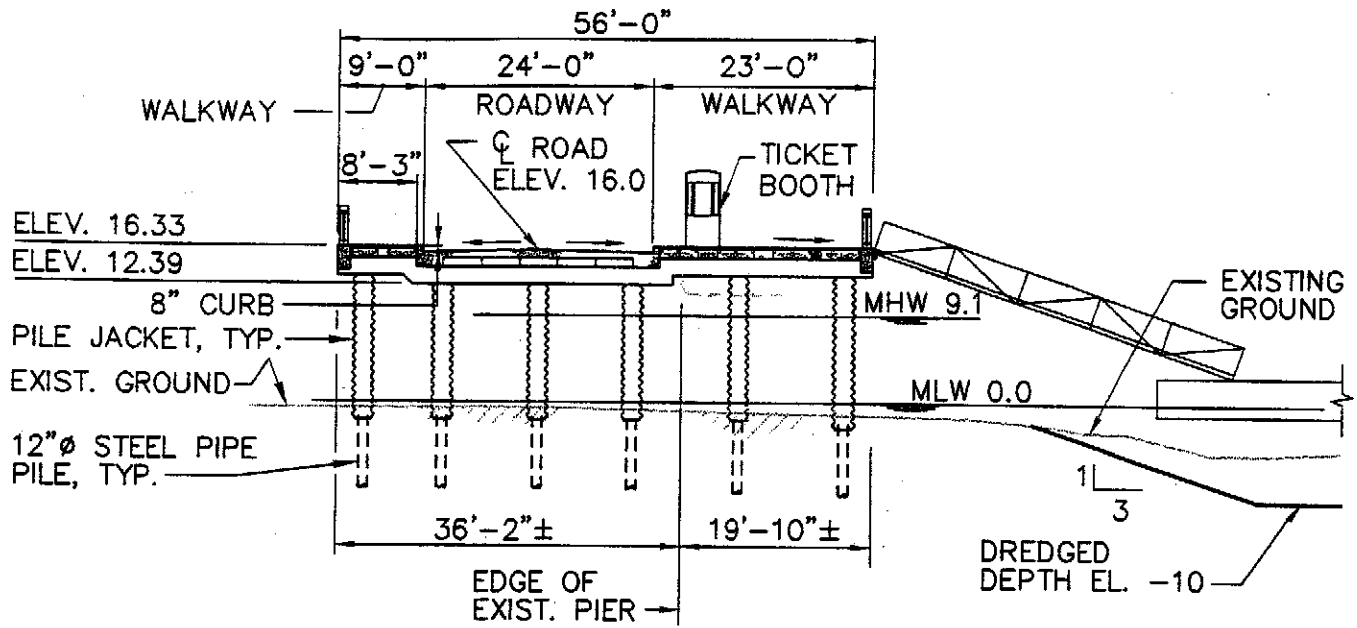


PROVINCETOWN
 HARBOR

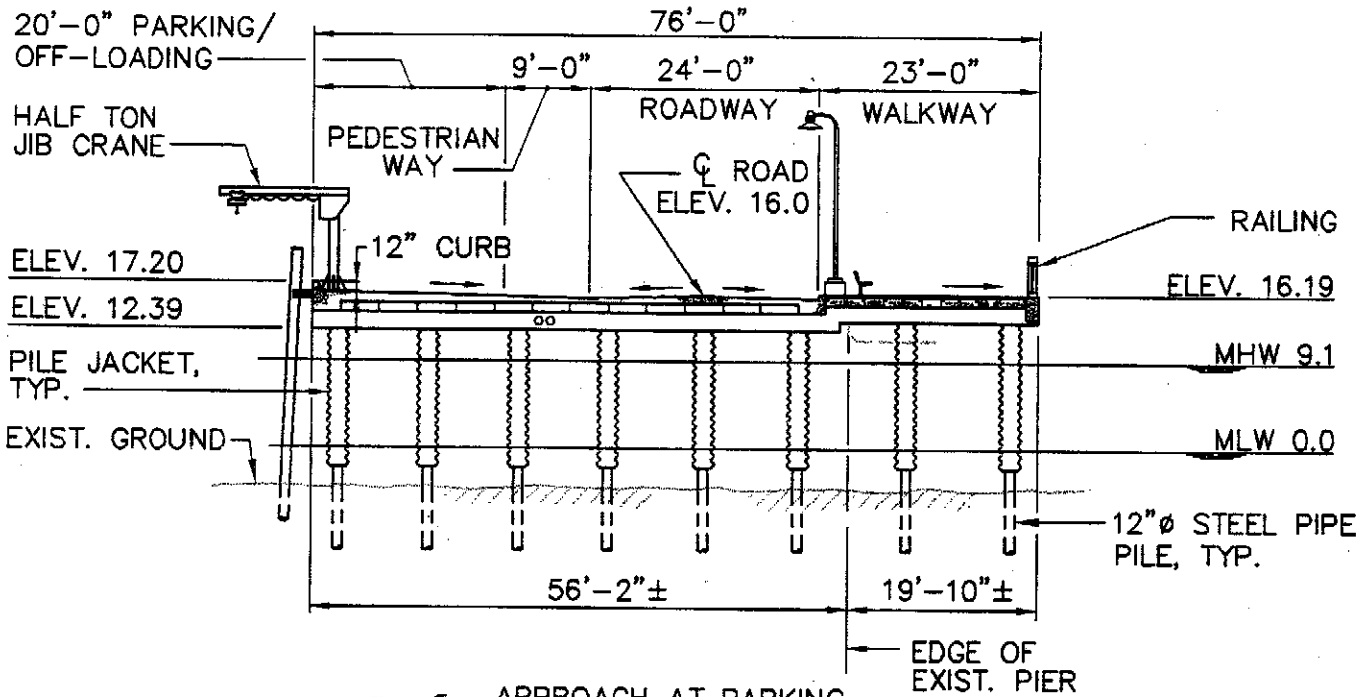
PLAN ACCOMPANYING PETITION OF
 TOWN OF PROVINCETOWN TO LICENSE,
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 BEACH NOURISHMENT IN PROVINCETOWN
 HARBOR, TOWN OF PROVINCETOWN
 FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
 BURLINGTON MASS



MARCH 21, 2000 (REVISED)
 AUGUST 27, 2000 SHEET 2 OF 22

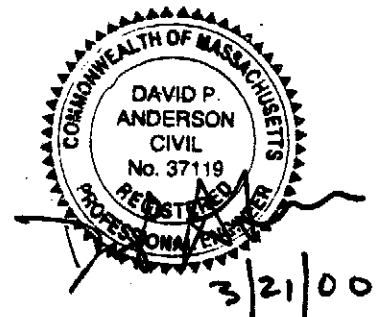


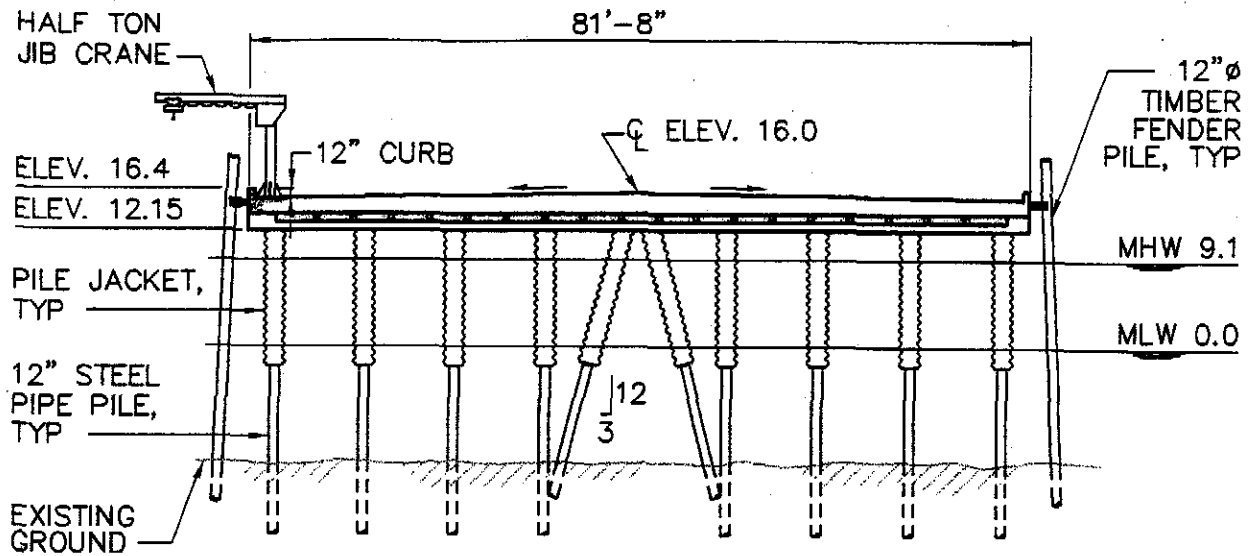
APPROACH
SECTION A-A
0 20'
SCALE: 1"=20'



LICENSE PLAN NO. 8621 APPROACH AT PARKING
SECTION B-B
Approved by Department of Environmental Protection
Date OCT 16 2000
0 20'
SCALE: 1"=20'

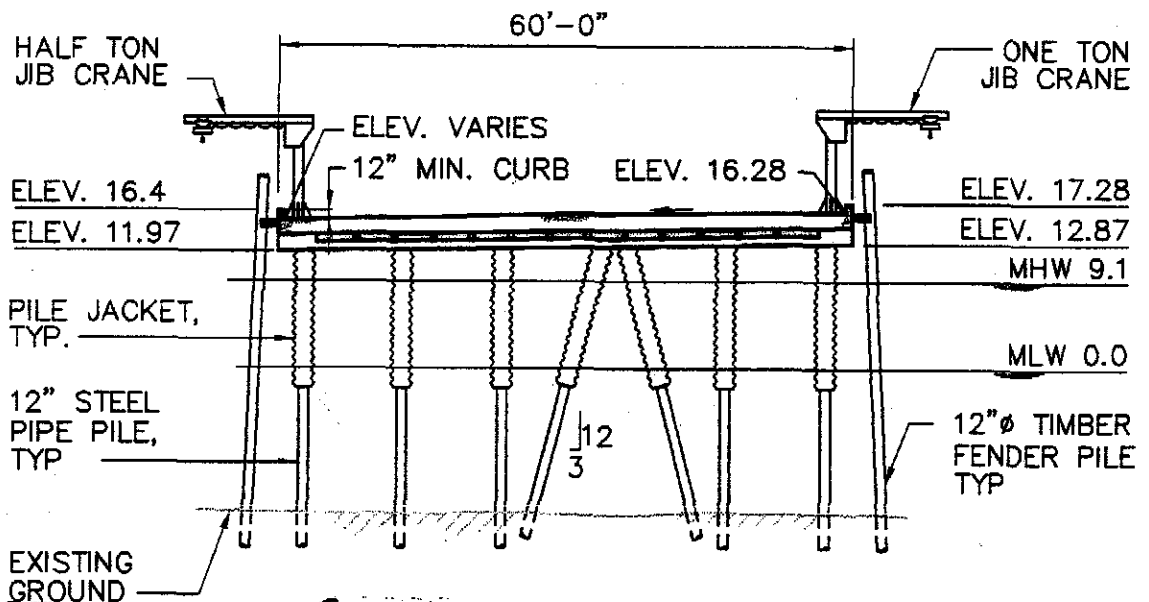
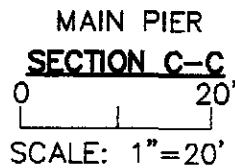
PLAN ACCOMPANYING PETITION OF
TOWN OF PROVINCETOWN TO LICENSE,
RECONSTRUCT AND MAINTAIN
MACMILLAN PIER, DREDGE AND PERFORM
BEACH NOURISHMENT IN PROVINCETOWN
HARBOR, TOWN OF PROVINCETOWN
FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
BURLINGTON, MASS.





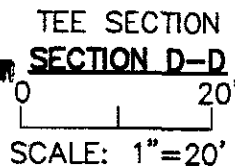
MAIN PIER PILES

146 STEEL PIPE PILES TOTAL
66 TIMBER PILES TOTAL



TEE SECTION PILES

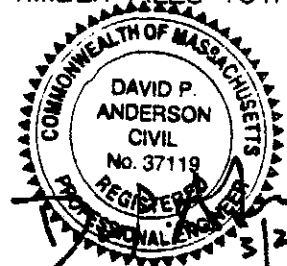
128 STEEL PIPE PILES TOTAL
120 TIMBER PILES TOTAL



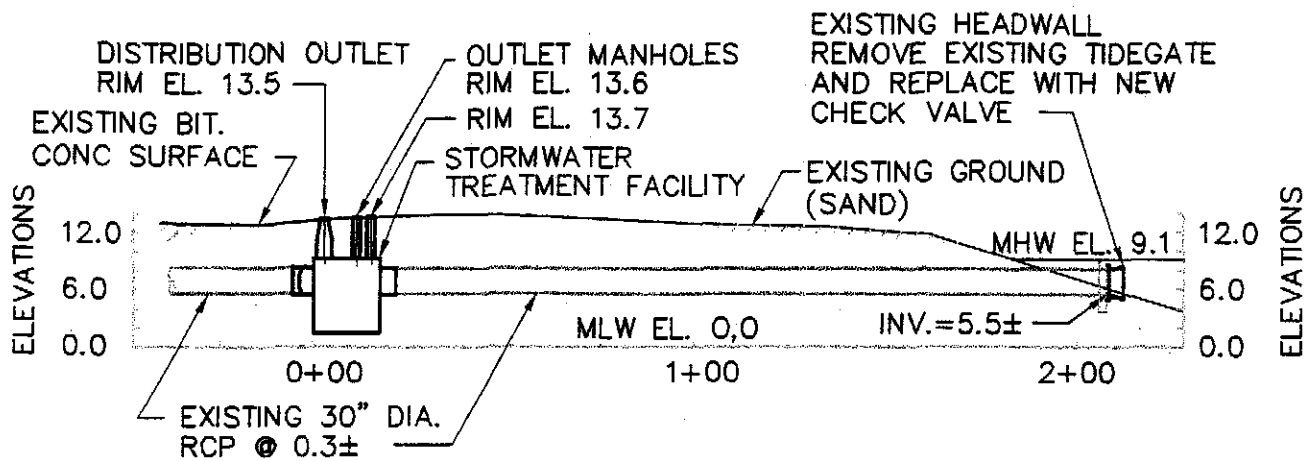
LICENSE PLAN NO. 8621

Approved by Department of Environmental Protection
Date OCT 18 2000

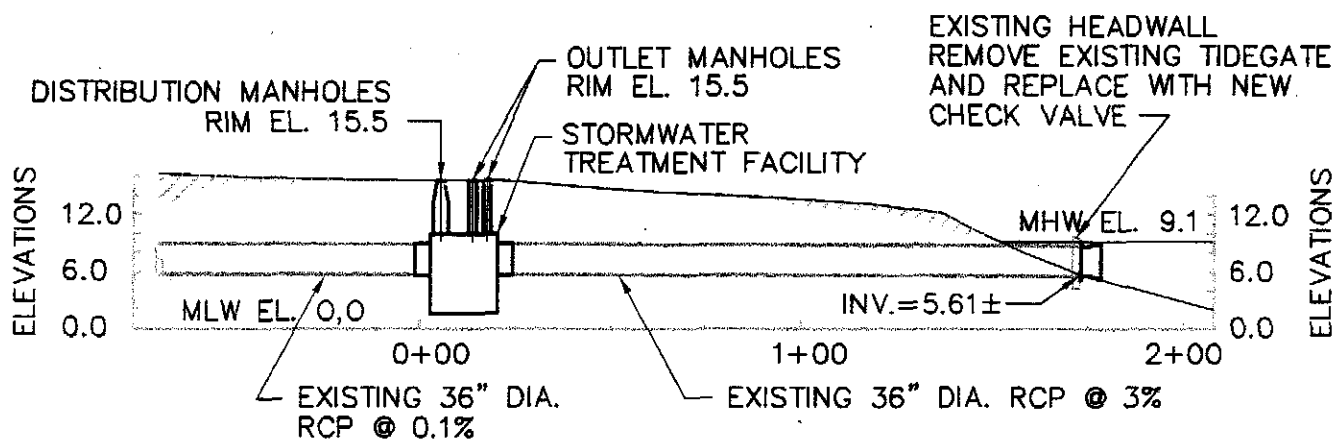
PLAN ACCOMPANYING PETITION OF
TOWN OF PROVINCETOWN TO LICENSE,
RECONSTRUCT AND MAINTAIN
MACMILLAN PIER, DREDGE AND PERFORM
BEACH NOURISHMENT IN PROVINCETOWN
HARBOR, TOWN OF PROVINCETOWN
FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
BURLINGTON, MASS.



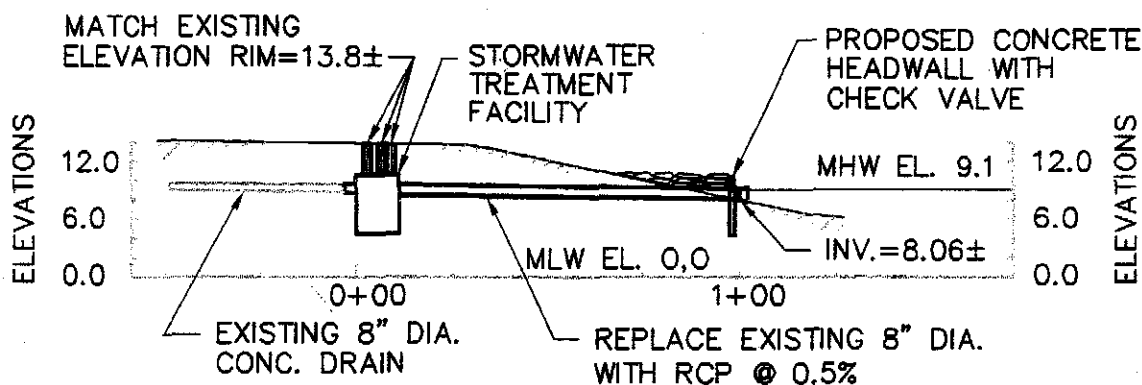
MARCH 21, 2000 (REVISED)
AUGUST 27, 1999 SHEET 5 OF 20



SECTION E-E



SECTION F-F



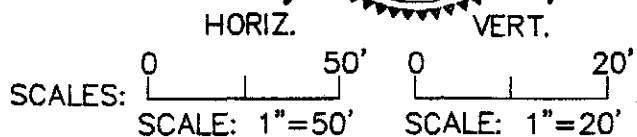
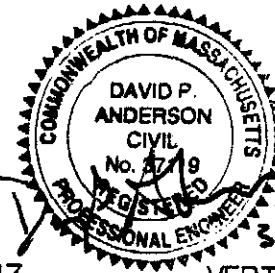
SECTION G-G

LICENSE PLAN NO. 8621

Approved by Department of Environmental Protection

Date OCT 16 2000

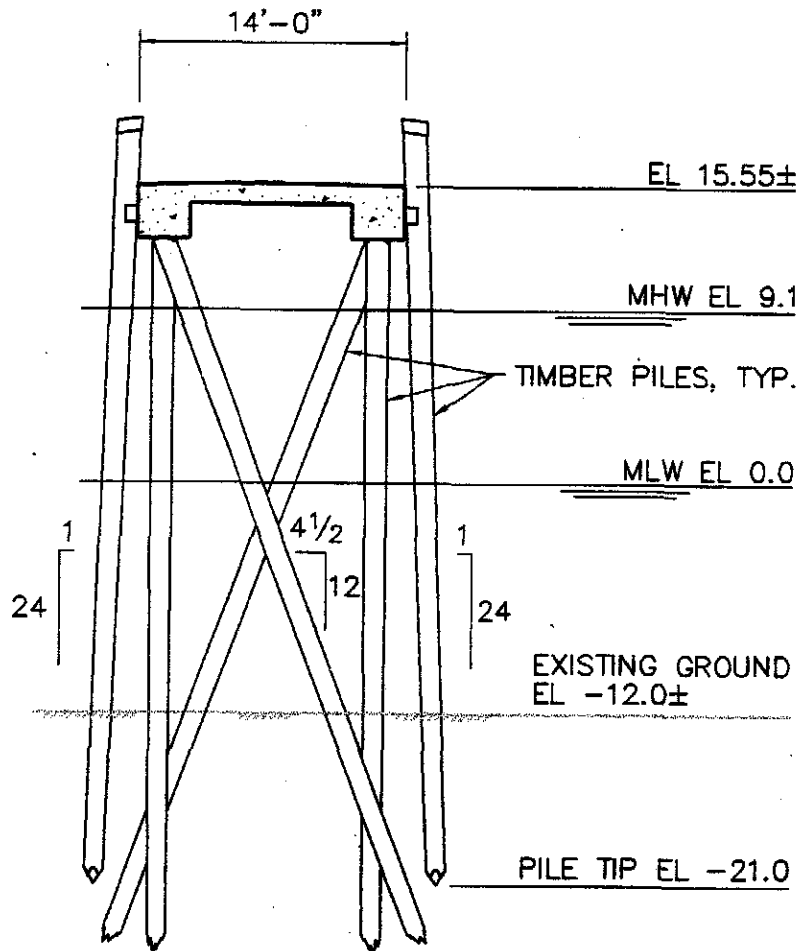
PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN
 FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
 BURLINGTON MASS



DATUM: MEAN LOW WATER EL. 0.0

MARCH 21, 2000 (REVISED)

~~AUGUST 27 1999~~ SHEET 6 OF 22



SECTION H-H

FINGER PIER EXTENSION



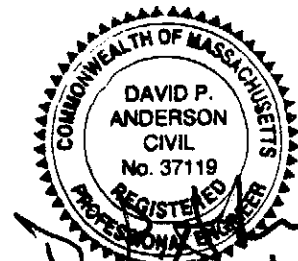
SCALE: 1"=10'

LICENSE PLAN NO. 8621

Approved by Department of Environmental Protection

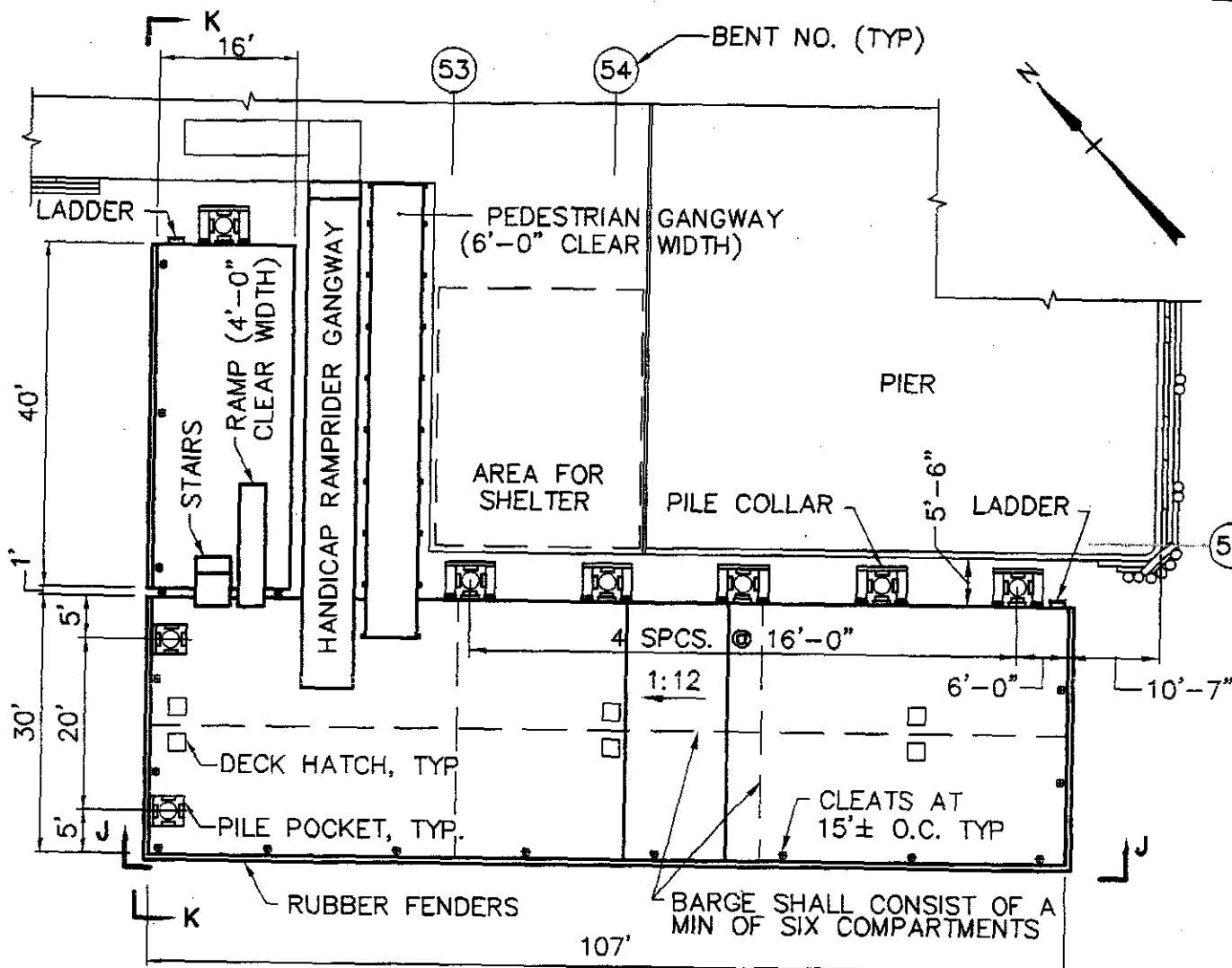
Date: **OCT 16 2000**

PLAN ACCOMPANYING PETITION OF
TOWN OF PROVINCETOWN TO LICENSE,
RECONSTRUCT AND MAINTAIN
MACMILLAN PIER, DREDGE AND PERFORM
BEACH NOURISHMENT IN PROVINCETOWN
HARBOR, TOWN OF PROVINCETOWN
FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
DUBLINGTON, MASS.



[Signature]
3/21/00

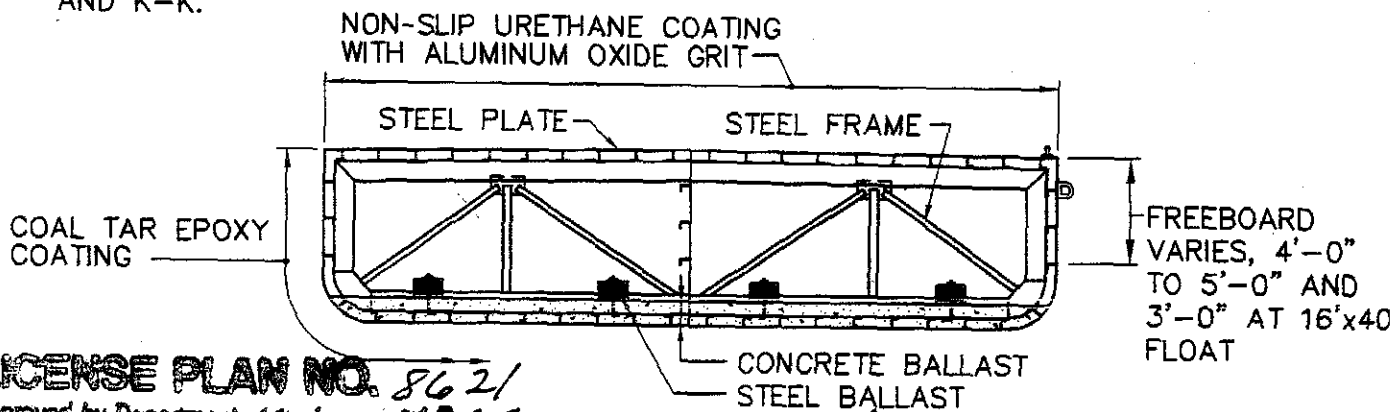
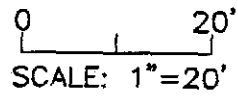
MARCH 21, 2000 (REVISED)



NOTES:

1. 8 STEEL PIPE PILES TOTAL
2. SEE SHEET 9 FOR ELEVATIONS J-J AND K-K.

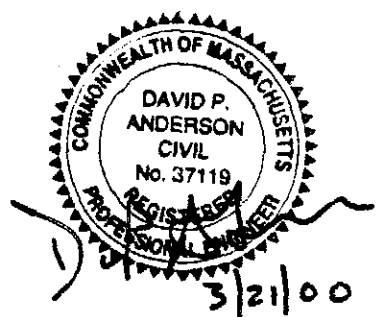
PLAN - ACCESSIBLE FLOAT



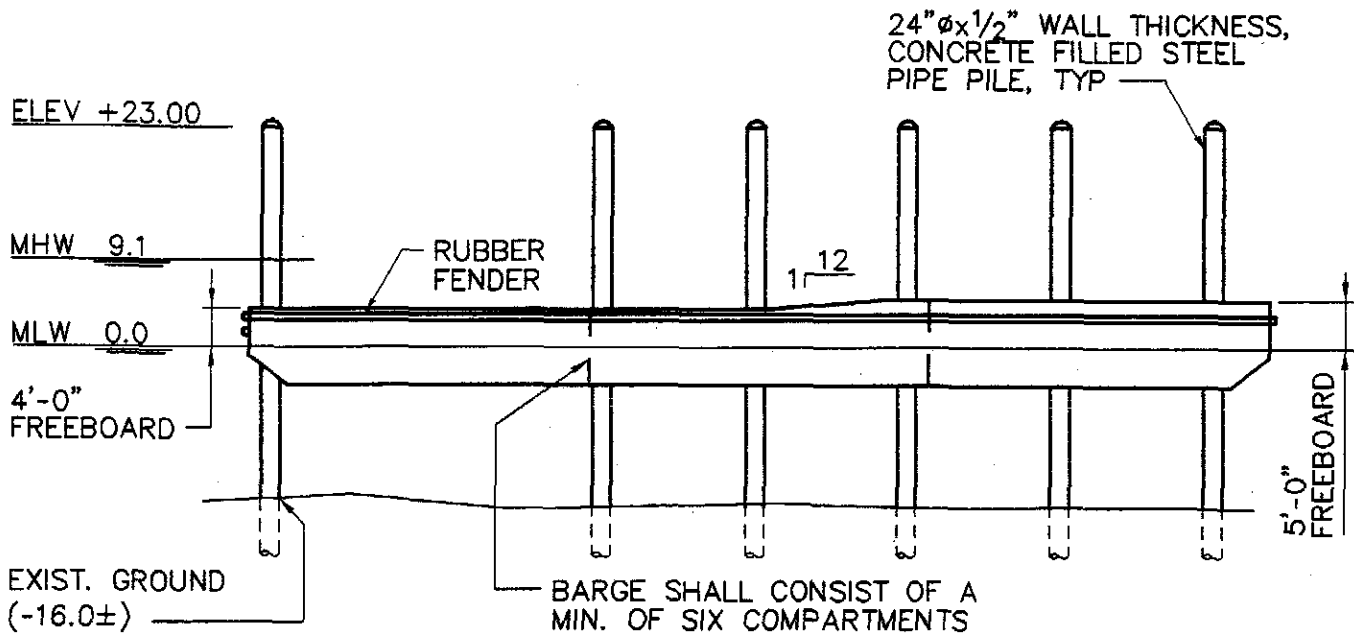
LICENSE PLAN NO. 8621
 Approved by Department of Environmental Protection
 Date **OCT 16 2000**

TYPICAL FLOAT SECTION
 NOT TO SCALE

PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS BURLINGTON MASS



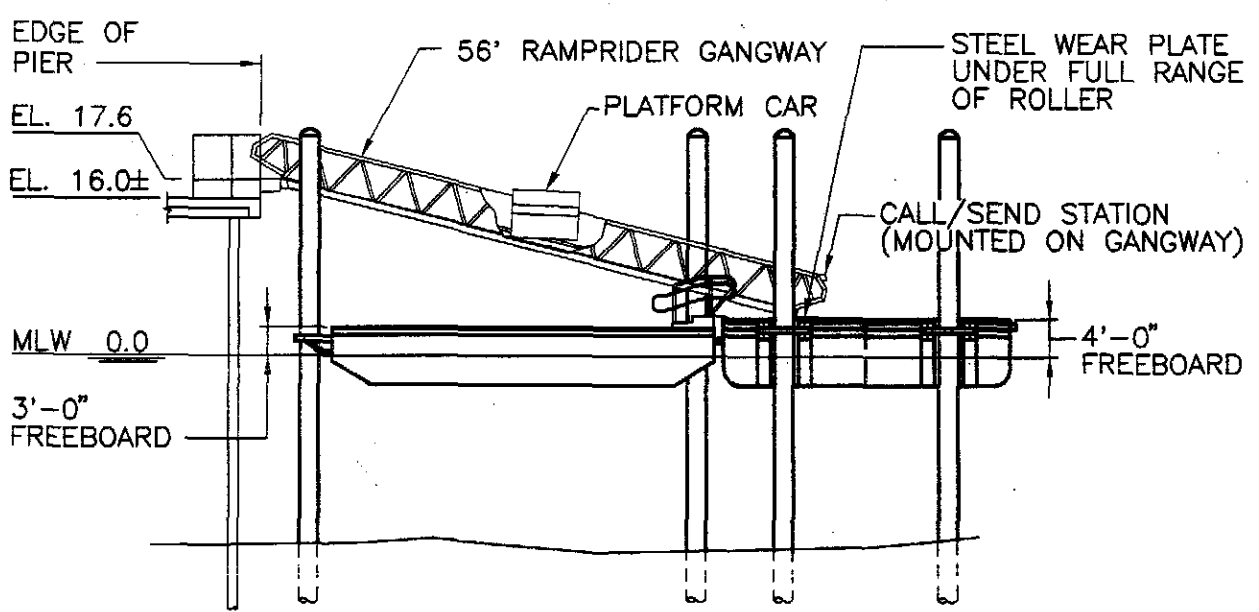
MARCH 21, 2000 (REVISED)



ELEVATION J-J

0 20'

SCALE: 1"=20'



ELEVATION K-K

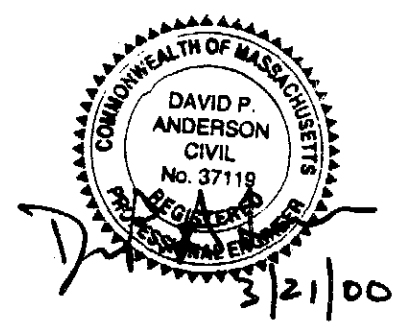
0 20'

SCALE: 1"=20'

LICENSE PLAN NO. 8621

Approved by Department of Environmental Protection
Date OCT 16 2008

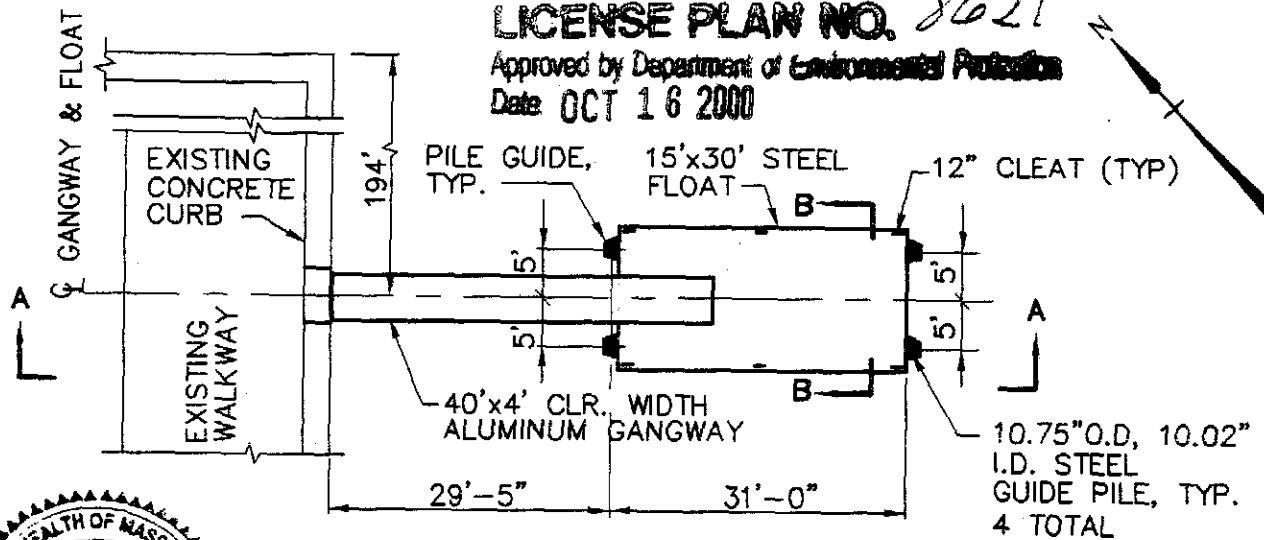
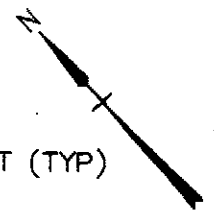
PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN
FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
BURLINGTON, MASS



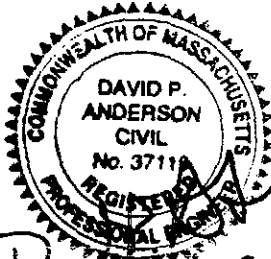
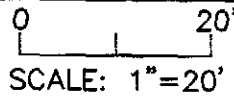
LICENSE PLAN NO. 8621

Approved by Department of Environmental Protection

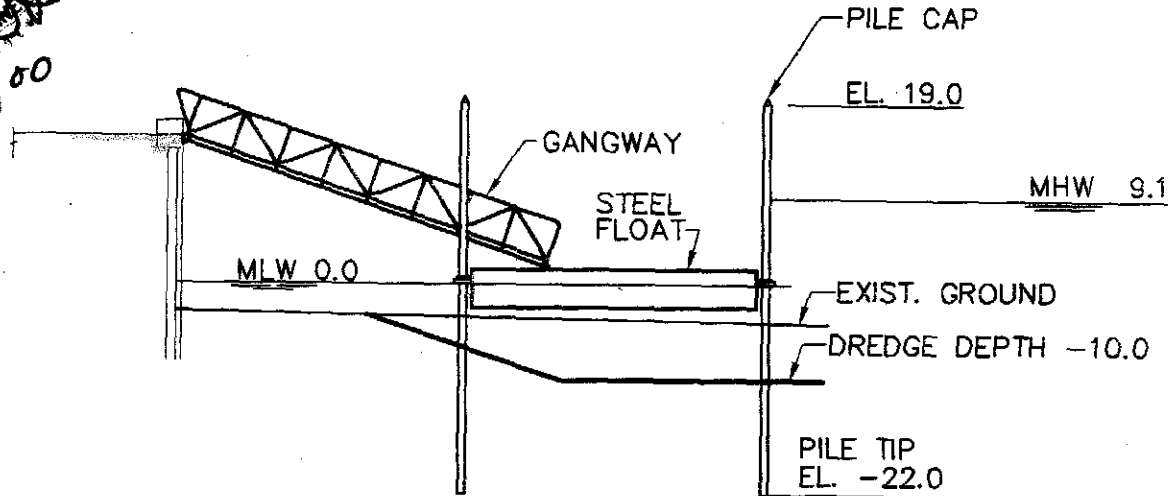
Date OCT 16 2000



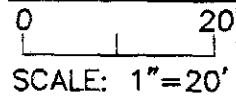
PLAN - COURTESY DOCK



8/25/00

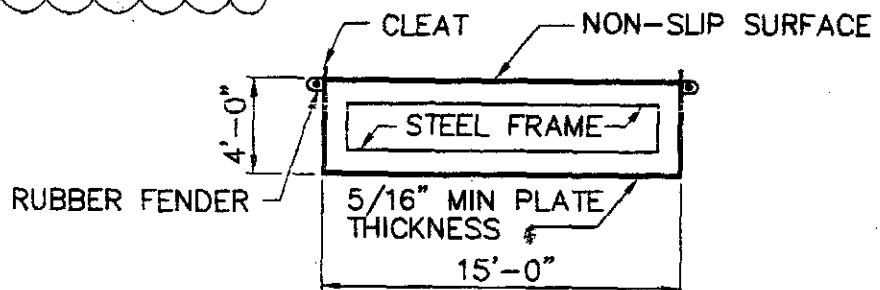


ELEVATION A-A

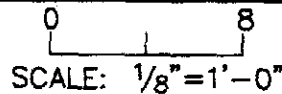


1

NOTE:
THE COURTESY FLOAT AND GANGWAY SHOWN WILL BE REVISED TO AN ACCESSIBLE FLOAT WITH A NON-MECHANICAL RAMP/GANGWAY SYSTEM.



COURTESY DOCK SECTION B-B



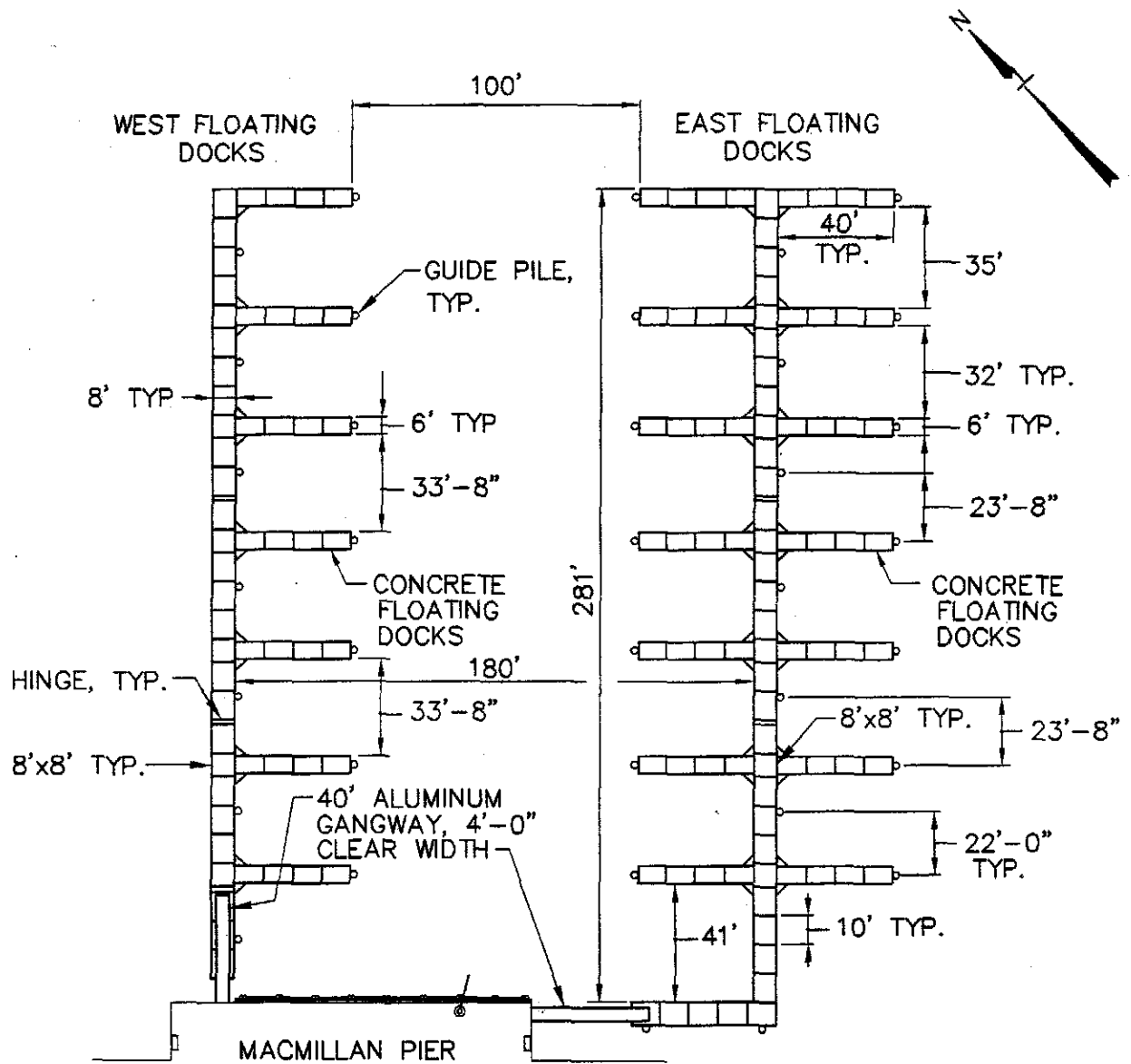
PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS BURLINGTON, MASS.

1

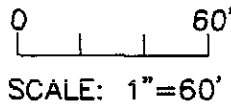
AUGUST 25, 2000 (REVISED)

~~MARCH 21, 2000~~ (REVISED)

~~AUGUST 27, 1999~~ SHEET 10 OF 22



DECK PLAN - FLOATING DOCKS

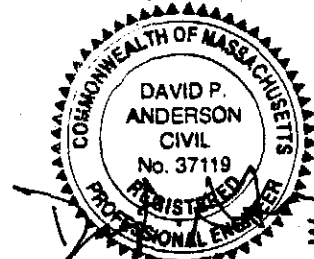


LICENSE PLAN NO. *8621*
 Approved by Department of Environmental Protection
 Date **OCT 16 2000**

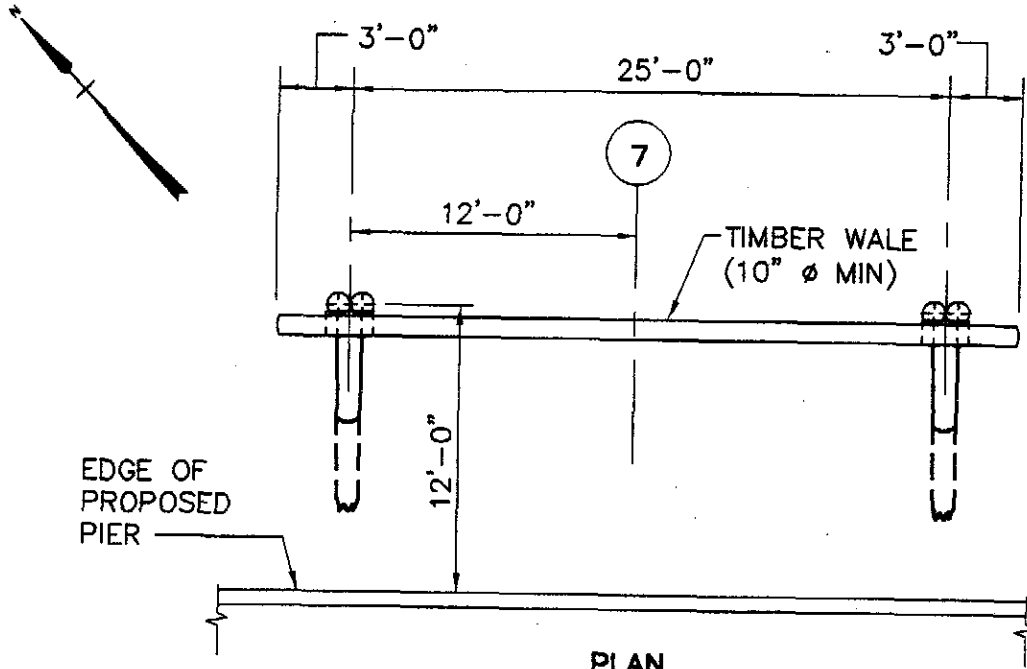
LEGEND

- 10.75"OD STEEL PIPE GUIDE PILE (TOTAL = 36)

PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN
 FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
 BURLINGTON, MASS

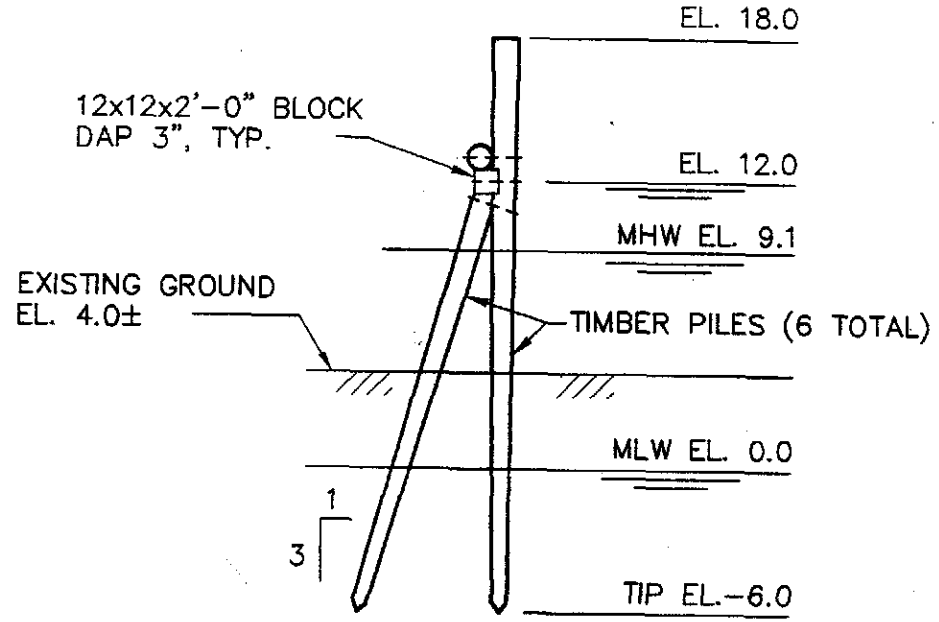


3/21/00



PLAN

0 8
SCALE: 1/8" = 1'-0"



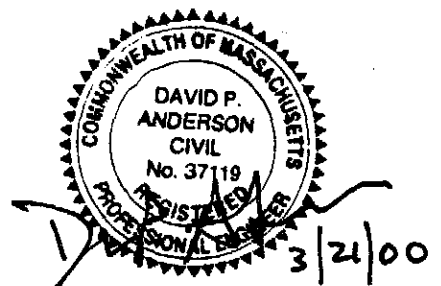
TYPICAL SECTION

0 8
SCALE: 1/8" = 1'-0"

VESSEL GROUNDING FRAME

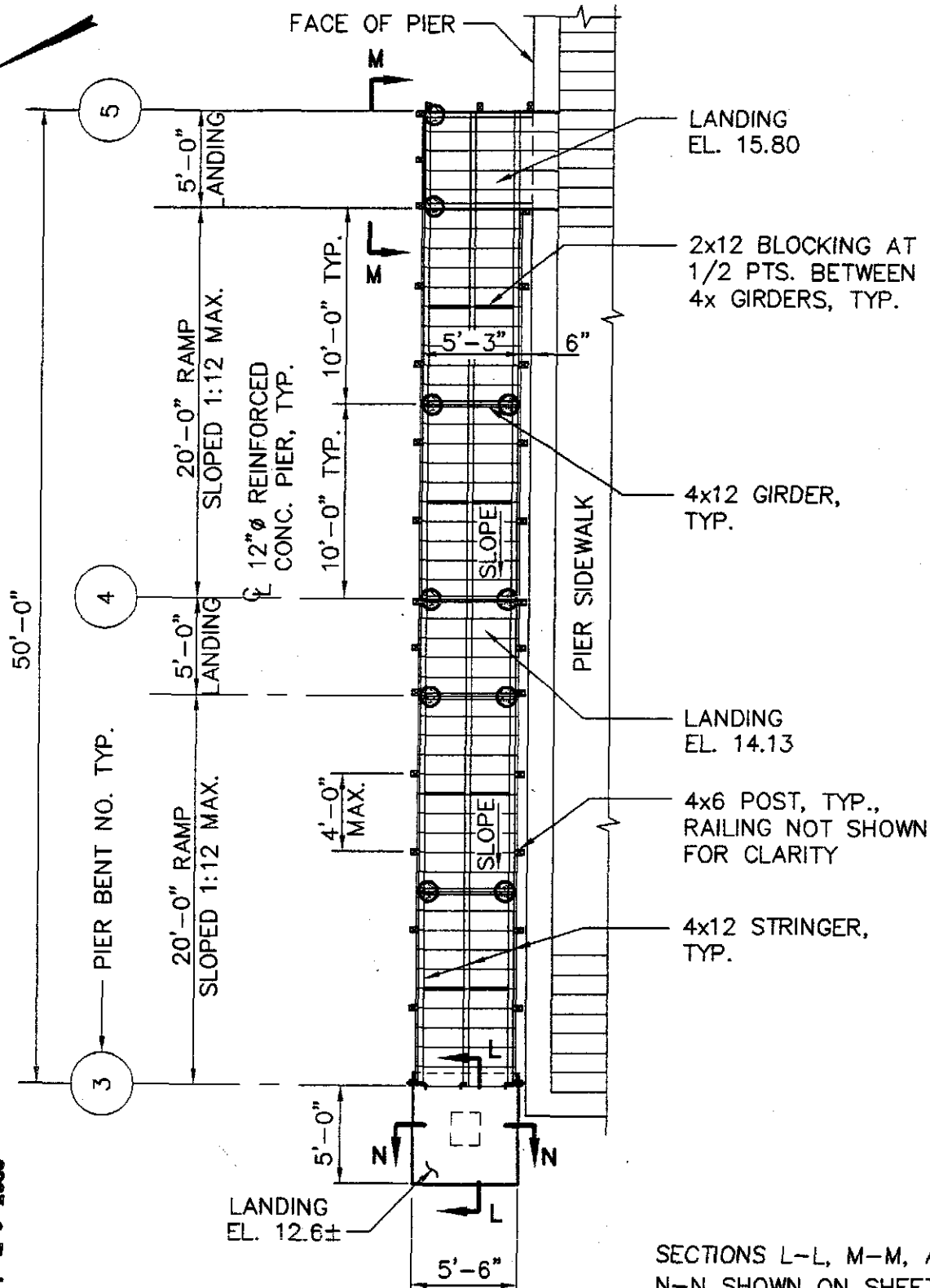
LICENSE PLAN NO. 8621
Approved by Department of Environmental Protection
Date: OCT 16 2000

PLAN ACCOMPANYING PETITION OF
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RECONSTRUCT AND MAINTAIN
MACMILLAN PIER, DREDGE AND PERFORM
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HARBOR, TOWN OF PROVINCETOWN
FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
BURLINGTON, MASS.



MARCH 21, 2000 (REVISED)

LICENSE PLAN NO. 8621
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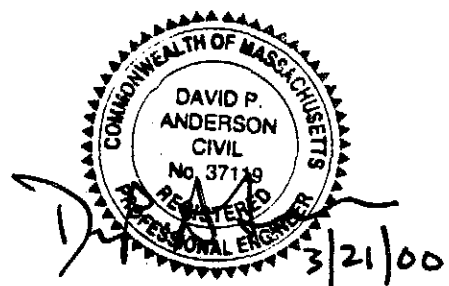


FRAMING PLAN - HANDICAP BEACH ACCESS RAMP

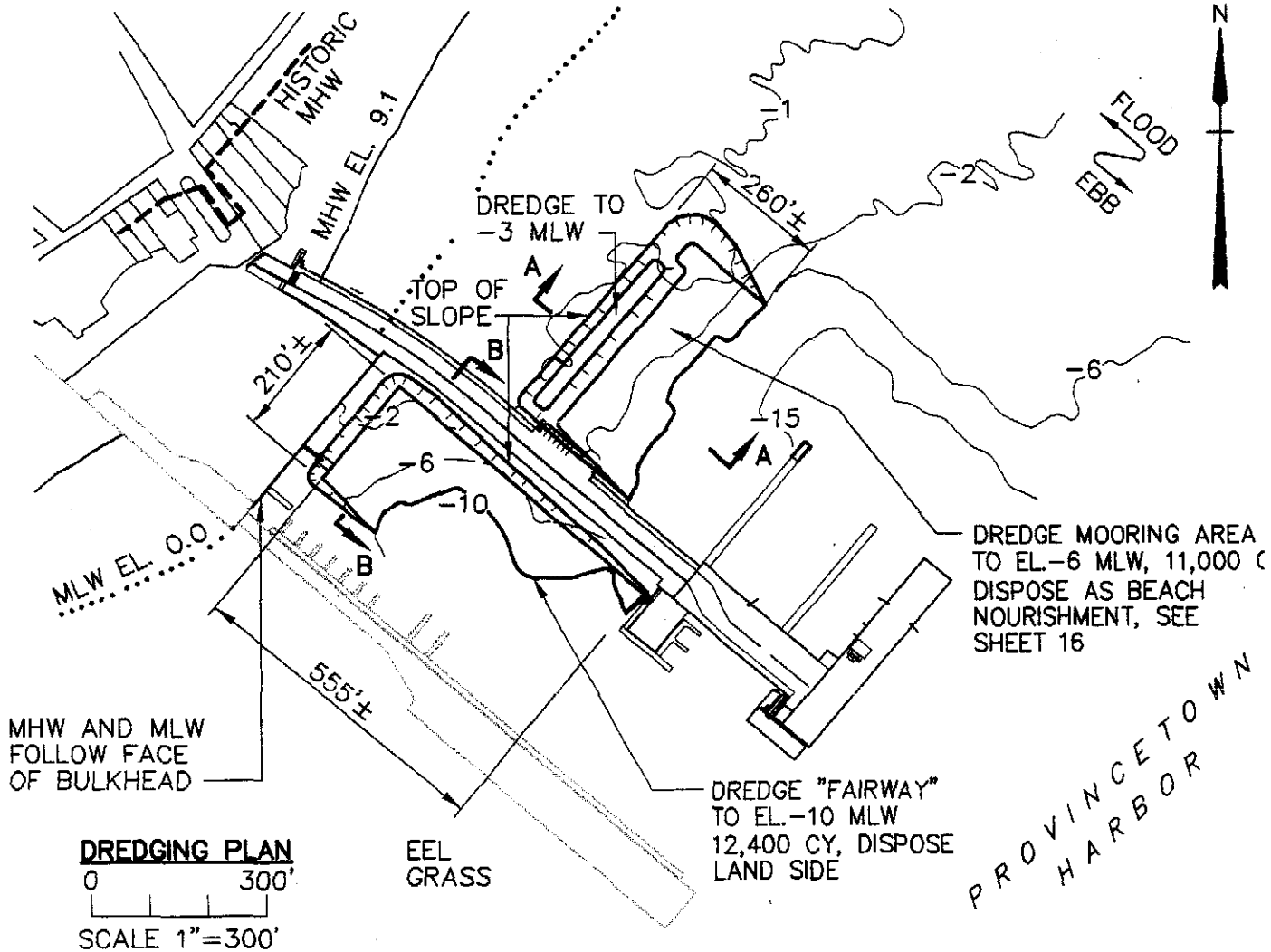
SCALE: 1/8" = 1'-0"

SECTIONS L-L, M-M, AND N-N SHOWN ON SHEET 14

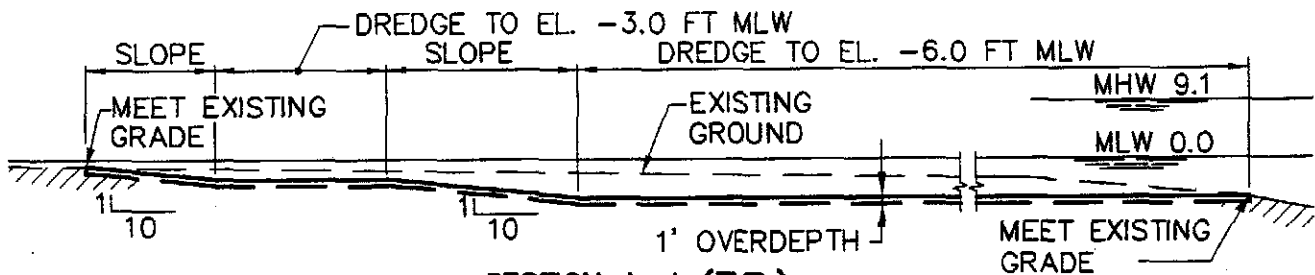
PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS BURLINGTON MASS



MARCH 21, 2000 (REVISED)
 AUGUST 27, 1999 SHEET 13 OF 22



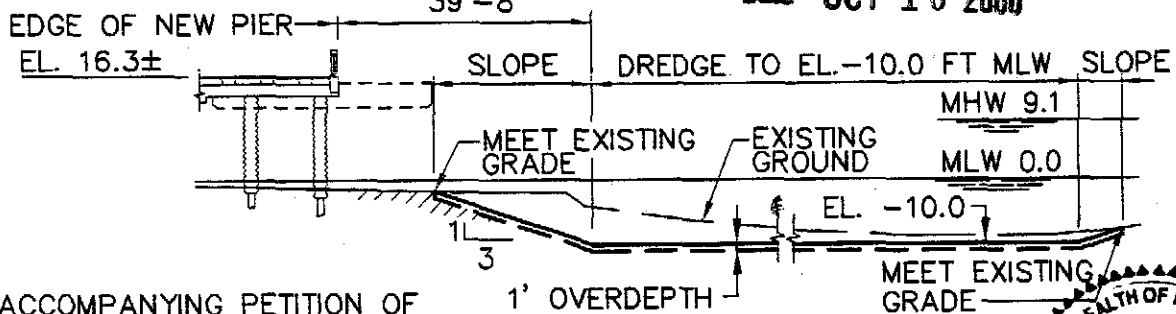
DREDGING PLAN
 0 300'
 SCALE 1"=300'



SECTION A-A (TYP.)

0 30'
 SCALE: 1"=30'

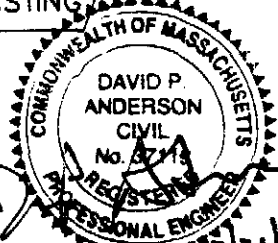
LICENSE PLAN NO. 8621
 Approved by Department of Environmental Protection
 Date **OCT 16 2000**

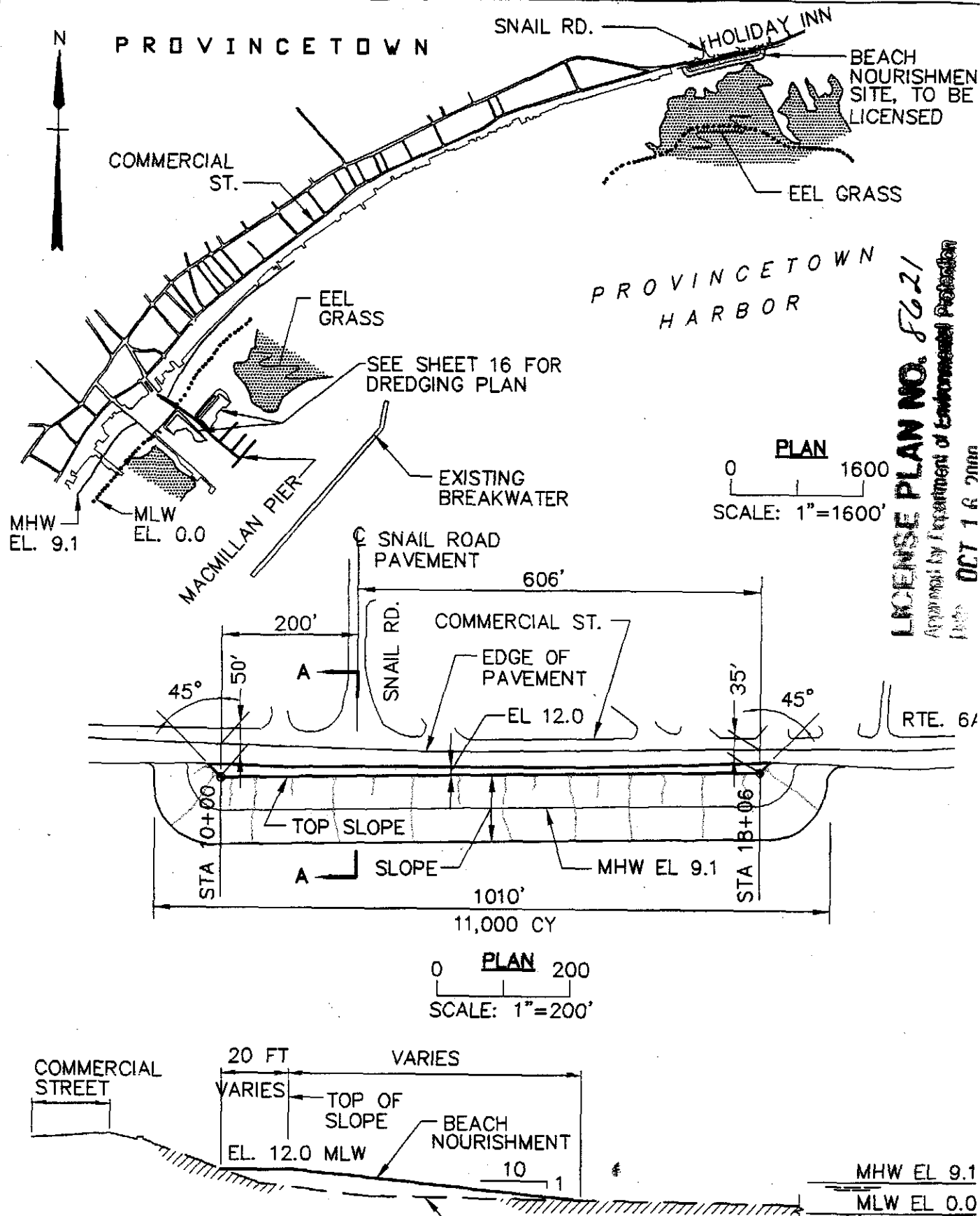


SECTION B-B (TYP.)

0 30'
 SCALE: 1"=30'

PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS BURLINGTON, MASS.

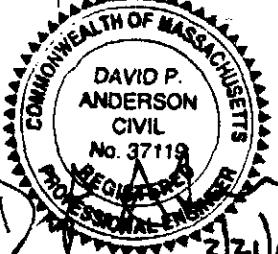




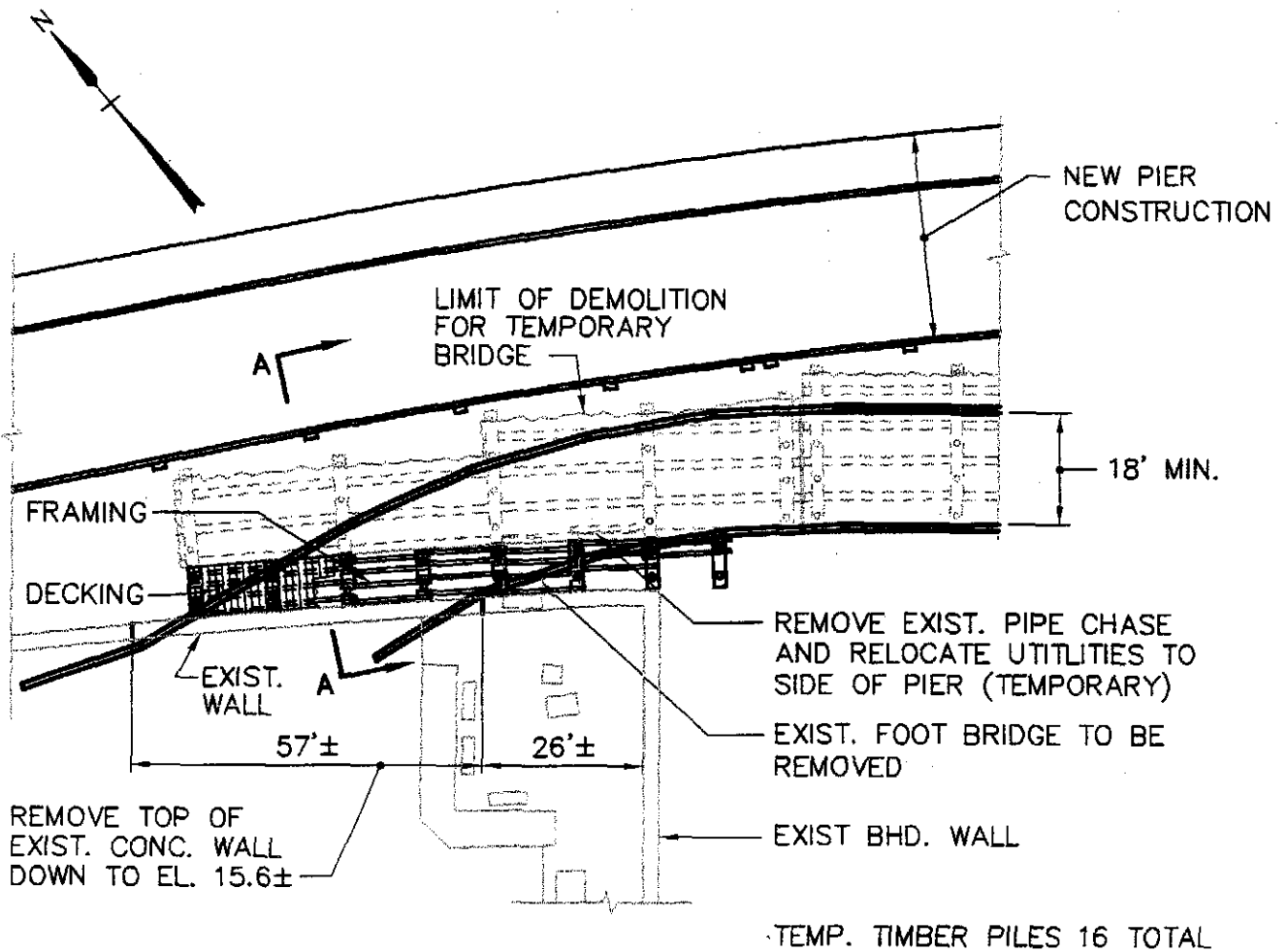
LICENSE PLAN NO. 8621
 Approved by Department of Environmental Protection
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PLAN ACCOMPANYING PETITION OF
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 MACMILLAN PIER, DREDGE AND PERFORM
 BEACH NOURISHMENT IN PROVINCETOWN
 HARBOR, TOWN OF PROVINCETOWN
 FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
 BURLINGTON, MASS

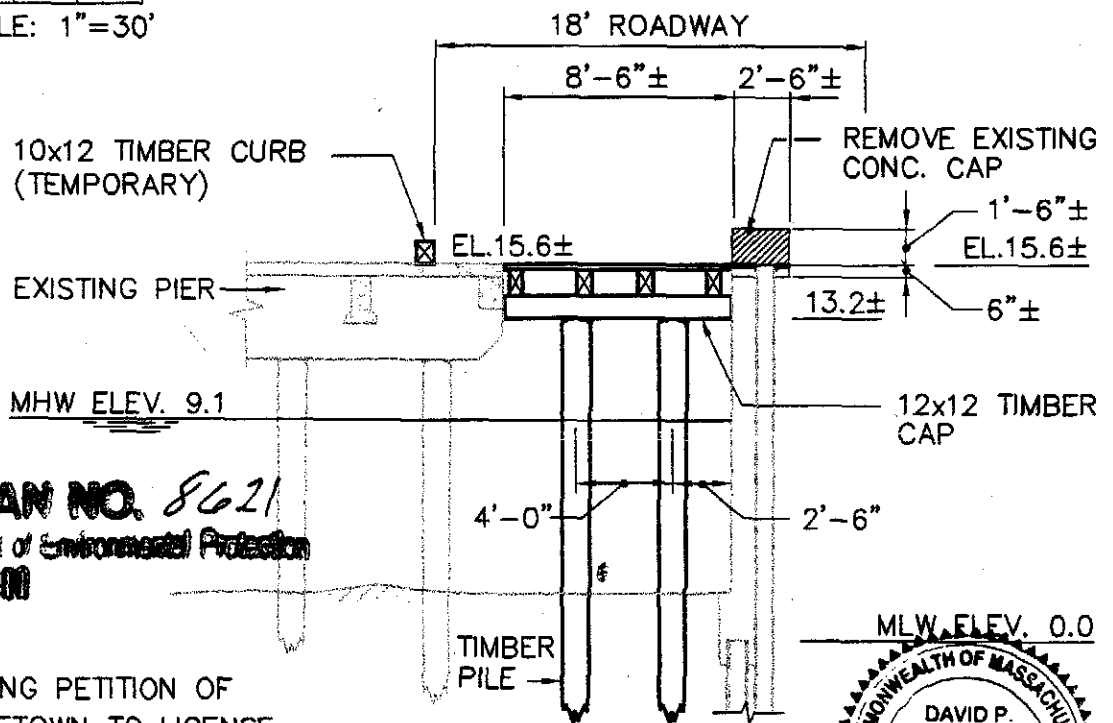
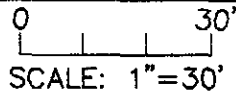
SECTION A-A
 0 40
 SCALE: 1"=40'



MARCH 21, 2000 (REVISED)
~~AUGUST 27, 1999~~ SHEET 16 OF 22

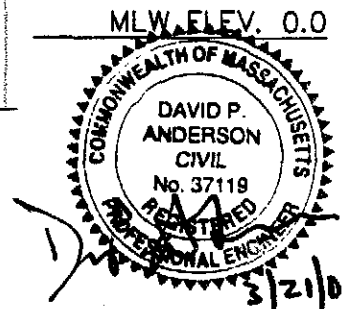
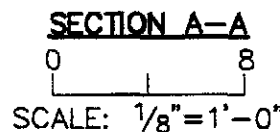


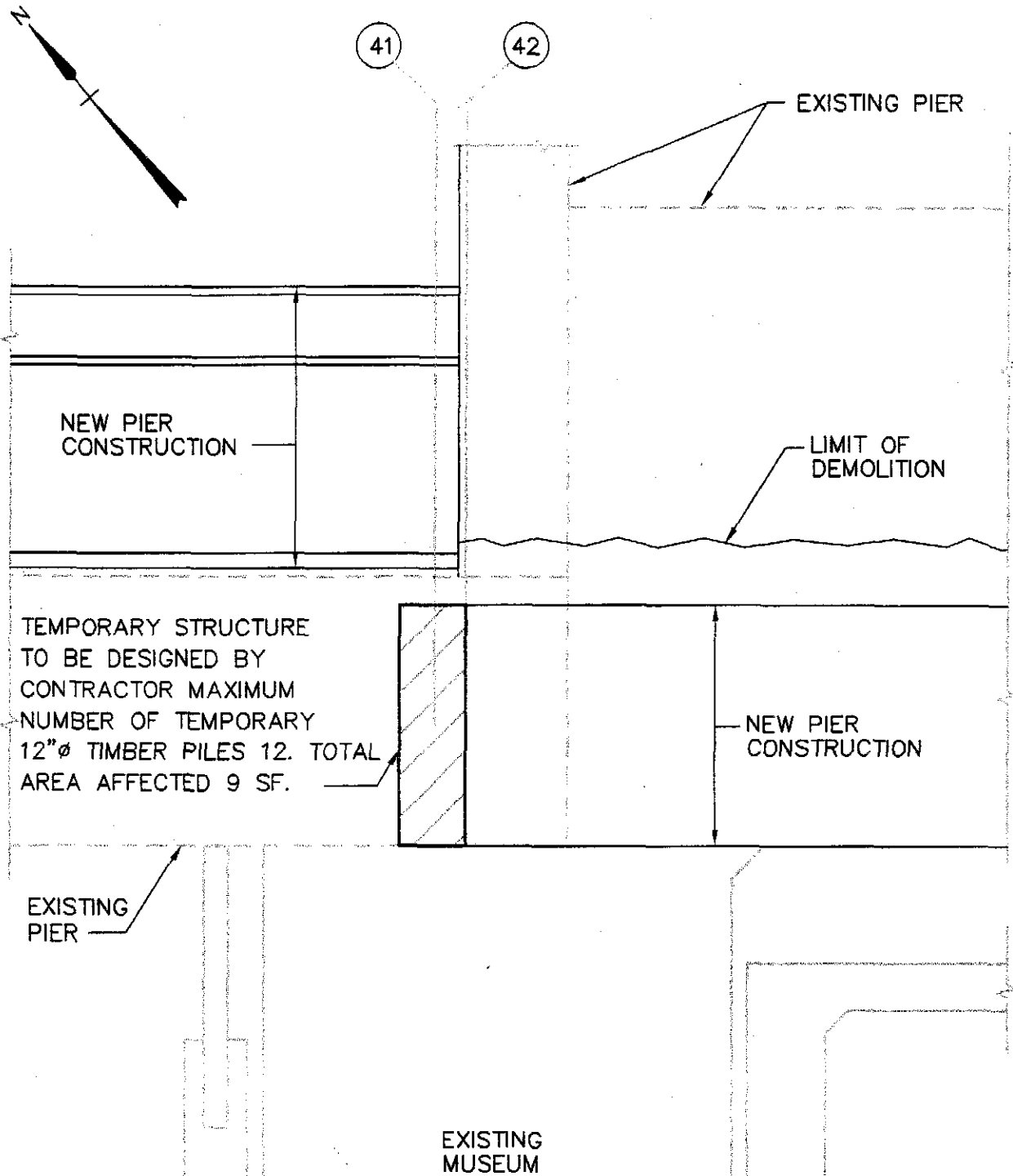
TEMPORARY PILE SUPPORTED BRIDGE



LICENSE PLAN NO. 8621
 Approved by Department of Environmental Protection
 Date OCT 16 2000

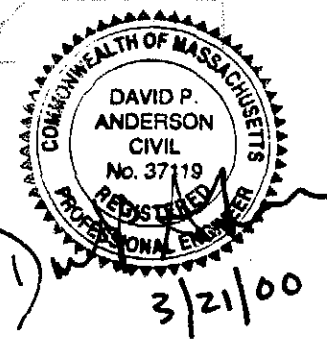
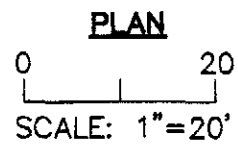
PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS BURLINGTON, MASS.



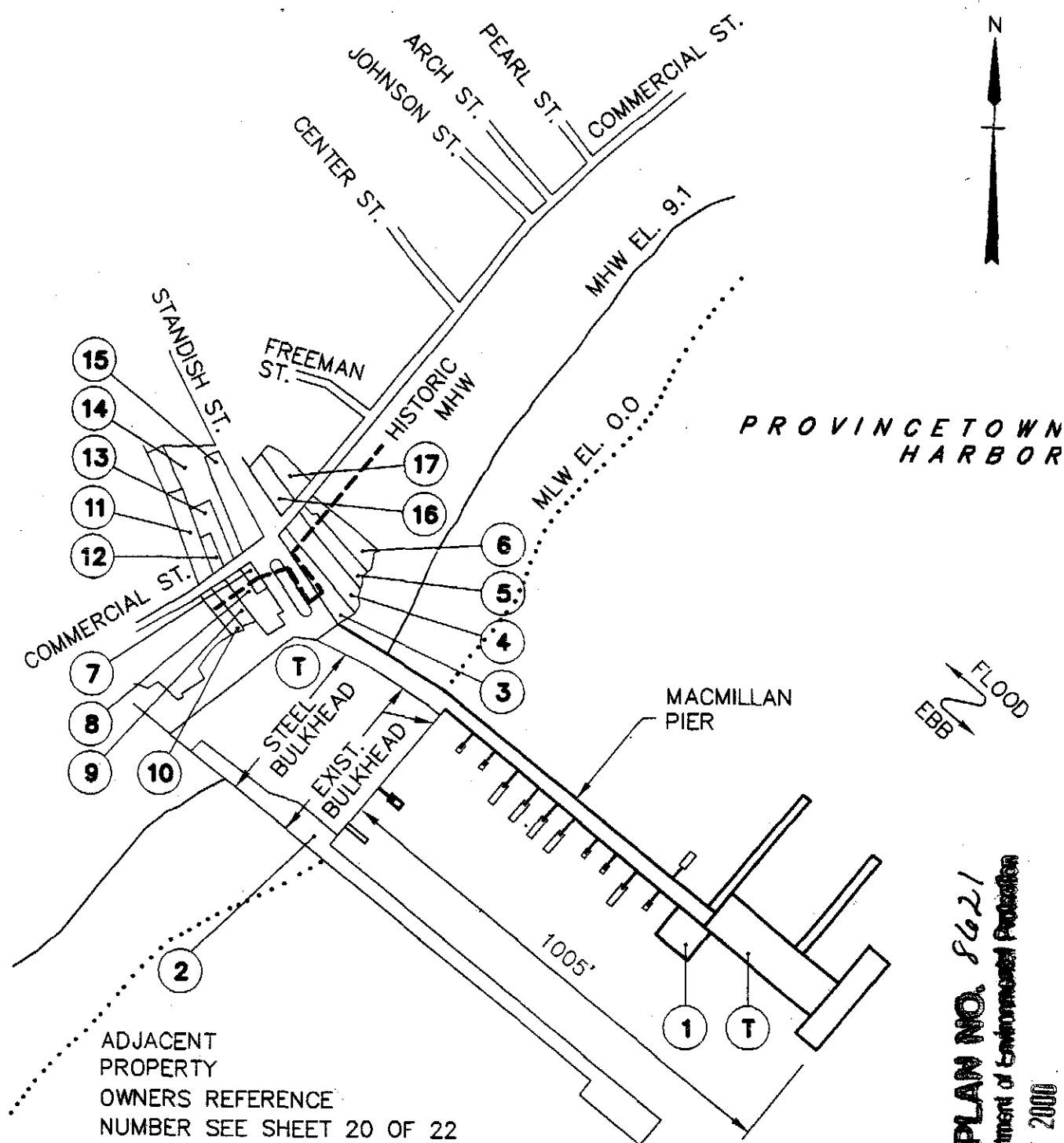


LICENSE PLAN NO. 8621
 Approved by Department of Environmental Protection
 Date OCT 16 2000

PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS BURLINGTON, MASS.



MARCH 21, 2000 (REVISED)
~~AUGUST 27, 1999~~ SHEET 18 OF 22



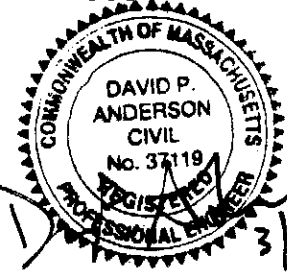
ADJACENT PROPERTY OWNERS REFERENCE NUMBER SEE SHEET 20 OF 22

T = TOWN OF PROVINCETOWN OWNER

ABUTTERS PLAN
 0 300'
 SCALE: 1"=300'

LICENSE PLAN NO. 8621
 Approved by Department of Environmental Protection
 Date OCT 16 2000

PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS BURLINGTON, MASS.



MARCH 21, 2000 (REVISED)
~~AUGUST 27, 1999~~ SHEET 19 OF 22

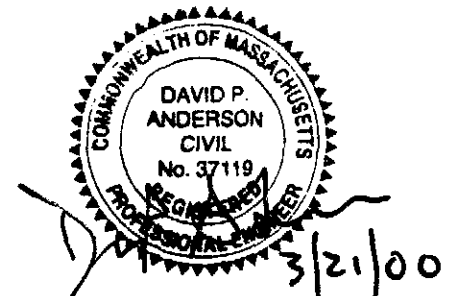
3/21/06

LIST OF ABUTTERS

- | | |
|---|--|
| ① LAZIER ROBERT T
C/O KIT WILLIAMS
PO BOX 1325
VAIL, CD 81658 | ⑩ ROBERTS MARGARET RUTH LEAF
ESTATE OF MARY MORAN
7034 COPPERWOOD WAY
COLUMBIA, MD 21046 |
| ② CABRAL ENTERPRISES, INC
FISHERMENS WHARF
PROVINCETOWN, MA 02657 | ⑪ JANOPLIS MICHAEL J JR
6 BROWNE ST
PROVINCETOWN, MA 02657 |
| ③ DDK INC
PO BOX 337
PROVINCETOWN, MA 02657 | ⑫ BROTCHE MARY M
1001 NW 2ND AVE
BOCA RATON, FL 33432 |
| ④ LUCO REALTY INC
32 CONANT ST
PROVINCETOWN, MA 02657 | ⑬ INVESTORBANK OF AMERICA, INC
178 BRADFORD ST
PROVINCETOWN, MA 02657 |
| ⑤ 321 COMMERCIAL ST REALTY TRUST
321 COMMERCIAL ST
PROVINCETOWN, MA 02657 | ⑭ SMALLS COURT REALTY TRUST
PO BOX 384
OSERVILLE, MA 02655 |
| ⑥ LUCO REALTY INC
32 CONANT ST
PROVINCETOWN, MA 02657 | ⑮ LEWIS ALAN I. ET AL
50 CONGRESS ST #60
PROVINCETOWN, MA 02657 |
| ⑦ GRACE JOHN T ET AL
PO BOX 658
PROVINCETOWN, MA 02657 | ⑮ MURIEL COILL REVOCABLE
TRUST/MUREL COILL TTEE
50 CONGRESS ST SUITE 615
BOSTON, MA 02109 |
| ⑧ PROVINCETOWN BOARD OF TRADE
PO BOX 1017
PROVINCETOWN, MA 02657 | ⑯ GOV WILLIAM BRADFORD
REALTY TRUST
314 COMMERCIAL ST
PROVINCETOWN, MA 02657 |
| ⑨ SCHLOSBERG PHYLLIS E
5 WEBSTER PL
PROVINCETOWN, MA 02657 | ⑰ GOV WILLIAM BRADFORD
REALTY TRUST
314 COMMERCIAL ST
PROVINCETOWN, MA 02657 |

LICENSE PLAN NO. 8621
Approved by Department of Environmental Protection
Date OCT 16 2000

PLAN ACCOMPANYING PETITION OF
TOWN OF PROVINCETOWN TO LICENSE,
RECONSTRUCT AND MAINTAIN
MACMILLAN PIER, DREDGE AND PERFORM
BEACH NOURISHMENT IN PROVINCETOWN
HARBOR, TOWN OF PROVINCETOWN
FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
BURLINGTON, MASS.





MHW EL. 9.1

31

34

33

32

30

29

28

27

ADJACENT PROPERTY OWNERS REFERENCE NUMBER SEE SHEET 22 OF 22

PROVINCETOWN HARBOR

BEACH NOURISHMENT SITE



COMMERCIAL ST.

SNAIL ROAD

28

25

24

23

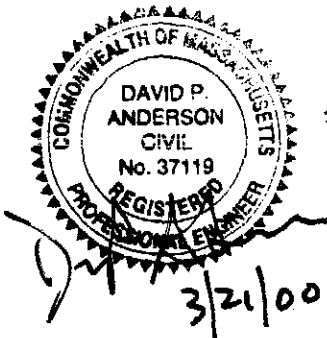
22

21

20

19

18



LICENSE PLAN NO. 8621
Approved by Department of Environmental Protection
Date OCT 16 2000

PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, RECONSTRUCT AND MAINTAIN MACMILLAN PIER, DREDGE AND PERFORM BEACH NOURISHMENT IN PROVINCETOWN HARBOR, TOWN OF PROVINCETOWN FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS BURLINGTON, MASS.

ABUTTERS PLAN



SCALE: 1"=250'

MARCH 21, 2000
~~AUGUST 27, 1999~~

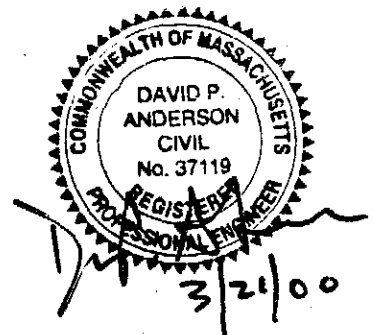
(REVISED)
SHEET 21 OF 2

LIST OF ABUTTERS

- 18 LISA, ROSE, FABIEN LUSTIGMAN
8 SUNNYFIELD
LONDON NW7 4RG ENGLAND
- 19 LISA, ROSE, FABIEN LUSTIGMAN
8 SUNNYFIELD
LONDON NW7 4RG ENGLAND
- 20 CHARLES S. MCKENZIE, ET AL
RIPLEY FAMILY TRUST
64288E GOLDEN SPUR CT.
TUCSON AZ 85739
- 21 SUSAN SWEENEY ET AL
915 LAWTON ST.
MCLEAN, VA 22101
- 22 ELIZABETH SCHWARZ
676 COMMERCIAL ST
PROVINCETOWN, MA 02657
- 23 ROGER S. LOCKE
682 COMMERCIAL ST.
PROVINCETOWN, MA 02657
- 24 ROGER S. LOCKE ET AL TTEES
682 COMMERCIAL ST.
PROVINCETOWN, MA 02657
- 25 OWNER'S UNKNOWN
686 COMMERCIAL ST.
PROVINCETOWN, MA 02657
- 26 THOMAS VASILOS ET UX
STEPHANIE VASILOS
72 COTTAGE PARK ROAD
WINTHROP, MA 02152
- 27 BEACH POINT REALTY TRUST
FRED E. SATERIALE TTEE
P.O. BOX 392
PROVINCETOWN, MA 02657
- 28 BEACH POINT REALTY TRUST
FRED E. SATERIALE TTEE
P.O. BOX 392
PROVINCETOWN, MA 02657
- 29 TIMPAM REALTY TRUST
TIMOTHY F. MCNULTY TTEE
742 COMMERCIAL ST
PROVINCETOWN, MA 02657
- 30 HEIDI J. SCHMIDT
730 COMMERCIAL ST
PROVINCETOWN, MA 02657
- 31 DONALD J. SLATER ET UX
VALERIE P. SLATER
6916 HICKORY CREEK
PLANO, TX 75023
- 32 KATHERINE E. BACHMAN ET AL
KATHERINE F. THURMOND
12 THORNDIKE ST.
BROOKLINE, MA 02146
- 33 LEONARD H. ALBERTS MD
P.O. BOX 276
PROVINCETOWN, MA 02657
- 34 HALCYONE HTASHA
P.O. BOX 993
PROVINCETOWN, MA 02657

LICENSE PLAN NO. 8621
OFFICE OF Department of Environmental Protection
OCT 16 2000

PLAN ACCOMPANYING PETITION OF
TOWN OF PROVINCETOWN TO LICENSE,
RECONSTRUCT AND MAINTAIN
MACMILLAN PIER, DREDGE AND PERFORM
BEACH NOURISHMENT IN PROVINCETOWN
HARBOR, TOWN OF PROVINCETOWN
FAY, SPOFFORD & THORNDIKE, INC. ENGINEERS
BURLINGTON, MASS.



Amendment #1

3/19/67

Bk 21861

Pg 15

The Commonwealth of Massachusetts



No. 8621 Amendment #1

Whereas, Town of Provincetown

of -- Provincetown --, in the County of -- Barnstable -- and Commonwealth aforesaid, has applied to the Department of Environmental Protection to -- amend some portion of the Chapter 91 License # 8621 relating to activity anticipated in the underlying license to add within the footprint of the licensed MacMillan Wharf and floats, a public restroom, crew facilities, a sewer line, and a large capacity ferry pavilion and passenger queuing structures

and has submitted plans of the same; and whereas due notice of said application, has been given, as required by law, to the --Boards of Selectmen-- of the -- Town-- of -- Provincetown. ----

NOW, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, authorizes and licenses the said

-- Town of Provincetown --, 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, to ---- add within the footprint of the licensed MacMillan Wharf and floats, a public restroom, crew facilities, a sewer line, and a large capacity ferry pavilion and passenger queuing structures -----

in and over the flowed and filled tidelands of -- the Provincetown Harbor -- in the -- Town -- of -- Provincetown -- and in accordance with the locations shown and details indicated on the accompanying DEP License Amendment Plan No. 8621 Amendment #1 (7 sheets with a revised date of 22 January 2007). -----

This amended license shall augment those portions of the underlying authorizations relating to the MacMillan Wharf project site, included in Chapter 91 License No. 8621, and shall be recorded at the Registry of Deeds pursuant to 310 CMR 9.18.

This license for the uses and structures authorized herein shall run with the term of the underlying Chapter 91 License No. 8621.

SPECIAL CONDITIONS

Special Condition 1: The special conditions in the underlying license, #8621, shall remain in full force.

Special Condition 2: All work required 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 or more one year periods without public notice, provided that the Applicant submits to the Department no later than thirty (30) days prior to expiration of said construction period a written request to extend the period and provides an adequate justification for said extension.

Special Condition 3: The Licensee shall request, in writing, that the Department issue a Certificate of Compliance in accordance with 310 CMR 9.19 within sixty (60) days of completion of the licensed project. The request shall be accompanied by a certification, by a registered professional engineer or registered land surveyor licensed in the Commonwealth, that the project was completed in accordance with the License.

Please see page 3 for additional conditions to this license. -----

Duplicate of said plan, number 8621 Amendment #1 with a revised date of 22 January 2007 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.

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 Waterways 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 Waterways License void.
 4. This Waterways 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 Waterways 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 Waterways 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.
 7. This Waterways 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, G.L. Chapter 131, s.40.
 8. This Waterways 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 DEP.
 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.
 - 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.

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 - Town of Provincetown -- by paying into the treasury of the Commonwealth -- zero dollars and zero cents (\$0.00)-- for each cubic yard so displaced, being the amount hereby assessed by said Department. (0.0 cu. yds. = \$0.00)

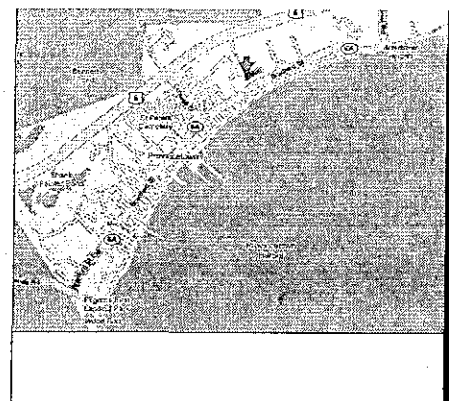
Nothing in this License shall be so construed as to impair the legal rights of any person. This License shall be void unless the same and the accompanying plan are recorded within 60 days from the date hereof, in the Registry of Deeds for the County of -- Barnstable -----

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this 29th day of JANUARY in the year two thousand and seven.

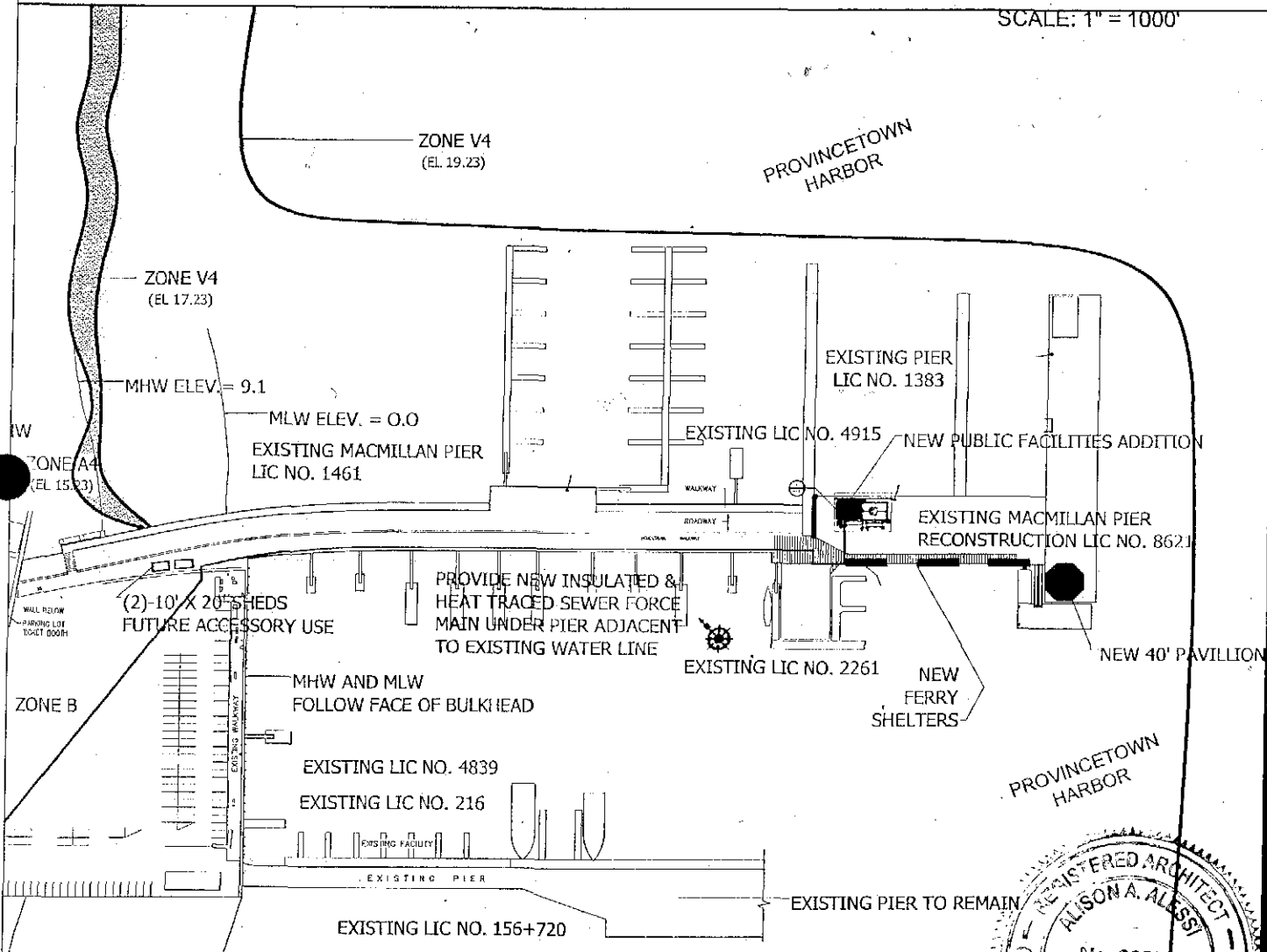
Program Chief _____



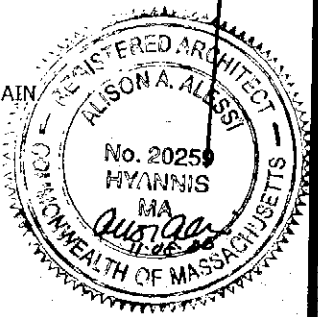
Department of
Environmental
Protection



VICINITY MAP
SCALE: 1" = 1000'



PLAN OF EXISTING PIER.



SEPTEMBER 20, 2006
REVISED NOVEMBER 08, 2006
REVISED JANUARY 22, 2007

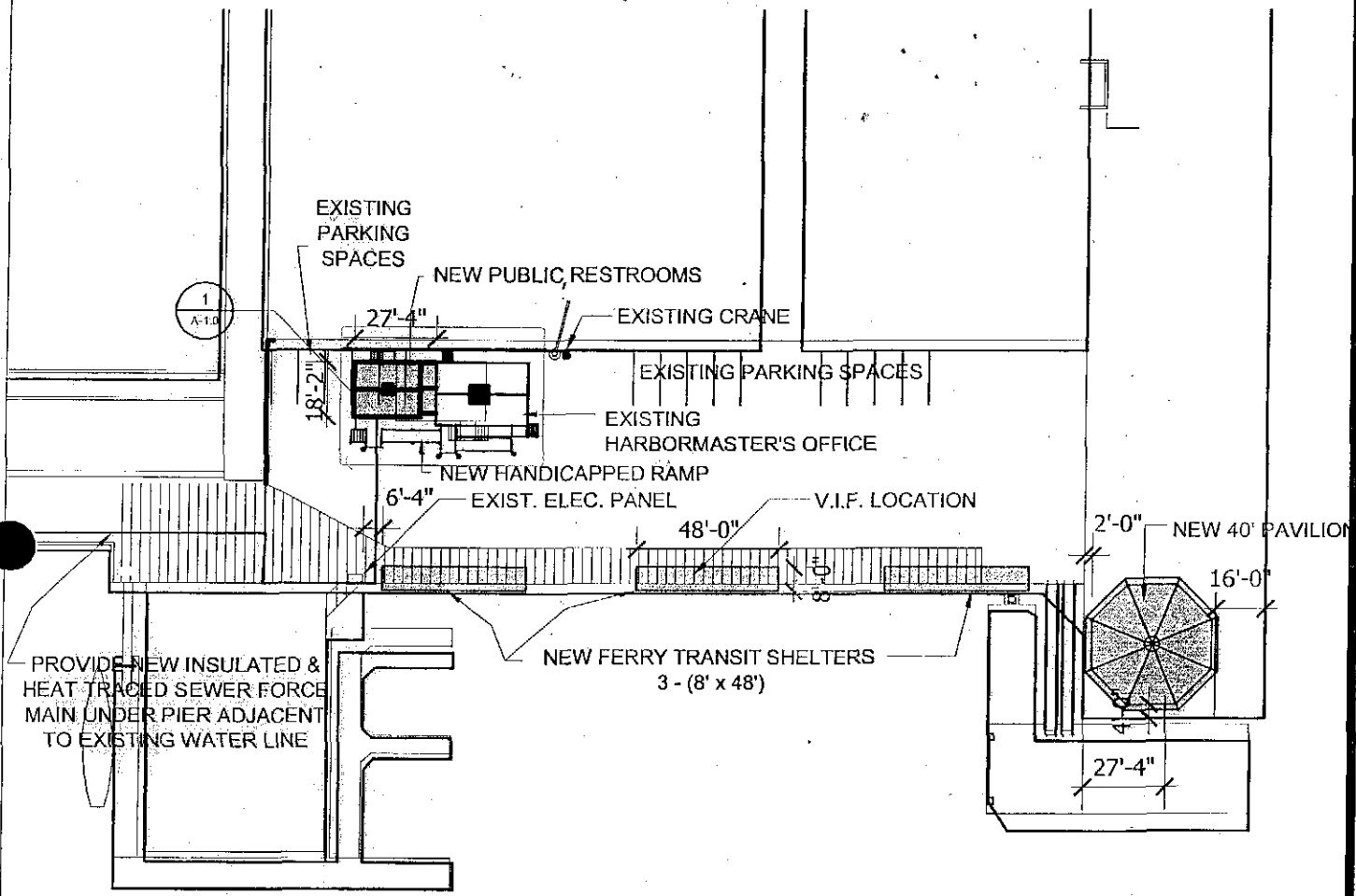
SHEET 1 OF 7

PLAN ACCOMPANYING PETITION
OF TOWN OF PROVINCETOWN TO
LICENSE, CONSTRUCT AND
MAINTAIN NEW STRUCTURES ON
MACMILLAN PIER.

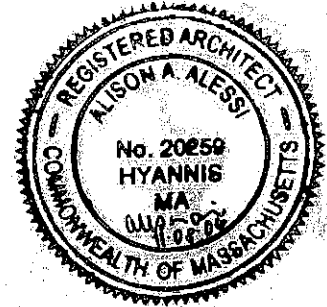


SCALE: 1" = 200'

LICENSE PLAN NO. 8621 AMENDMENT #1
Approved by Department of Environmental Protection
of Massachusetts
Buel 29 JANUARY 2007



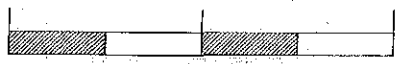
PLAN OF NEW STRUCTURES
ON EXISTING PIER AND
CONSTRUCTION ZONE



SEPTEMBER 20, 2006
 REVISED NOVEMBER 08, 2006
 REVISED JANUARY 22, 2007

SHEET 2 OF 7

PLAN ACCOMPANYING PETITION
 OF TOWN OF PROVINCETOWN TO
 LICENSE, CONSTRUCT AND
 MAINTAIN NEW STRUCTURES ON
 MACMILLAN PIER.



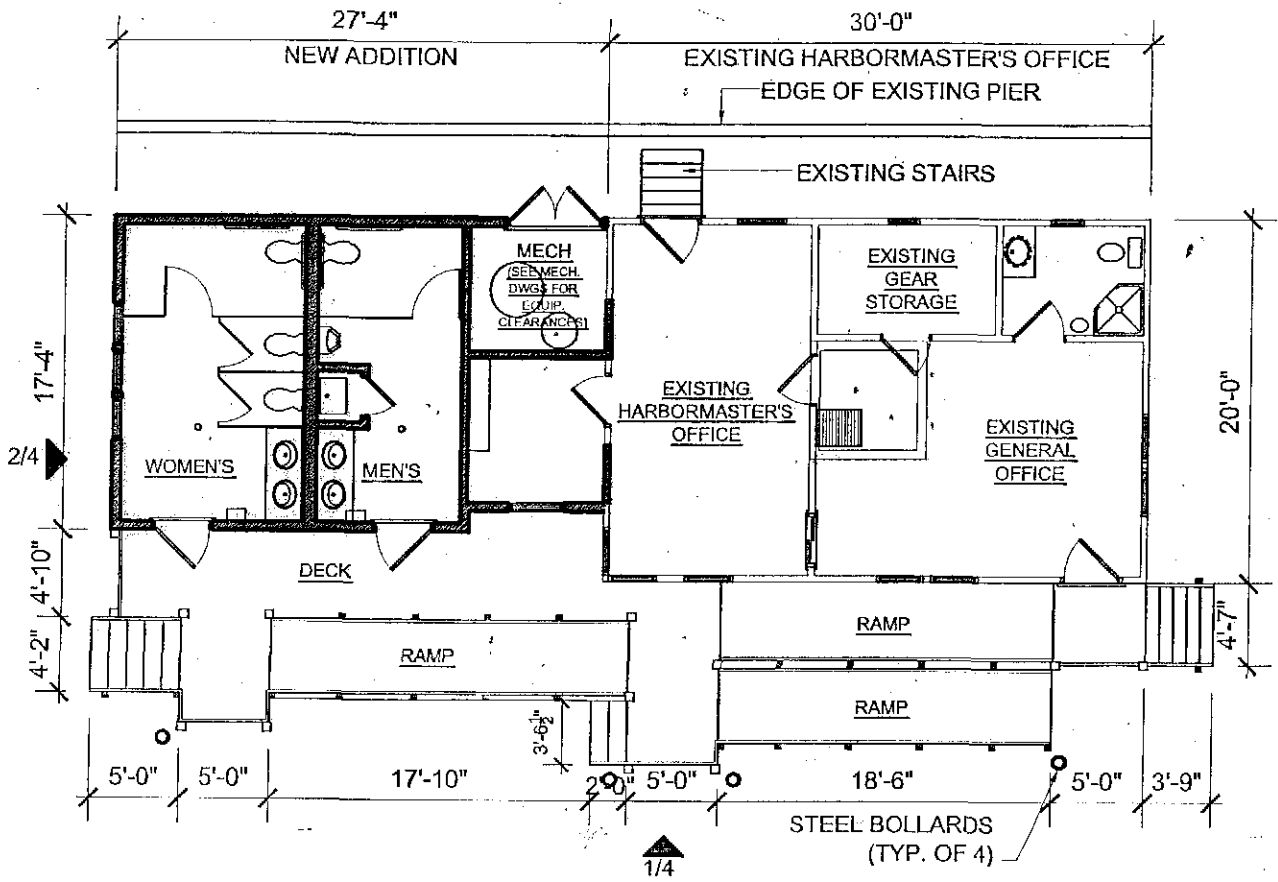
SCALE: 1" = 60'

3621 AMENDMENT #1

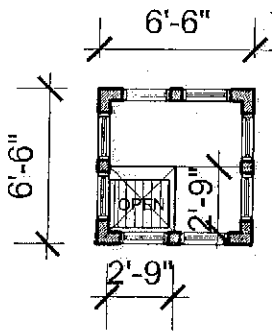
SEWER PLAN NO.

Approved by Department of Environmental Protection

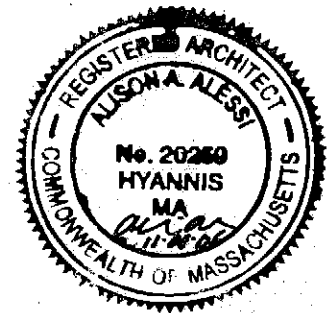
29 JANUARY 2007



PLAN OF NEW REST ROOM
COMFORT FACILITIES



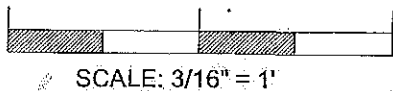
PLAN OF CUPOLA -
INCIDENT COMMAND POST
SCALE: 1/4" = 1'-0"



SEPTEMBER 20, 2006
REVISED NOVEMBER 08, 2006
REVISED JANUARY 22, 2007

SHEET 3 OF 7

PLAN ACCOMPANYING PETITION
OF TOWN OF PROVINCETOWN TO
LICENSE, CONSTRUCT AND
MAINTAIN NEW STRUCTURES ON
MACMILLAN PIER.

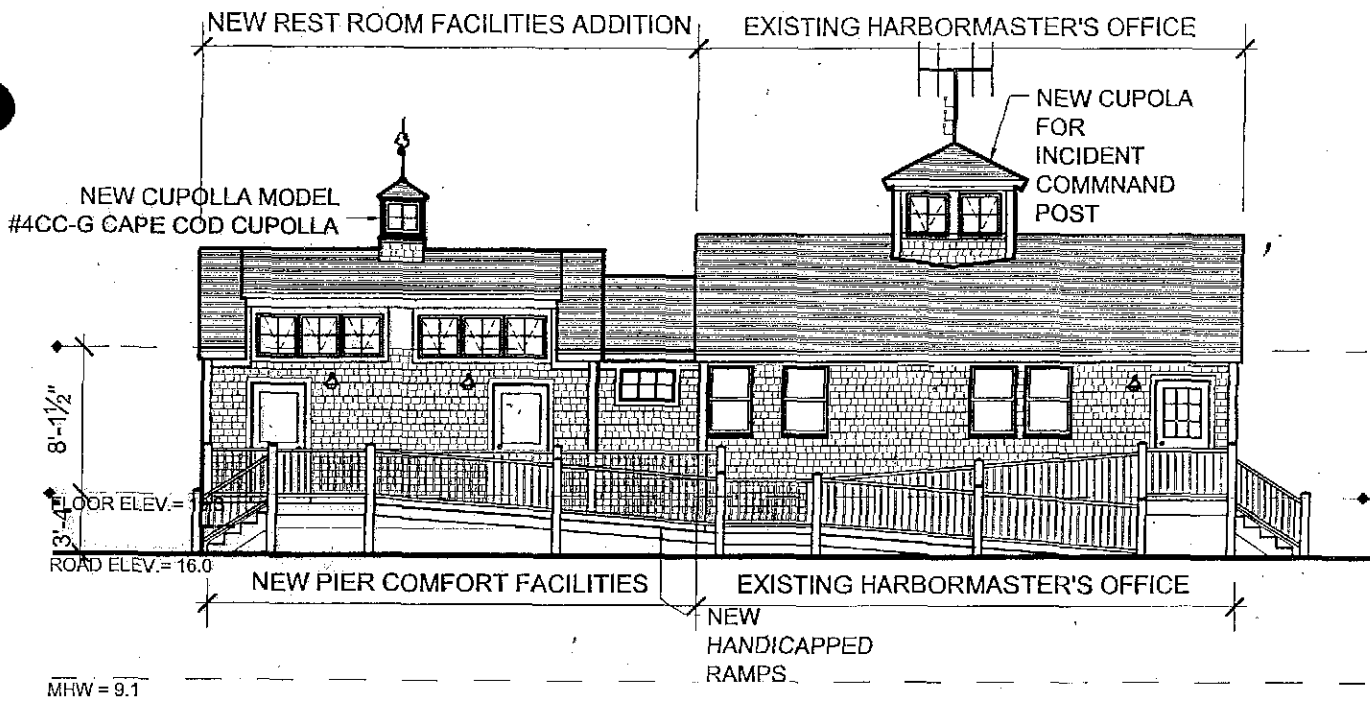


SCALE: 3/16" = 1'

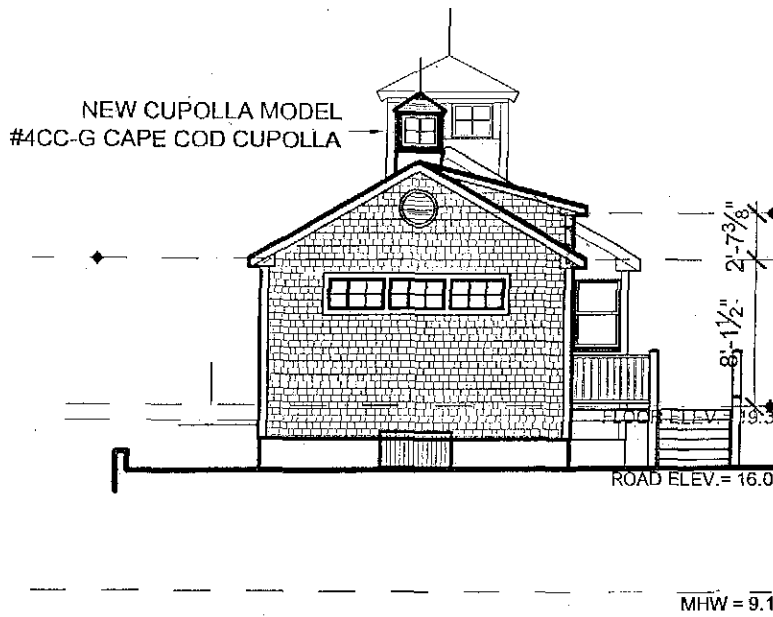
8621 AMENDMENT # 1

~~SECRET PLAN NO.~~
~~Approved by Department of Environmental Protection~~

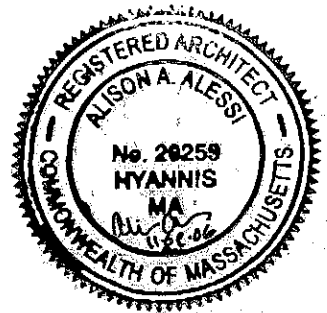
29 JANUARY
2007



1 NORTH ELEVATION OF NEW REST ROOM
COMFORT FACILITIES



2 EAST ELEVATION OF NEW REST ROOM
COMFORT FACILITIES



SEPTEMBER 20, 2006
REVISED NOVEMBER 08, 2006
REVISED JANUARY 22, 2007

SHEET 4 OF 7

PLAN ACCOMPANYING PETITION
OF TOWN OF PROVINCETOWN TO
LICENSE, CONSTRUCT AND
MAINTAIN NEW STRUCTURES ON
MACMILLAN PIER.

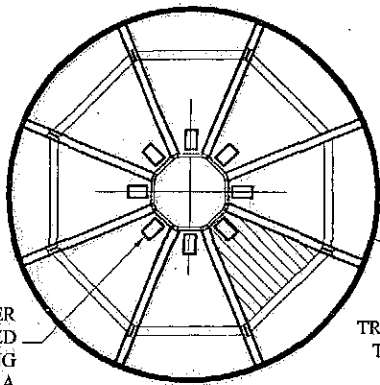


SCALE: 3/16" = 1'-0"

8621 AMENDMENT #1

PERMITS PLAN NO.
Approved by Department of Environmental Protection

29 JANUARY 2007



I-SHELTER SOLAR LED LIGHTING IN CUPOLA (TYP. OF 8)

OPTIONAL LARGE COMPRESSION RING (FOR FRAMED STYLE CUPOLA)

MATERIAL SPECIFICATIONS TUBULAR SHAPES: ASTM A500 GRADE B 46 KSI
 COLD FORMED CEES: A570 GRADE 55
 CONNECTION BOLTS: ASTM A325
 CONNECTION PLATES: ASTM A36
 ANCHOR BOLTS: ASTM A307
 WELDING PROCESS: GAS METAL ARC WELDING
 ELECTRODES: E70xx

TRUSS TAIL

COLUMN

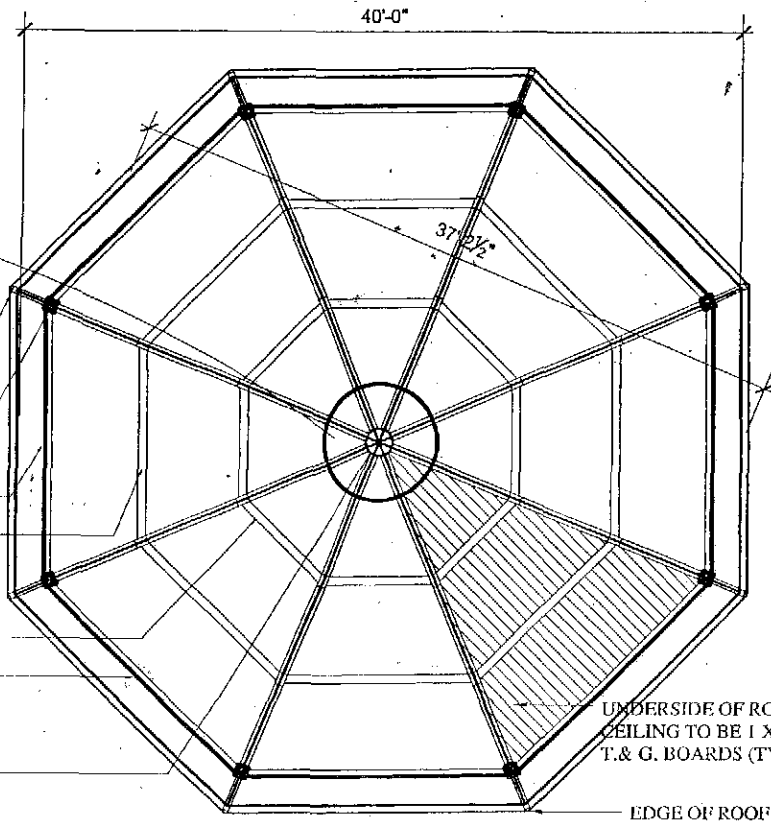
TENSION MEMBER

LOWER PURLIN

UPPER PURLIN

TRUSS

COMPRESSION RING



COMPRESSION RING

TRUSS

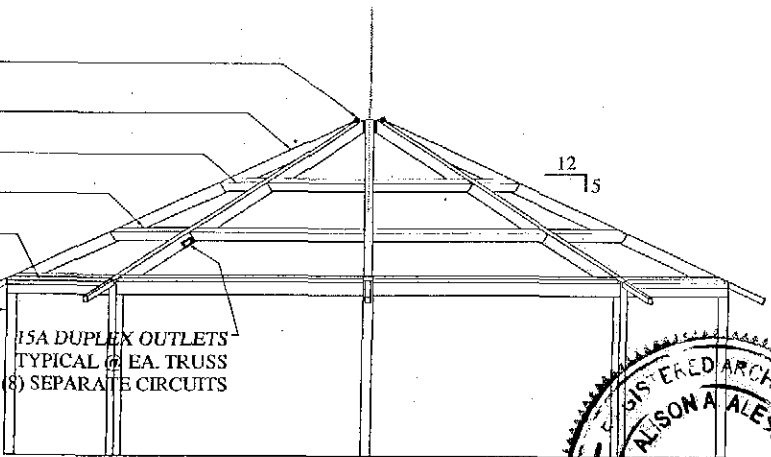
UPPER PURLIN

LOWER PURLIN

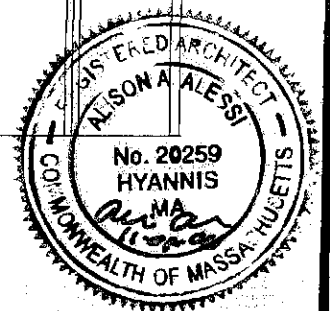
TENSION RING

TRUSS TAIL

COLUMN



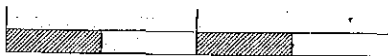
FRAMING PLANS OF NEW 40' PAVILLION



SEPTEMBER 20, 2006
 REVISED NOVEMBER 08, 2006
 REVISED JANUARY 22, 2007

SHEET 5 OF 7

PLAN ACCOMPANYING PETITION OF TOWN OF PROVINCETOWN TO LICENSE, CONSTRUCT AND MAINTAIN NEW STRUCTURES ON MACMILLAN PIER.

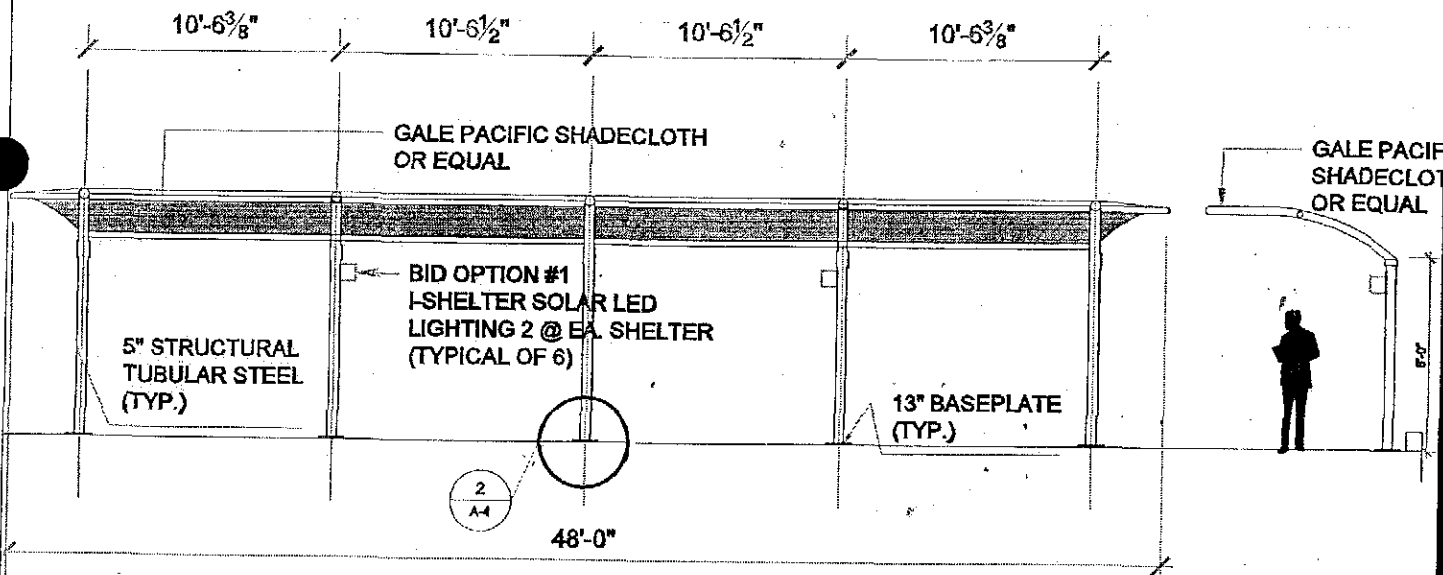


SCALE: 3/16" = 1'

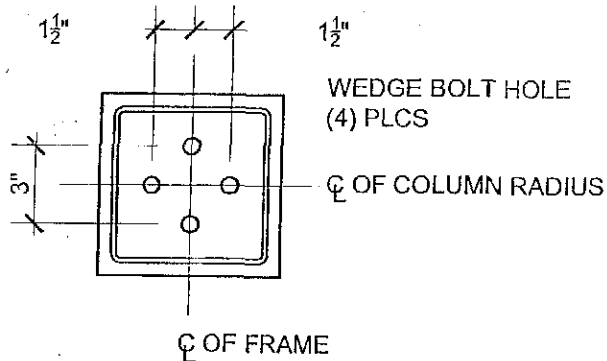
8621 AMENDMENT #1

APPROVED BY DEPARTMENT OF ENVIRONMENTAL PROTECTION

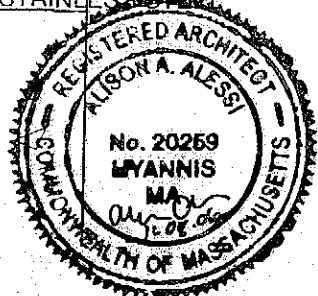
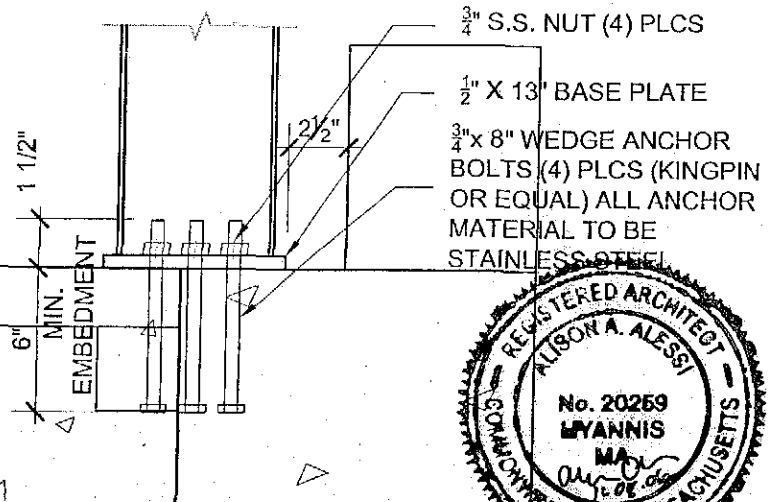
29 JANUARY 2007



ELEVATIONS OF NEW
CANTILEVERED TRANSIT
SHELTERS



NOTE:
WEDGE BOLTS MUST BE
EMBEDDED IN SOLID CONCRETE.
PRECAST PLANKS MUST NOT BE
PENETRATED MORE THAN 4"



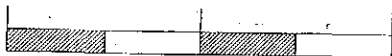
SEPTEMBER 20, 2006
REVISED NOVEMBER 08, 2006
REVISED JANUARY 22, 2007

SHEET 6 OF 7

EXISTING CONCRETE PRECAST PLANK

EXISTING 2" CONCRETE
DECK TOP

PLAN ACCOMPANYING PETITION
OF TOWN OF PROVINCETOWN TO
LICENSE, CONSTRUCT AND
MAINTAIN NEW STRUCTURES ON
MACMILLAN PIER.

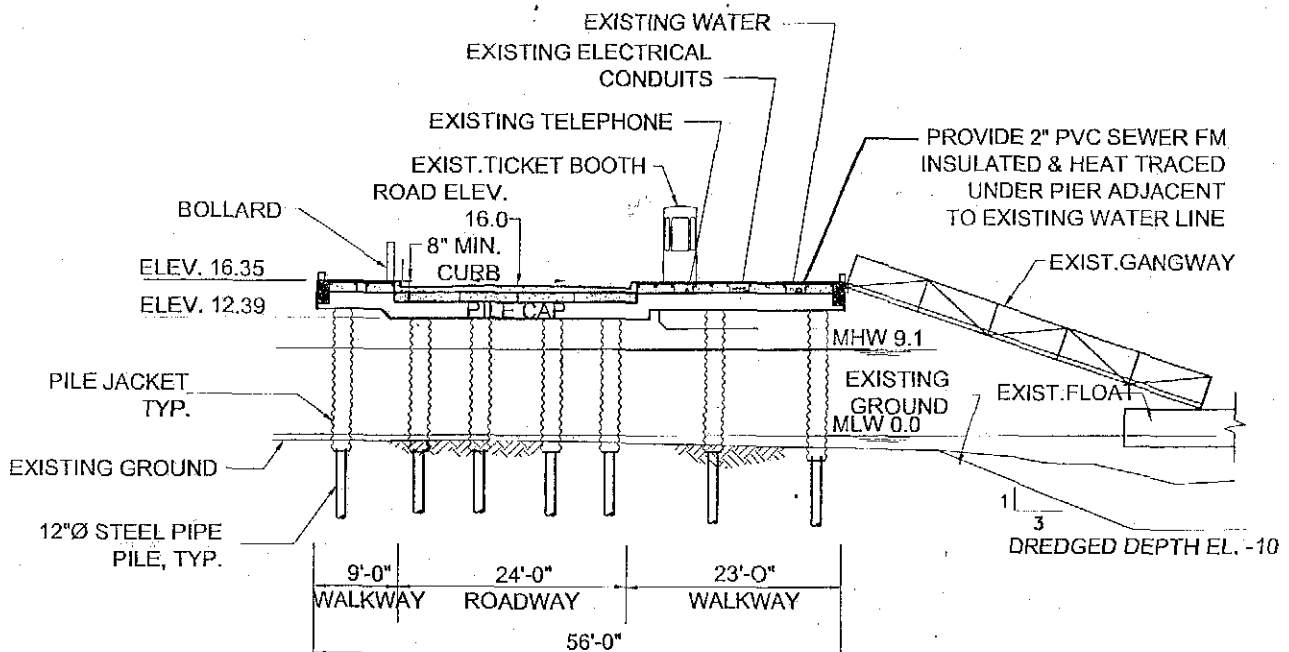


SCALE: 1/8" = 1'

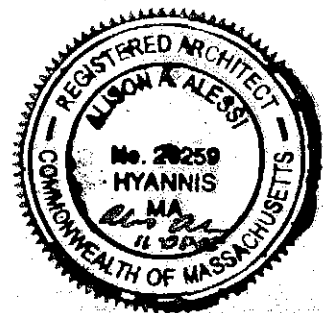
8621 AMENDMENT #1

LICENSE PLAN NO.
Approved by Department of Environmental Protection
Date:

29 JANUARY 2007



PIER SECTION @ RACEWAY



SEPTEMBER 28, 2006
 REVISED NOVEMBER 08, 2006
 REVISED JANUARY 22, 2007

SHEET 7 OF 7

PLAN ACCOMPANYING PETITION
 OF TOWN OF PROVINCETOWN TO
 LICENSE, CONSTRUCT AND
 MAINTAIN NEW STRUCTURES ON
 MACMILLAN PIER.



SCALE: 1" = 20'-0"

8621 AMENDMENT #1

APPROVED BY
 Approved by Department of Environmental Protection
 Date:

29 JANUARY 2007

**Self-Verification Notice Submittal Packet for the
Pier Repair Project to USACE (March 6, 2024)**



15 Creek Road
Marion, MA 02738
(508) 748-0937
foth.com

March 6, 2024

U.S. Army Corps of Engineers
New England District Regulatory Division
696 Virginia Road
Concord, MA 01742-2751

Re: General Permit #2 – Self Verification Notice – Provincetown, MA

To whom it may concern,

Foth Infrastructure and Environment LLC (Foth) is pleased to submit a Self-Verification Notification Form (SVNF), Design Plans, and supporting documents for the proposed work on an existing pile supported pier known as MacMillan Pier in Provincetown, MA. The Pier has been a part of the community since it was constructed in 1873. The pier supports several local artist, tourism, and commercial fishing. The pier is vital to the town's social and economic growth.

The rehabilitation proposes to replace 26 timber fender piles, sections of fender push piles, and portions of the fendering system (wales and chocks). Emergency ladders will also be replaced or repaired to maintain public safety. The rehabilitation work will maintain the pier's structural integrity to ensure its status as an active commercial and recreational pier. The proposed work will meet all local and state health, safety, and construction standards. All measures will be taken to minimize any impact to the surrounding business entities, public, and surrounding wildlife habitats.

Sincerely,

Foth Infrastructure & Environment, LLC

A handwritten signature in blue ink that reads "Jack Tabares".

Jack Tabares
Lead Civil Engineer

cc: Jamie Demetriou – MacMillan Pier Manager
Jamie Staniscia – Chair of Provincetown Public Pier Corp.
Scott Skuncik, P.E. – Foth
Patrick Rezendes – Foth
Mack Bryan – Foth

Enclosure(s)

Attachment 1	U.S. Army Corp of Engineers Self Verification Notification Form
Attachment 2	Locus Map
Attachment 3	USFW IPaC Determination Letters and Assessment & THPO email
Attachment 4	"MacMillan Pier Rehabilitation" by Foth, dated February 7, 2024

**U.S. Army Corps of Engineers (USACE)
SELF-VERIFICATION NOTIFICATION (SVN)**

DATA REQUIRED BY THE PRIVACY ACT OF 1974

Authority Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332.

Principal Purpose This information will be used in evaluating activities under Self-Verification procedures within Massachusetts.

Routine Uses Routine uses will include: (1) Documenting compliance with the terms and conditions of the General Permit (GP) for activities that may require authorization pursuant to one or more of USACE's Regulatory authorities. (2) Records may be referred to other Federal, State, and local agencies for evaluation and enforcement purposes.

Disclosure Failure to fully comply and abide by the GP terms and conditions prior to commencing work and after completion project may result in formal enforcement action, up to and including monetary penalties and/or legal action, pursuant to 33 CFR Part 326.

Instructions The permittee must complete ALL required sections of this document before commencing USACE-regulated activities. A copy of this completed SVN must be kept on site during construction and be made available for review by USACE and other Federal, State, & Local regulatory authorities at any time. Within 30 days of initiating project construction, the permittee shall submit the completed SVN to USACE. The SVN shall be submitted to USACE as **ONE signed document** that includes project plans and documentation that supports each field (e.g., emails, letters, description, phone calls, surveys). Electronic submissions to the following address are strongly preferred: cenae-r-ma-sv@usace.army.mil. The email subject line shall contain the following: GP #, SVN, City/Town, and date submitted.

(ITEMS 1 THRU 3 TO BE FILLED BY USACE)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED
--------------------	----------------------	------------------

APPLICANT AND AGENT INFORMATION

4. APPLICANT'S NAME First - Middle - Last - Company - E-mail Address -	7. AGENT'S ADDRESS: First - Middle - Last - Company - E-mail Address -
5. APPLICANT'S ADDRESS: Address- City - State - Zip - Country -	8. AGENT'S ADDRESS: Address- City - State - Zip - Country -
6. APPLICANT'S PHONE NOs. w/AREA CODE a. Residence b. Business c. Fax	9. AGENTS PHONE NOs. w/AREA CODE a. Residence b. Business c. Fax

NAME, LOCATION, AND DESCRIPTION OF PROJECT SITE

10. PROJECT NAME OR TITLE	
11. FILE NUMBER(S) OF PREVIOUS USACE ACTIONS ON THE SITE (if applicable)	12. NAME OF WATERBODY
13. PROJECT COORDINATES (in decimal degrees) Latitude: °N Longitude: °W	14. PROJECT STREET ADDRESS (if applicable) Address City - State - Zip -

ACTIVITY TYPE, PROJECT IMPACTS, AVOIDANCE & MINIMIZATION

15. GENERAL PERMIT ACTIVITIES (CHECK ALL THAT APPLY) 1 _____ 6 _____ 11 _____ 16 _____ 21 _____ 2 _____ 7 _____ 12 _____ 17 _____ 22 _____ 3 _____ 8 _____ 13 _____ 18 _____ 23 _____ 4 _____ 9 _____ 14 _____ 19 _____ 24 _____ 5 _____ 10 _____ 15 _____ 20 _____ 25 _____	16. SUMMARY OF PROJECT IMPACTS (see instructions) <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width:25%;">Area (square feet)</th> <th style="width:25%;">Length (linear feet)</th> <th style="width:25%;">Volume (cubic yards)</th> <th style="width:25%;">Duration</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	Area (square feet)	Length (linear feet)	Volume (cubic yards)	Duration																				
Area (square feet)	Length (linear feet)	Volume (cubic yards)	Duration																						

17. PROJECT PLANS (BY CHECKING THE BOXES BELOW, YOU CERTIFY THESE ITEMS ARE COMPLETE) (see instructions)

- a. Plans shall at least contain the following: Vicinity Map, Plan View, and Typical Cross Section View of the proposed activity.
- b. All direct, indirect and secondary impacts from USACE regulated activities are shown on the project plans.
- c. The size of the impact area for each activity (acre, square feet, linear feet) are shown on the project plans.
- d. For discharges of fill material (§404), the volume of fill material is identified on the project plans.
- e. The duration of each impact, permanent or temporary (X days), is identified on the project plans.
- f. Do activities with permanent impacts result in the loss of waters? If so, this is identified on the project plans.
- g. All aquatic resources in the vicinity of the USACE regulated activities are delineated on the project plans.

18. AVOIDANCE & MINIMIZATION (BY CHECKING THE BOXES BELOW, YOU CERTIFY THESE CRITERIA ARE MET) (see instructions)

- a. The project has been designed to avoid and minimize impacts to aquatic resources.
- b. The footprint of activities in waters of the U.S. has been reduced to only what is necessary to achieve the overall project purpose.
- c. All practicable measures have been taken to avoid and minimize impacts to aquatic resources through construction techniques and site access (e.g., Best Management Practices, Time of Year Restrictions).
- d. All temporary impacts from USACE regulated activities will be restored upon completion of construction and the project area will be returned to pre-construction contours and conditions.

COMPLIANCE WITH FEDERAL REGULATIONS & SUPPLEMENTAL INFORMATION

19. DUE DILIGENCE (see instructions)

Complete the entries below to document compliance with the following Federal requirements. Construction may NOT begin if a PCN is/may be required, and you must contact USACE to determine permitting requirements. Documentation that demonstrates how the activity complies with each field below shall be submitted to the USACE as noted in the instructions block. See each General Condition (GC) in the GP for how to comply with each requirement.

- a. State Historic Preservation Officer
- b. Massachusetts BUAR
- c. Tribal Historic Preservation Officers
- d. Endangered Species Act - NOAA
- e. Endangered Species Act - USFWS
- f. Northern Long Eared Bat (ESA)
- g. Essential Fish Habitat
- h. Wild & Scenic Rivers
- i. 401 Water Quality Certification 401

401 WQC/OOC File Number:

OOC issued:

401 issued:

- j. Section 408 Permission
- k. Coastal Zone
- l. Construction Mats
- m. Time of Year Restrictions
- n. Vernal Pools
- o. Sediment & Erosion Controls
- p. Stream/Wetland Crossings

20. AQUACULTURE ACTIVITIES - GP 18 (see instructions)

- a. If required, an Aquaculture Certification from the Massachusetts Division of Marine Fisheries was obtained prior to commencing work.
- b. Coordination with the U.S. Coast Guard pursuant to Private Aids to Navigation has occurred prior to commencing work.
- c. If required, a MEPA Certificate was obtained from the Massachusetts Environmental Protection Agency prior to commencing work.
- d. The prospective permittee contacted local authorities (e.g. harbormaster, select board, shellfish constable) for authorization of their facility prior to commencing work.

21. ADDITIONAL INFORMATION/ATTACHMENTS (see instructions)

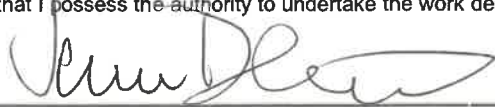
- a. The project plans are enclosed in this SVN submittal (see block 17).
- b. The activity funded through the Bipartisan Infrastructure Bill (also known as the Infrastructure Investment and Jobs Act).
- c. All required state, local and federal approvals were acquired prior to starting construction in USACE jurisdiction.
- d. After construction of the activity is completed, a complete Certificate of Compliance will be submitted to USACE.

22. IS THERE ANOTHER LEAD FEDERAL AGENCY:

YES NO

23. STATEMENT OF AUTHORIZATION (see instructions)

I certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.



3/6/24

Jack T. Tabares

Digitally signed by Jack T. Tabares
DN: cn=Jack T. Tabares, ou=Active User Accounts, ou=Members, DC=H&B,
c=US
Reason: I am the author of this document
Date: 2024.03.06 10:50:58-0500

3/6/24

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

24. SIGNATURES (see instructions)

I hereby certify that the information in this Self-Verification Notification is complete and accurate. As the applicant or their duly authorized agent, I certify the activity was completed in accordance with the terms and conditions of the GP. This includes all applicable terms, general conditions, and activity-specific GP criteria. I agree to allow the duly authorized representatives of the Corps of Engineers Regulatory Program and other regulatory or advisory agencies to enter upon the premises of the project site at reasonable times to evaluate inspect and photograph site conditions. This consent to enter the property is superior to, takes precedence over, and waives any communication to the contrary. For example, if the property is posted as "no trespassing" this consent specifically supersedes and waives that prohibition and grants permission to enter the property despite such posting.



3/6/24

Jack T. Tabares

Digitally signed by Jack T. Tabares
DN: cn=Jack T. Tabares, ou=Active User Accounts, ou=Members, DC=H&B,
c=US
Reason: I am the author of this document
Date: 2024.03.06 10:51:05-0500

3/6/24

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

**Instructions for Preparing a
Department of the Army
General Permit (GP) Self-Verification**

Blocks 1 through 3. To be completed by the Corps of Engineers.

Block 4. Applicant' Name. Enter the name and the e-mail address of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the name of the organization and responsible officer and title. If more than one party is associated with the self-verification, please attach a sheet of paper with the necessary information marked Block 4.

Block 5. Address of Applicant. Please provide the full address of the party or parties responsible for the self-verification. If more space is needed, attach an extra sheet of paper marked Block 5.

Block 6. Applicant Telephone Number(s). Please provide the telephone number where you can usually be reached during normal business hours.

Blocks 7 through 9. To be completed, if you choose to have an agent.

Block 7. Authorized Agent's Name and Title. Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer, consultant, or any other person or organization. Note: An agent is not required.

Blocks 8 and 9. Agent's Address and Telephone Number. Please provide the complete mailing address of the agent, along with the telephone number where they can be reached during normal business hours.

Block 10. Proposed General Permit Activity Name or Title. Please provide a name identifying the proposed GP activity, e.g., Windward Marina, Rolling Hills Subdivision, or Smith Commercial Center.

Block 11. File Number(s) of Previous USACE Actions on the Site Please provide any known USACE file number. If the activity does not have a known USACE file number, you may state N/A.

Block 12. Name of Waterbody. Please provide the name (if it has a name) of any stream, lake, marsh, or other waterway to be directly impacted by the GP activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

Block 13. Proposed Activity Coordinates. Please enter the latitude and longitude of where the proposed GP activity is located. Indicate whether the project location provided is the center of the project or whether the project location is provided as the latitude and longitude for each of the "corners" of the project area. If there are multiple sites, please list the latitude and longitude of each site (center or corners) on a separate sheet of paper and mark as Block 13.

Block 14. Proposed Activity Street Address. If the proposed activity is located at a site having a street address (not a box number), enter it in Block 14.

Block 15. General Permit Activity Type. Please select all GP activity types that apply to the proposed activity. A list of GP activity types can be found in Section III of the GP.

Block 16. Summary of Project Impacts. Please provide ALL proposed impacts, both temporary and permanent in duration, that are located in Waters of the United States. The area of impact shall be provided in square feet (SF). When applicable, impacts that result in conversion of stream bank or shoreline must also be identified in linear feet (LF). Dredging or the discharge of dredged or fill material shall also include the volume, cubic yards (CY), of material removed from or placed into Waters of the U.S. If more entries are required, please attach a table matching the desired format in Block 16.

Block 17. Project Plans. Please verify that items a-g are included in the project plans. Three types of illustrations are necessary to properly depict the proposed work. These illustrations or drawings are identified as a Vicinity Map, a Plan View (Aerial view) and a Cross Section Map. For linear projects (e.g. roads, subsurface utility lines, etc.) gradient drawings (longitudinal profile) should also be included. Plans must accurately depict the existing conditions and all aspects of the proposed activity located in waters of the U.S. Please submit one copy of all drawings formatted to print on 8½ x 11 inch or 11 x 17 inch plain white paper. Use the fewest number of sheets necessary for your drawings or illustrations. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross section). While illustrations need not be certified engineering sheets; they should be clear, accurate, contain all necessary information, and depict all proposed work. Each submission must also include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current wetland delineation manual and regional supplement published by USACE.

Block 18. Avoidance & Minimization. Please verify that items a-d have been implemented for the proposed activity.

Block 19. Due Diligence. Please complete all the fields and submit documentation to USACE to demonstrate compliance with the above requirements. This Documentation may include emails, letters, meeting notes, phone call log, project narrative, project plans, a species list from the NOAA Section 7 Mapper, a completed copy of the IPAC determination keys, etc. Documentation should be limited to what is necessary to demonstrate how the proposed activity meets each requirement. Refer to the MA GP, Appendix A, for specific guidance on the identification of previously identified historic properties and previously unidentified historic properties. Endangered Species: *The applicant must be designated as the non-federal representative for the purposes of Section 7 consultation to select the Rangewide D-Key options. Otherwise, the applicant shall select the following option when IPAC indicates the NLEB is present: "The activity IS located within the NLEB Species Range (PCN Required)."

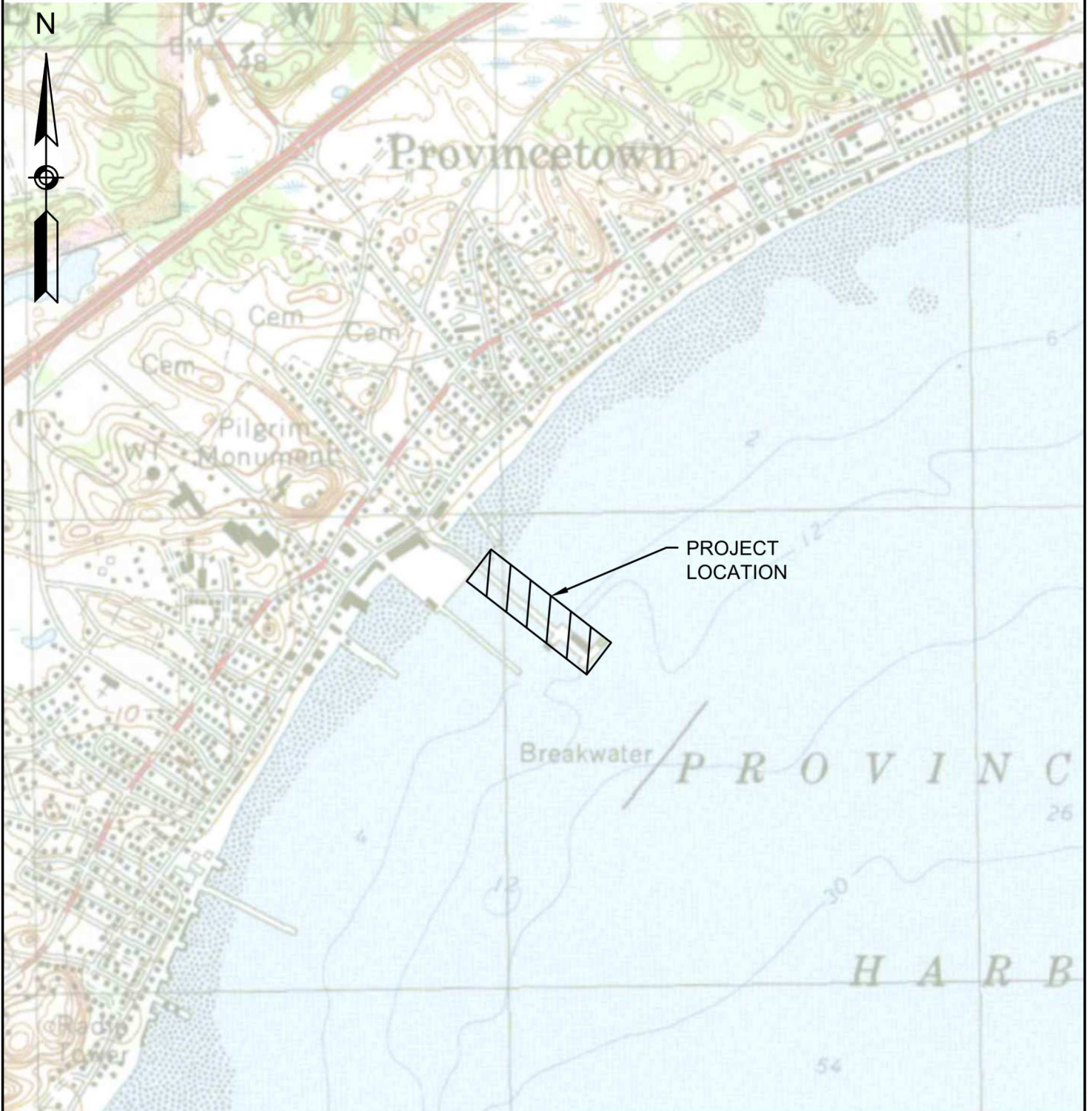
Block 20. Aquaculture Activities. Please verify that items a-d have been obtained or completed prior to commencing work in waters of the U.S.

Block 21. Additional Information/Attachments. Please verify that items a-d have been completed prior to commencing work in waters of the U.S.

Block 22. Lead Federal Agency. Please identify if there is another lead federal agency involved with the proposed activity. Enter the lead federal agency name (e.g., the Federal Emergency Management Agency, FEMA) and the agency's designated person of contact for the activity.

Block 23. Statement of Authorization. The applicant shall sign this section for all activities. If an agent is to be employed, the agent shall sign this section.

Block 24. Signatures. The SVN must be signed by the person proposing to undertake the GP activity, and if applicable, the authorized party (agent) that prepared the SVN. The signature of the person proposing to undertake the GP activity shall be an affirmation that the party submitting the SVN possesses the requisite property rights to undertake the GP activity.

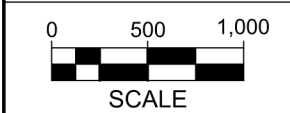


Monday, December 4, 2023 2:26:06 PM
 D:\GIS\Projects\23P237\locus_verification\locus_map.dwg
 DWG Elder Location

Provincetown Public Pier Corp.



LOCUS MAP



Date Completed: 3/6/24		Revision Date:
Drawn By: JJT	Checked By:	Project No: 23P237



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104

In Reply Refer To:
Project Code: 2024-0038868
Project Name: MacMillan Pier Repairs and Courtesy Float Replacement

January 26, 2024

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through IPaC by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see [Migratory Bird Permit | What We Do | U.S. Fish & Wildlife Service \(fws.gov\)](#).

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New England Ecological Services Field Office

70 Commercial Street, Suite 300

Concord, NH 03301-5094

(603) 223-2541

PROJECT SUMMARY

Project Code: 2024-0038868
Project Name: MacMillan Pier Repairs and Courtesy Float Replacement
Project Type: Marina - Maintenance/Modification
Project Description: Timber fender piles, fendering system, and push pile replacement, along with emergency ladder repairs or replacement. Courtesy float will also be replaced, in kind.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.0500559,-70.18271946460145,14z>



Counties: Barnstable County, Massachusetts

ENDANGERED SPECIES ACT SPECIES

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered

BIRDS

NAME	STATUS
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered
Rufa Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Marion town
Name: Jack Tabares
Address: 15 Creek road
City: marion
State: MA
Zip: 02738
Email jack.tabares@foth.com
Phone: 5087620775

MACMILLAN PIER REPAIRS AND COURTESY FLOAT REPLACEMENT

BIOLOGICAL ANALYSIS

Prepared using IPaC

Generated by Jack Tabares (jack.tabares@foth.com)

January 26, 2024

The purpose of this document is to assess the effects of the proposed project and determine whether the project may affect any federally threatened, endangered, proposed, or candidate species. If appropriate for the project, this document may be used as a biological assessment (BA), as it is prepared in accordance with legal requirements set forth under [Section 7 of the Endangered Species Act \(16 U.S.C. 1536 \(c\)\)](#).

In this document, any data provided by U.S. Fish and Wildlife Service is based on data as of January 23, 2024.

Prepared using IPaC version 6.103.0-rc1

MACMILLAN PIER REPAIRS AND COURTESY FLOAT REPLACEMENT BIOLOGICAL ASSESSMENT

TABLE OF CONTENTS

1 Description of the action	4
1.1 Project name	4
1.2 Executive summary	4
1.3 Effect determination summary	4
1.4 Project description	5
1.4.1 Location	5
1.4.2 Description of project habitat	5
1.4.3 Project proponent information	6
1.4.4 Project purpose	6
1.4.5 Project type and deconstruction	6
1.4.6 Anticipated environmental stressors	10
1.5 Action area	11
1.6 Conservation measures	12
1.7 Prior consultation history	12
1.8 Other agency partners and interested parties	12
1.9 Other reports and helpful information	12
2 Species effects analysis	13
2.1 Monarch Butterfly	13
Justification for exclusion	13
3 Critical habitat effects analysis	14
4 Summary Discussion and Conclusion	15
4.1 Summary discussion	15
4.2 Conclusion	15

1 DESCRIPTION OF THE ACTION

1.1 PROJECT NAME

MacMillan Pier Repairs and Courtesy Float Replacement

1.2 EXECUTIVE SUMMARY

The work proposed is required maintenance to an existing pier. The piles that will be replaced will be installed in the same footprint as the existing piles. The fender push piles, and emergency access ladders are also being replaced, in kind. The courtesy float will also be replaced in kind and all the support piles that secure it, are not being disturbed. We feel that all the proposed work will not adversely affect any critical habitats or any local species.

1.3 EFFECT DETERMINATION SUMMARY

SPECIES (COMMON NAME)	SCIENTIFIC NAME	LISTING STATUS	PRESENT IN ACTION AREA	EFFECT DETERMINATION
Monarch Butterfly	Danaus plexippus	Candidate	Excluded from analysis	Excluded from analysis
Northern Long-eared Bat [†] . This species or critical habitat is covered by a DKey.	Myotis septentrionalis	Endangered		NE
Roseate Tern [†] . This species or critical habitat is covered by a DKey.	Sterna dougallii dougallii	Endangered		NE
Rufa Red Knot [†] . This species or critical habitat is covered by a DKey.	Calidris canutus rufa	Threatened		NE

[†] This species or critical habitat is covered by a DKey.

1.4 PROJECT DESCRIPTION

1.4.1 LOCATION



LOCATION

Barnstable County, Massachusetts

1.4.2 DESCRIPTION OF PROJECT HABITAT

There are no endangered species habitats in the locations where the piles are to be removed and replaced.

1.4.3 PROJECT PROPONENT INFORMATION

Provide information regarding who is proposing to conduct the project, and their contact information. Please provide details on whether there is a Federal nexus.

REQUESTING AGENCY

FULL NAME

Jack Tabares

STREET ADDRESS

15 Creek road

CITY

marion

STATE

MA

ZIP

02738

PHONE NUMBER

5087620775

E-MAIL ADDRESS

jack.tabares@foth.com

LEAD AGENCY

Lead agency is the same as requesting agency

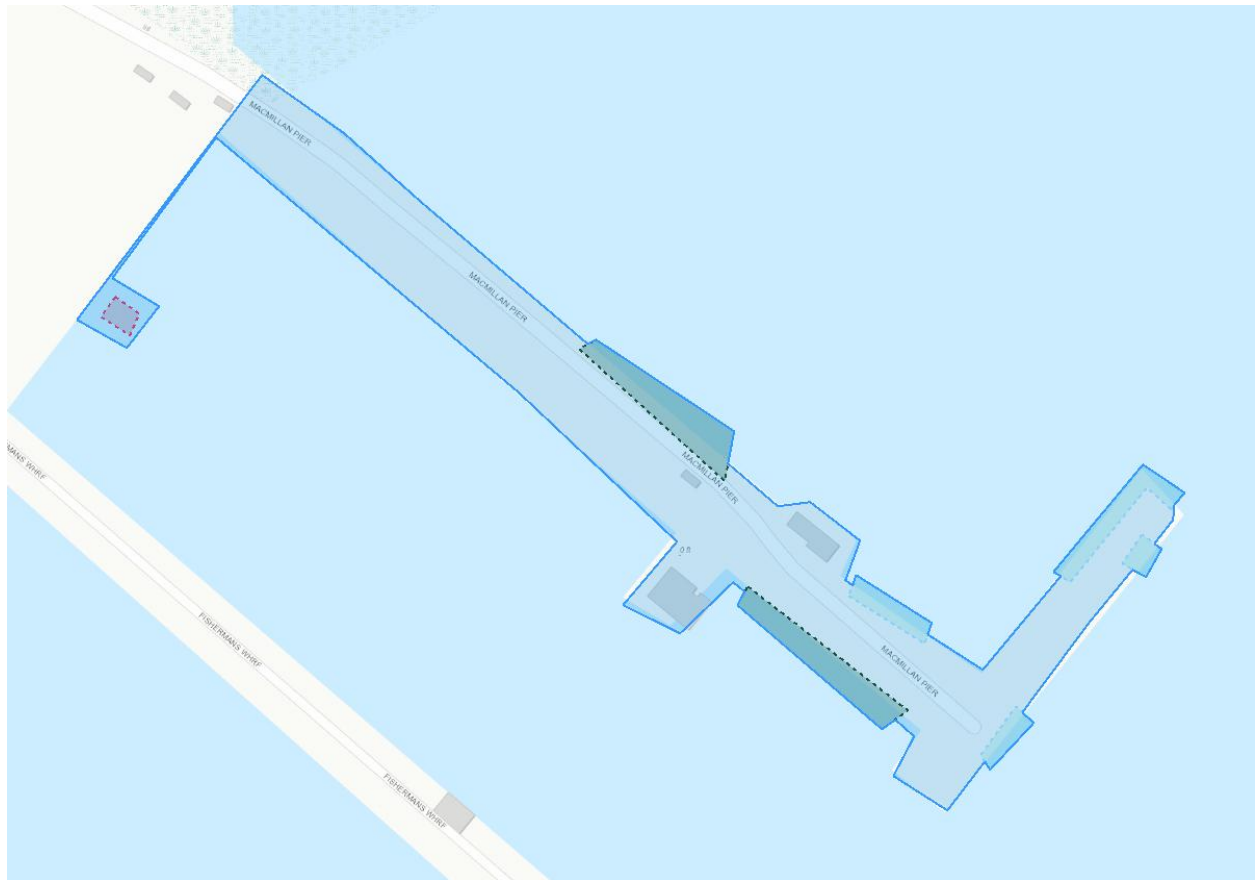
1.4.4 PROJECT PURPOSE

The replacement of 26 timber fender piles, sections of fendering system, and push pile replacement, along with emergency ladder repairs or replacement for public safety. Courtesy float will also be replaced, in kind.







1.4.5 PROJECT TYPE AND DECONSTRUCTION

This project is a construct pier/dock project.

1.4.5.1 PROJECT MAP



LEGEND

-  Project footprint
-  Float: Macmillan pier repairs and courtesy float replacement
-  Layer 4: Pier/dock site preparation
-  Work Areas: Attach pile caps, stringers, and decking, macmillan pier repairs and courtesy float replacement, pier/dock site preparation, use of barges, vibratory extraction, vibratory pile driving
-  Pile caps: Attach pile caps, stringers, and decking, vibratory extraction, vibratory pile driving
-  Site: Pier/dock (structure)

1.4.5.2 PIER/DOCK

STRUCTURE COMPLETION DATE

May 31, 2024

REMOVAL/DECOMMISSION DATE (IF APPLICABLE)

Not applicable

STRESSORS

This activity is not expected to have any impact on the environment.

DESCRIPTION

existing pier

1.4.5.3 ATTACH PILE CAPS, STRINGERS, AND DECKING

ACTIVITY START DATE

Unspecified

ACTIVITY END DATE

May 24, 2024

STRESSORS

This activity is not expected to have any impact on the environment.

DESCRIPTION

work done above water

1.4.5.4 MACMILLAN PIER REPAIRS AND COURTESY FLOAT REPLACEMENT

ACTIVITY START DATE

Unspecified

ACTIVITY END DATE

May 24, 2024

STRESSORS

This activity is not expected to have any impact on the environment.

DESCRIPTION

remove and replace existing floating dock. no disturbance to ocean floor.

1.4.5.5 PIER/DOCK SITE PREPARATION

ACTIVITY START DATE

March 04, 2024

ACTIVITY END DATE

May 24, 2024

STRESSORS

This activity is not expected to have any impact on the environment.

DESCRIPTION

all work done in the dry, to existing pier.

1.4.5.6 USE OF BARGES

ACTIVITY START DATE

March 04, 2024

ACTIVITY END DATE

May 24, 2024

STRESSORS

This activity is not expected to have any impact on the environment.

DESCRIPTION

floating barges will be used, if necessary, to transport materials or equipment. Will be secured to pier.

1.4.5.7 VIBRATORY EXTRACTION

ACTIVITY START DATE

March 04, 2024

ACTIVITY END DATE

May 24, 2024

STRESSORS

This activity is not expected to have any impact on the environment.

DESCRIPTION

Disturbance will be as minimal as possible to remove and replace existing timber piles on the main pier.

1.4.5.8 VIBRATORY PILE DRIVING

ACTIVITY START DATE

March 04, 2024

ACTIVITY END DATE

May 24, 2024

STRESSORS

This activity is not expected to have any impact on the environment.

DESCRIPTION

Disturbance will be as minimal as possible to remove and replace existing timber piles on the main pier.



1.4.6 ANTICIPATED ENVIRONMENTAL STRESSORS

Describe the anticipated effects of your proposed project on the aspects of the land, air and water that will occur due to the activities above. These should be based on the activity deconstructions done in the previous section and will be used to inform the action area.

1.5 ACTION AREA



LEGEND

-  Project footprint
-  Stressor location

1.6 CONSERVATION MEASURES

Describe any proposed measures being implemented as part of the project that are designed to reduce the impacts to the environment and their resulting effects to listed species. To avoid extra verbiage, don't list measures that have no relevance to the species being analyzed.

No conservation measures have been selected for this project.

1.7 PRIOR CONSULTATION HISTORY

Previous SVN was done for MacMillan Pier for a water main replacement. SVN was submitted on: 12/8/23. There was communication or further action required.

1.8 OTHER AGENCY PARTNERS AND INTERESTED PARTIES

Provincetown Conservation Commission - Melyssa Millett: phone [508-487-7000](tel:508-487-7000) ()

Provincetown Pier Manager - Jamie Demetriou: 508-487-7030

1.9 OTHER REPORTS AND HELPFUL INFORMATION

RELEVANT DOCUMENTATION

- [Provincetown MacMillian Pier Repairs Floats NOI](#)

2 SPECIES EFFECTS ANALYSIS

This section describes, species by species, the effects of the proposed action on listed, proposed, and candidate species, and the habitat on which they depend. In this document, effects are broken down as direct interactions (something happening directly to the species) or indirect interactions (something happening to the environment on which a species depends that could then result in effects to the species).

These interactions encompass effects that occur both during project construction and those which could be ongoing after the project is finished. All effects, however, should be considered, including effects from direct and indirect interactions and cumulative effects.

2.1 MONARCH BUTTERFLY

This species has been excluded from analysis in this environmental review document.

JUSTIFICATION FOR EXCLUSION

Work is to be performed on an existing active pier that requires routine maintenance. Work areas are minimal and all BMP's will be implemented to minimize disturbance to the resource areas.

3 CRITICAL HABITAT EFFECTS ANALYSIS

No critical habitats intersect with the project action area.

4 SUMMARY DISCUSSION AND CONCLUSION

4.1 SUMMARY DISCUSSION

We feel that the removal and replacement of the existing timber fender piles, along with the replacement of fender push piles, courtesy float and emergency ladders will pose little to no effect to the local species or the critical habitats.

4.2 CONCLUSION

The work proposed is required maintenance to an existing pier. The piles that will be replaced will be installed in the same footprint as the existing piles. The fender push piles, and emergency access ladders are also being replaced, in kind. The courtesy float will also be replaced in kind and all the support piles that secure it, are not being disturbed.

We feel that all the proposed work will not adversely affect any critical habitats or any local species.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104

In Reply Refer To:
Project code: 2024-0038868
Project Name: MacMillan Pier Repairs and Courtesy Float Replacement

January 26, 2024

Federal Nexus: yes
Federal Action Agency (if applicable): Marion town

Subject: Federal agency coordination under the Endangered Species Act, Section 7 for
'MacMillan Pier Repairs and Courtesy Float Replacement'

Dear Jack Tabares:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on January 26, 2024, for “MacMillan Pier Repairs and Courtesy Float Replacement” (here forward, Project). This project has been assigned Project Code 2024-0038868 and all future correspondence should clearly reference this number.

The Service developed the IPaC system and associated species’ determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into the IPaC must accurately represent the full scope and details of the Project. Failure to accurately represent or implement the Project as detailed in IPaC or the Northeast Determination Key (DKey), invalidates this letter. **Answers to certain questions in the DKey commit the project proponent to implementation of conservation measures that must be followed for the ESA determination to remain valid.**

To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), to a federally listed species or designated critical habitat. Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17). Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no further consultation with, or concurrence from, the Service is

required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Service concurs, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

Species	Listing Status	Determination
Roseate Tern (<i>Sterna dougallii dougallii</i>)	Endangered	No effect
Rufa Red Knot (<i>Calidris canutus rufa</i>)	Threatened	No effect

Conclusion If there are no updates on listed species, no further consultation/coordination for this project is required for the species identified above. However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope, timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions occurs, additional consultation with the Service should take place before project implements any changes which are final or commits additional resources.

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Long-eared Bat *Myotis septentrionalis* Endangered

To complete consultation for species that have reached a "May Affect" determination and/or species may occur in your project area and are not covered by this conclusion, please visit the "New England Field Office Endangered Species Project Review and Consultation" website for step-by-step instructions on how to consider effects on these listed species and/or critical habitats, avoid and minimize potential adverse effects, and prepare and submit a project review package if necessary: <https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review>

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or PermitsR5MB@fws.gov, with any questions regarding potential impacts to Eagles.

If you have any questions regarding this letter or need further assistance, please contact the New England Ecological Services Field Office and reference the Project Code associated with this Project.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

MacMillan Pier Repairs and Courtesy Float Replacement

2. Description

The following description was provided for the project 'MacMillan Pier Repairs and Courtesy Float Replacement':

Timber fender piles, fendering system, and push pile replacement, along with emergency ladder repairs or replacement. Courtesy float will also be replaced, in kind.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.0500559,-70.18271946460145,14z>



QUALIFICATION INTERVIEW

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

Yes

2. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed species?

Note: This question could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered, or proposed species.

No

3. Is the action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

Yes

4. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) the lead agency for this project?

No

5. Are you including in this analysis all impacts to federally listed species that may result from the entirety of the project (not just the activities under federal jurisdiction)?

Note: If there are project activities that will impact listed species that are considered to be outside of the jurisdiction of the federal action agency submitting this key, contact your local Ecological Services Field Office to determine whether it is appropriate to use this key. If your Ecological Services Field Office agrees that impacts to listed species that are outside the federal action agency's jurisdiction will be addressed through a separate process, you can answer yes to this question and continue through the key.

Yes

6. Are you the lead federal action agency or designated non-federal representative requesting concurrence on behalf of the lead Federal Action Agency?

Yes

7. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)?

No

8. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

No

9. Is the lead federal action agency the Natural Resources Conservation Service?

No

10. Will the proposed project involve the use of herbicide where listed species are present?

No

11. Are there any caves or anthropogenic features suitable for hibernating or roosting bats within the area expected to be impacted by the project?

No

12. Does any component of the project associated with this action include activities or structures that may pose a collision risk to **birds** (e.g., plane-based surveys, land-based or offshore wind turbines, communication towers, high voltage transmission lines, any type of towers with or without guy wires)?

Note: For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

No

13. Does any component of the project associated with this action include activities or structures that may pose a collision risk to **bats** (e.g., plane-based surveys, land-based or offshore wind turbines)?

Note: For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

No

14. Will the proposed project result in permanent changes to water quantity in a stream or temporary changes that would be sufficient to result in impacts to listed species?

For example, will the proposed project include any activities that would alter stream flow, such as water withdrawal, hydropower energy production, impoundments, intake structures, diversion structures, and/or turbines? Projects that include temporary and limited water reductions that will not displace listed species or appreciably change water availability for listed species (e.g. listed species will experience no changes to feeding, breeding or sheltering) can answer "No". Note: This question refers only to the amount of water present in a stream, other water quality factors, including sedimentation and turbidity, will be addressed in following questions.

No

15. Will the proposed project affect wetlands where listed species are present?

This includes, for example, project activities within wetlands, project activities within 300 feet of wetlands that may have impacts on wetlands, water withdrawals and/or discharge of contaminants (even with a NPDES).

No

16. Will the proposed project activities (including upland project activities) occur within 0.5 miles of the water's edge of a stream or tributary of a stream where listed species may be present?

Yes

17. Will the proposed project directly affect a streambed (below ordinary high water mark (OHWM)) of the stream or tributary where listed species may be present?

No

18. Will the proposed project bore underneath (directional bore or horizontal directional drill) a stream where listed species may be present?

No

19. Will the proposed project involve a new point source discharge into a stream or change an existing point source discharge (e.g., outfalls; leachate ponds) where listed species may be present?

No

20. Will the proposed project involve the removal of excess sediment or debris, dredging or in-stream gravel mining where listed species may be present?

No

21. Will the proposed project involve the creation of a new water-borne contaminant source where listed species may be present?

Note New water-borne contaminant sources occur through improper storage, usage, or creation of chemicals. For example: leachate ponds and pits containing chemicals that are not NSF/ANSI 60 compliant have contaminated waterways. Sedimentation will be addressed in a separate question.

No

22. Will the proposed project involve perennial stream loss, in a stream or tributary of a stream where listed species may be present, that would require an individual permit under 404 of the Clean Water Act?

No

23. Will the proposed project involve blasting where listed species may be present?

No

24. Will the proposed project include activities that could negatively affect fish movement temporarily or permanently (including fish stocking, harvesting, or creation of barriers to fish passage).

No

25. Will the proposed project involve earth moving that could cause erosion and sedimentation, and/or contamination along a stream or tributary of a stream where listed species may be present?

Note: Answer "Yes" to this question if erosion and sediment control measures will be used to protect the stream.

No

26. Will earth moving activities result in sediment being introduced to streams or tributaries of streams where listed species may be present through activities such as, but not limited to, valley fills, large-scale vegetation removal, and/or change in site topography?

No

27. Will the proposed project involve vegetation removal within 200 feet of a perennial stream bank where aquatic listed species may be present?

No

28. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project? If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

Yes

29. Is the project being funded, lead, or managed in whole or in part by U.S Fish and Wildlife Restoration and Recovery Program (e.g., Partners, Coastal, Fisheries, Wildlife and Sport Fish Restoration, Refuges)?

No

30. Will the proposed project result in changes to beach dynamics that may modify formation of habitat over time?

Note: Examples of projects that result in changes to beach dynamics include 1) construction of offshore breakwaters and groins; 2) mining of sand from an updrift ebb tidal delta; 3) removing or adding beach sands; and 4) projects that stabilize dunes (including placement of sand fences or planting vegetation).

No

31. [Hidden Semantic] Is the project area located within the red knot AOI?

Automatically answered

Yes

32. If you have determined that the red knot is unlikely to occur within your project's action area or that your project is unlikely to have any potential effects on the red knot, you may wish to make a "no effect" determination for the red knot. Additional guidance on how to make this decision can be found in the project review section of your local Ecological Services Field Office's website. CBFO: <https://www.fws.gov/office/chesapeake-bay-ecological-services/project-review> ; MEFO: <https://www.fws.gov/office/maine-ecological-services> ; NJFO: <https://www.fws.gov/office/new-jersey-ecological-services/new-jersey-field-office-project-review-guide> ; NEFO: <https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review#Step5> ; WVFO: <https://www.fws.gov/office/west-virginia-ecological-services/project-planning>. If you are unsure, answer "No" and continue through the key.

Would you like to make a no effect determination for the red knot?

Yes

33. [Hidden Semantic] Is the project area located within the roseate tern AOI?

Automatically answered

Yes

34. If you have determined that the roseate tern is unlikely to occur within your project's action area or that your project is unlikely to have any potential effects on the roseate tern, you may wish to make a "no effect" determination for the roseate tern. Additional guidance on how to make this decision can be found in the project review section of your local Ecological Services Field Office's website. CBFO: <https://www.fws.gov/office/chesapeake-bay-ecological-services/project-review> ; MEFO: <https://www.fws.gov/office/maine-ecological-services> ; NJFO: <https://www.fws.gov/office/new-jersey-ecological-services/new-jersey-field-office-project-review-guide> ; NEFO: <https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review#Step5> ; WVFO: <https://www.fws.gov/office/west-virginia-ecological-services/project-planning>. If you are unsure, answer "No" and continue through the key.

Would you like to make a no effect determination for the roseate tern?

Yes

35. [Semantic] Does the project intersect the Virginia big-eared bat critical habitat?

Automatically answered

No

36. [Semantic] Does the project intersect the Indiana bat critical habitat?

Automatically answered

No

37. [Semantic] Does the project intersect the candy darter critical habitat?

Automatically answered

No

38. [Semantic] Does the project intersect the diamond darter critical habitat?

Automatically answered

No

39. [Semantic] Does the project intersect the Big Sandy crayfish critical habitat?

Automatically answered

No

40. [Hidden Semantic] Does the project intersect the Guyandotte River crayfish critical habitat?

Automatically answered

No

41. Do you have any other documents that you want to include with this submission?

No

PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?
0
2. Approximately how many total acres of disturbance are within the disturbance/
construction limits of the proposed project?
0
3. Briefly describe the habitat within the construction/disturbance limits of the project site.
no habitat present. Removing and replacing timber piles to rehab existing pier.

IPAC USER CONTACT INFORMATION

Agency: Marion town
Name: Jack Tabares
Address: 15 Creek road
City: marion
State: MA
Zip: 02738
Email jack.tabares@foth.com
Phone: 5087620775



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104

In Reply Refer To:

January 26, 2024

Project code: 2024-0038868

Project Name: MacMillan Pier Repairs and Courtesy Float Replacement

Subject: Consistency letter for the 'MacMillan Pier Repairs and Courtesy Float Replacement' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated January 26, 2024 to verify that the **MacMillan Pier Repairs and Courtesy Float Replacement** (Proposed Action) may rely on the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action will have no effect on the endangered Indiana bat (*Myotis sodalis*) or the endangered northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species**. If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities:

If your initial bridge/culvert or structure assessment failed to detect Indiana bats and/or NLEBs use or occupancy, yet later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of the incident. In these instances, potential incidental take of Indiana bats and/or NLEBs may be exempted provided that the take is reported to the Service.

If the Proposed Action may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please advise the lead Federal action agency accordingly.

The following species may occur in your project area and **are not** covered by this determination:

- Monarch Butterfly *Danaus plexippus* Candidate
- Roseate Tern *Sterna dougallii dougallii* Endangered
- Rufa Red Knot *Calidris canutus rufa* Threatened

PROJECT DESCRIPTION

The following project name and description was collected in IPaC as part of the endangered species review process.

NAME

MacMillan Pier Repairs and Courtesy Float Replacement

DESCRIPTION

Timber fender piles, fendering system, and push pile replacement, along with emergency ladder repairs or replacement. Courtesy float will also be replaced, in kind.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.0500559,-70.18271946460145,14z>



DETERMINATION KEY RESULT

Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana bat and/or the endangered northern long-eared bat.

Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for these two species.

QUALIFICATION INTERVIEW

1. Is the project within the range of the Indiana bat^[1]?

[1] See [Indiana bat species profile](#)

Automatically answered

No

2. Is the project within the range of the northern long-eared bat^[1]?

[1] See [northern long-eared bat species profile](#)

Automatically answered

Yes

3. [Semantic] Does your proposed action intersect an area where Indiana bats and northern long-eared bats are not likely to occur?

Automatically answered

Yes

DETERMINATION KEY DESCRIPTION: FHWA, FRA, FTA PROGRAMMATIC CONSULTATION FOR TRANSPORTATION PROJECTS AFFECTING NLEB OR INDIANA BAT

This key was last updated in IPaC on October 30, 2023. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which may require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the endangered **northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion \(dated March 23, 2023\) for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.

IPAC USER CONTACT INFORMATION

Agency: Marion town
Name: Jack Tabares
Address: 15 Creek road
City: marion
State: MA
Zip: 02738
Email jack.tabares@foth.com
Phone: 5087620775

Tabares, Jack J

From: Tabares, Jack J
Sent: Thursday, January 25, 2024 4:22 PM
To: thpo@wampanoagtribe-nsn.gov; 106review@mwtribe-nsn.gov; tashtesook@aol.com
Cc: David.weeden@mwtribe-nsn.gov
Subject: (23P237) MacMillan Pier Repairs & Courtesy Float Replacement - Self Verification
Attachments: Provincetown MacMillian Pier Repairs & Floats_NOI.pdf

All,

Per the US Army Corp of Engineers Self Verification Notification process, we are formally notifying you of the proposed work that will be done on MacMillan Pier.

The proposed work will consist of replacing timber fender piles on the main pier. Fendering and push pile replacement on several sections throughout the main pier and emergency ladder replacement or repairs for public safety. Design plans are attached for reference.

Feel free to reach out if you have any questions.

Jack Tabares

Lead Civil Engineer, BSCE



Foth Infrastructure & Environment, LLC

15 Creek Road

Marion, MA 02738

Office: (508) 762-0775

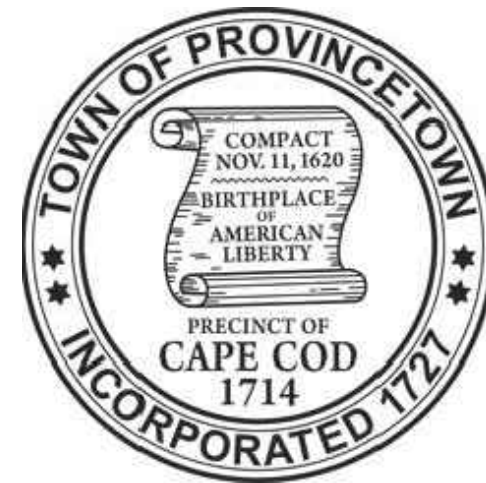
Cell: (407) 902-3124

foth.com

MACMILLAN PIER REHABILITATION PROVINCETOWN PUBLIC PIER CORP

MACMILLAN PIER, PROVINCETOWN, MA 02657 FEBRUARY 7, 2024

Prepared for:
Town of Provincetown



Prepared by:
Foth Infrastructure & Environment, LLC



DRAWING INDEX

SHEET NUMBER	TITLE
G-001	COVER SHEET
G-101	LOCATION KEY PLAN
C-101	PROPOSED MAIN PIER LAYOUT & REPAIRS
C-301	PROPOSED MAIN PIER SECTIONS & DETAILS REPAIRS 1 OF 2
C-302	PROPOSED MAIN PIER SECTIONS & DETAILS REPAIRS 2 OF 2



VICINITY MAP



LOCATION MAP

SHEET TITLE
COVER SHEET

SHEET NUMBER
G-001



PROVINCETOWN PUBLIC PIER CORP
 16 MACMILLAN PIER
 PROVINCETOWN, MA 02657
 MACMILLAN PIER REHABILITATION &
 COURTESY FLOAT REPLACEMENT
 PROVINCETOWN, MA

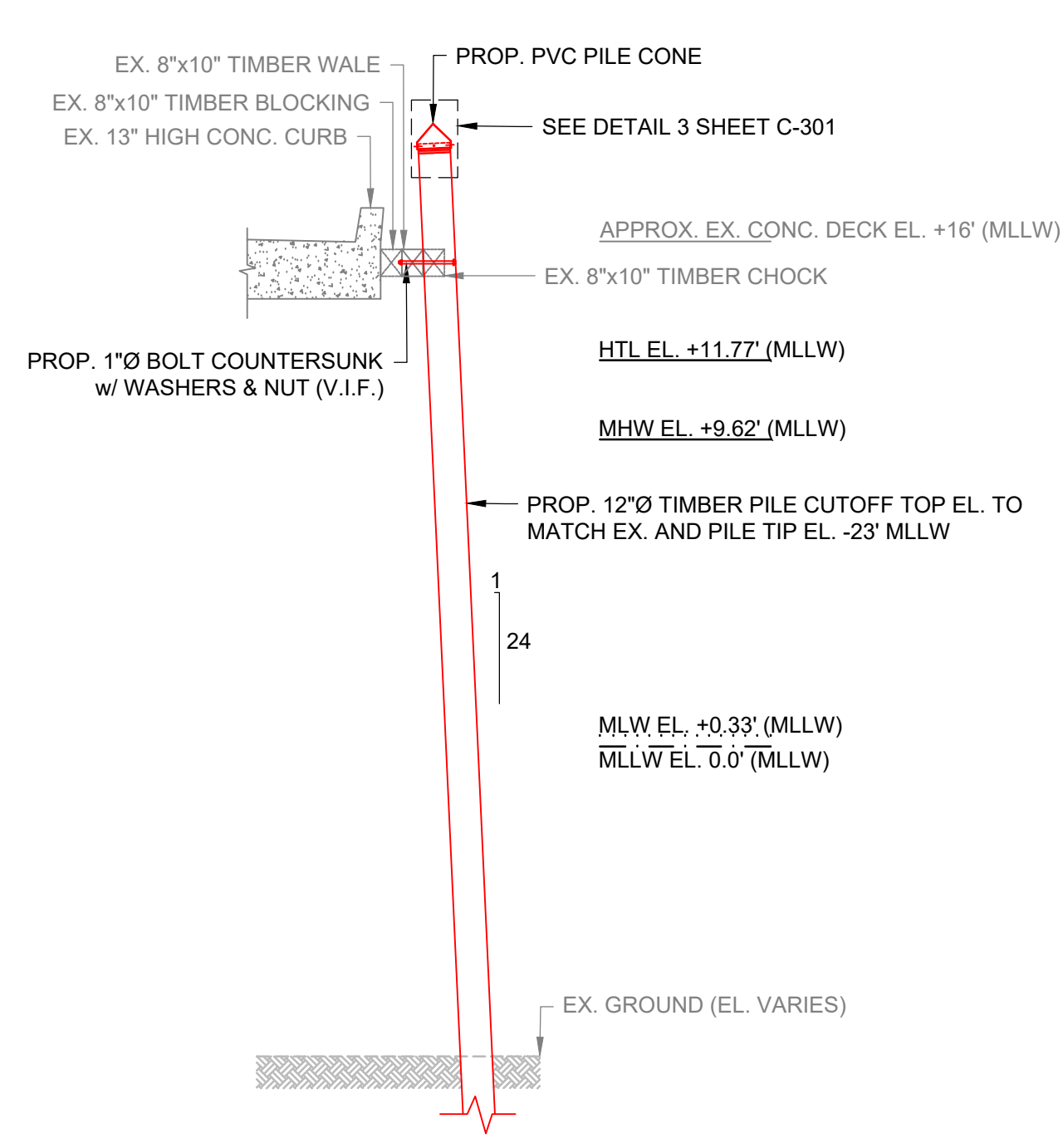
REVISIONS		DATE OF PREPARATION	
NO.	DESCRIPTION	BY	DATE
1			
2			
3			
4			
5			

SHEET TITLE:		
LOCATION KEY PLAN		

ISSUANCE:		
ISSUED FOR PERMIT PURPOSES ONLY NOT FOR CONSTRUCTION		
PROJECT NO:	23P237	
SHEET NUMBER	G-101	

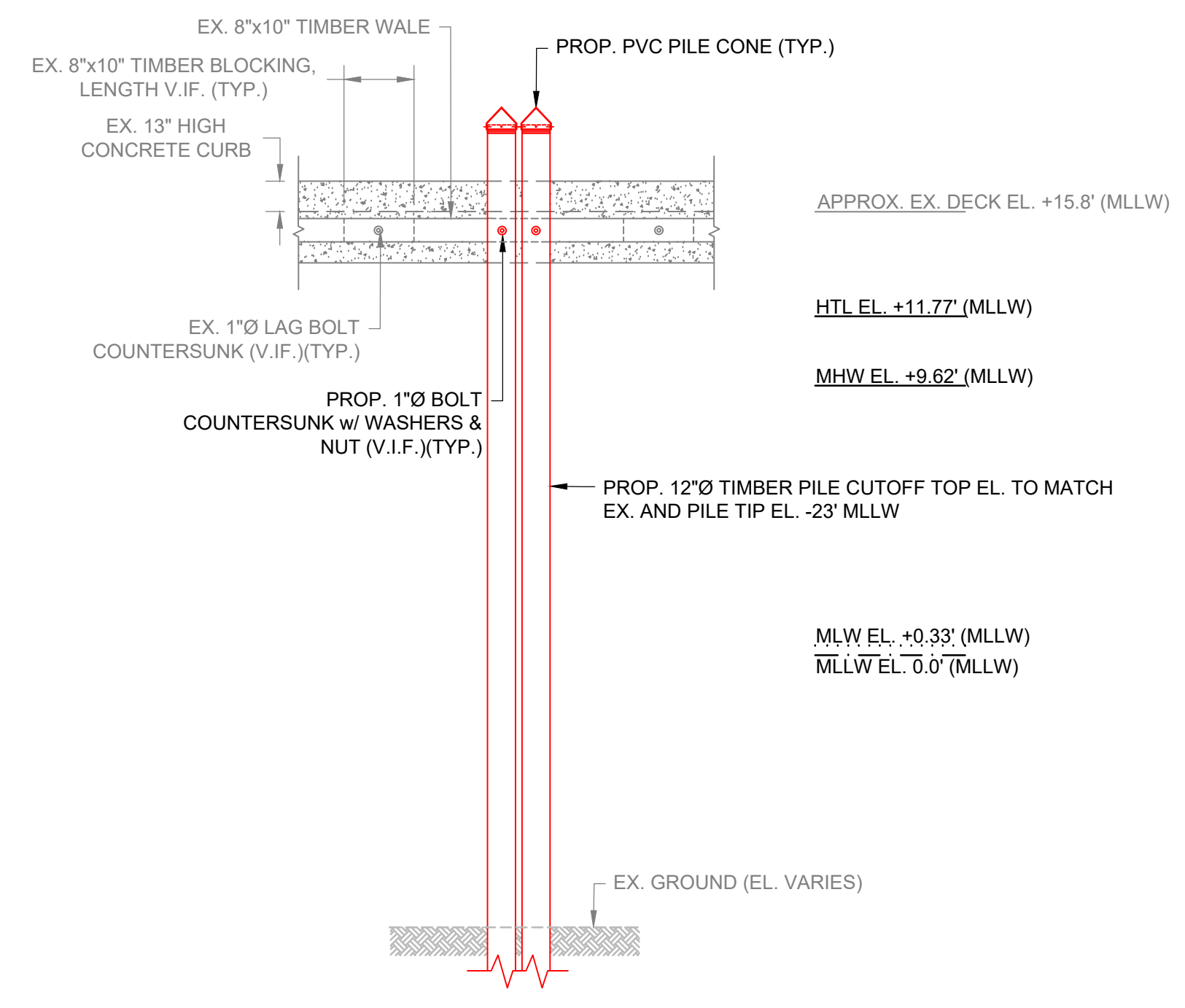


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 DWG Filename: provincetown macmillan pier repairs & floats_noi.dwg Layout: g-101
 DWG Folder Location:



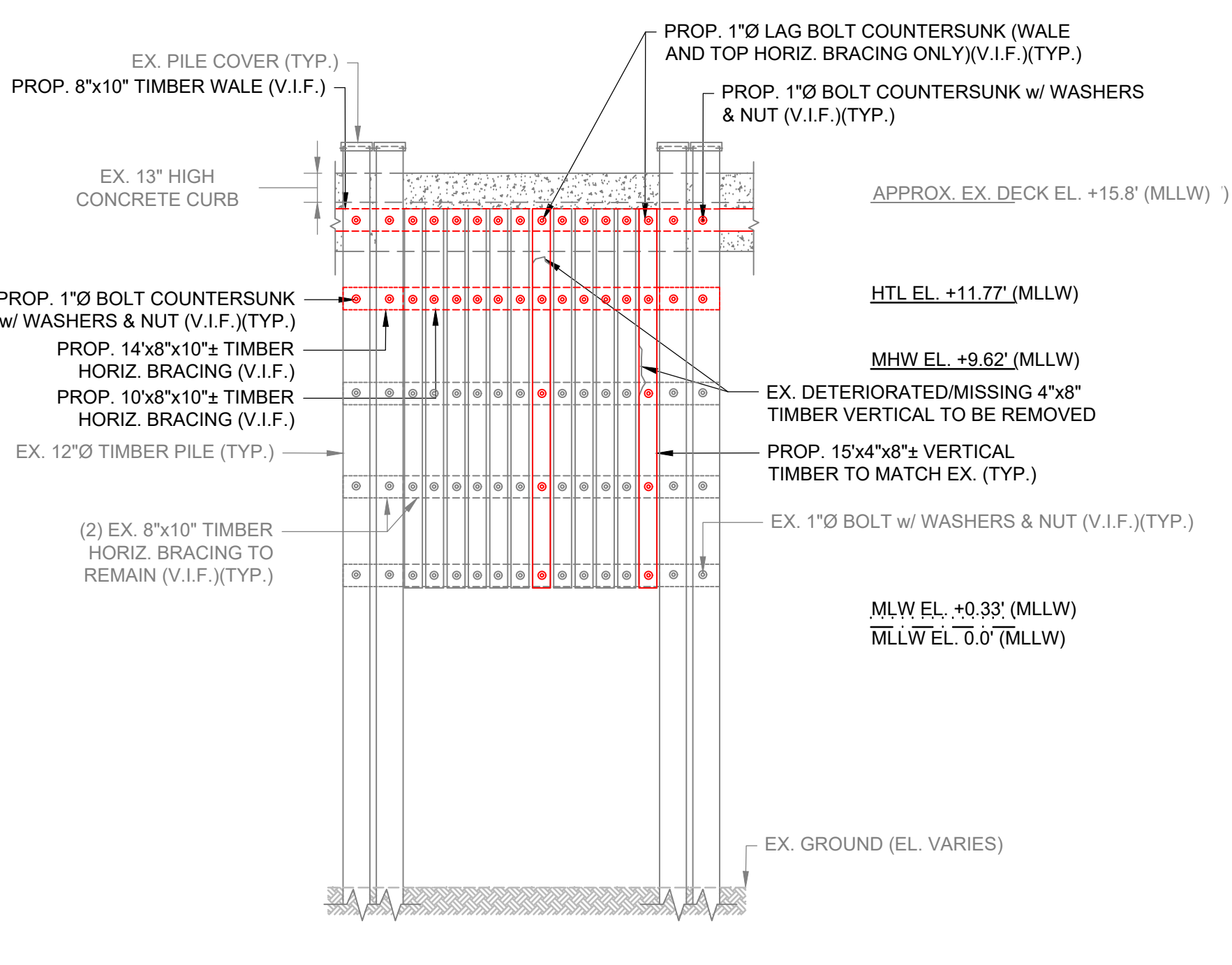
A TYPICAL FENDER PILE REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER BLOCKING HARDWARE, WALE HARDWARE, AND CHOCK HARDWARE NOT SHOWN FOR CLARITY.



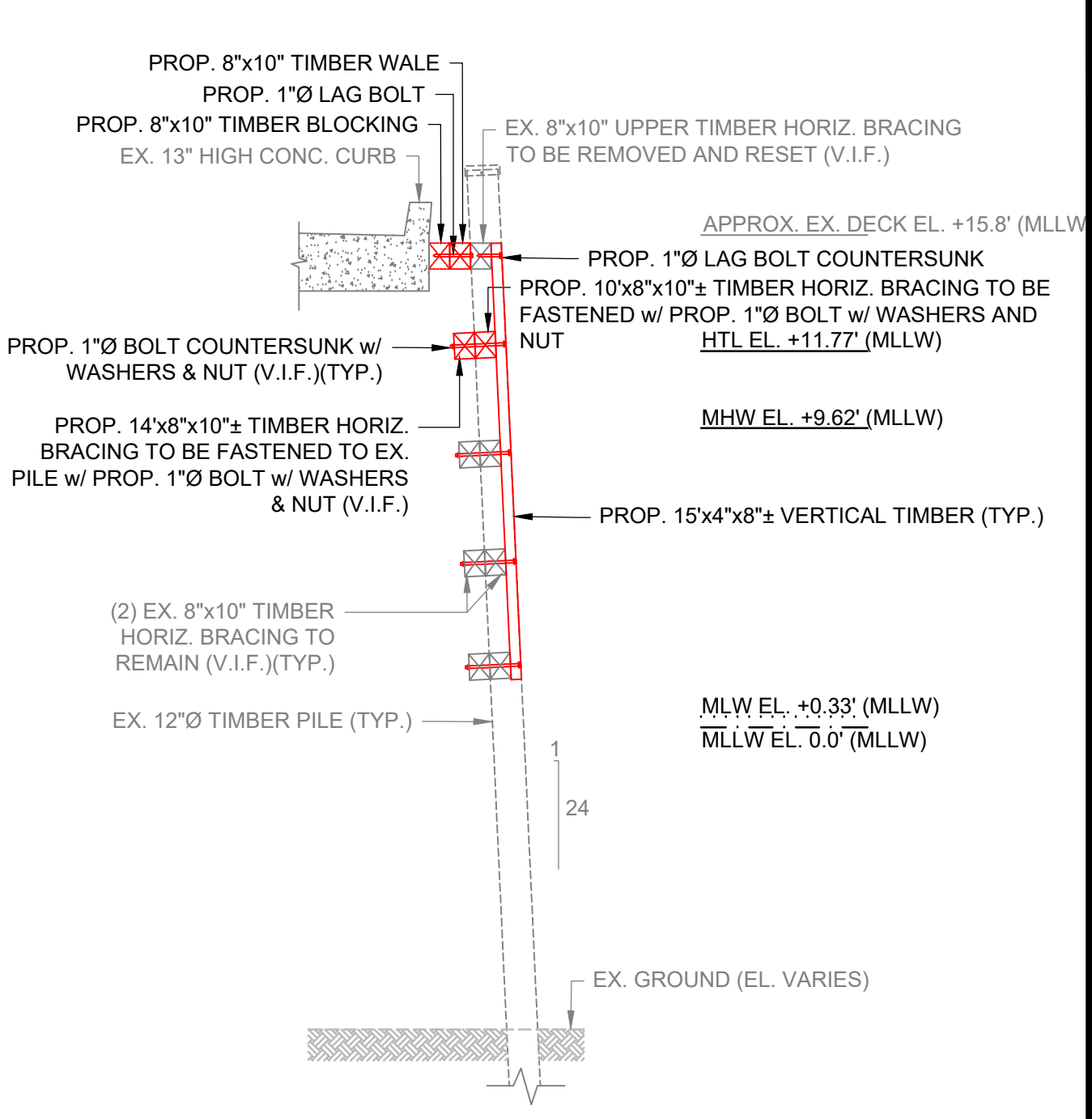
B TYPICAL FENDER PILE REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER CHOCK AND CHOCK HARDWARE AND BLOCKING HARDWARE NOT SHOWN FOR CLARITY.



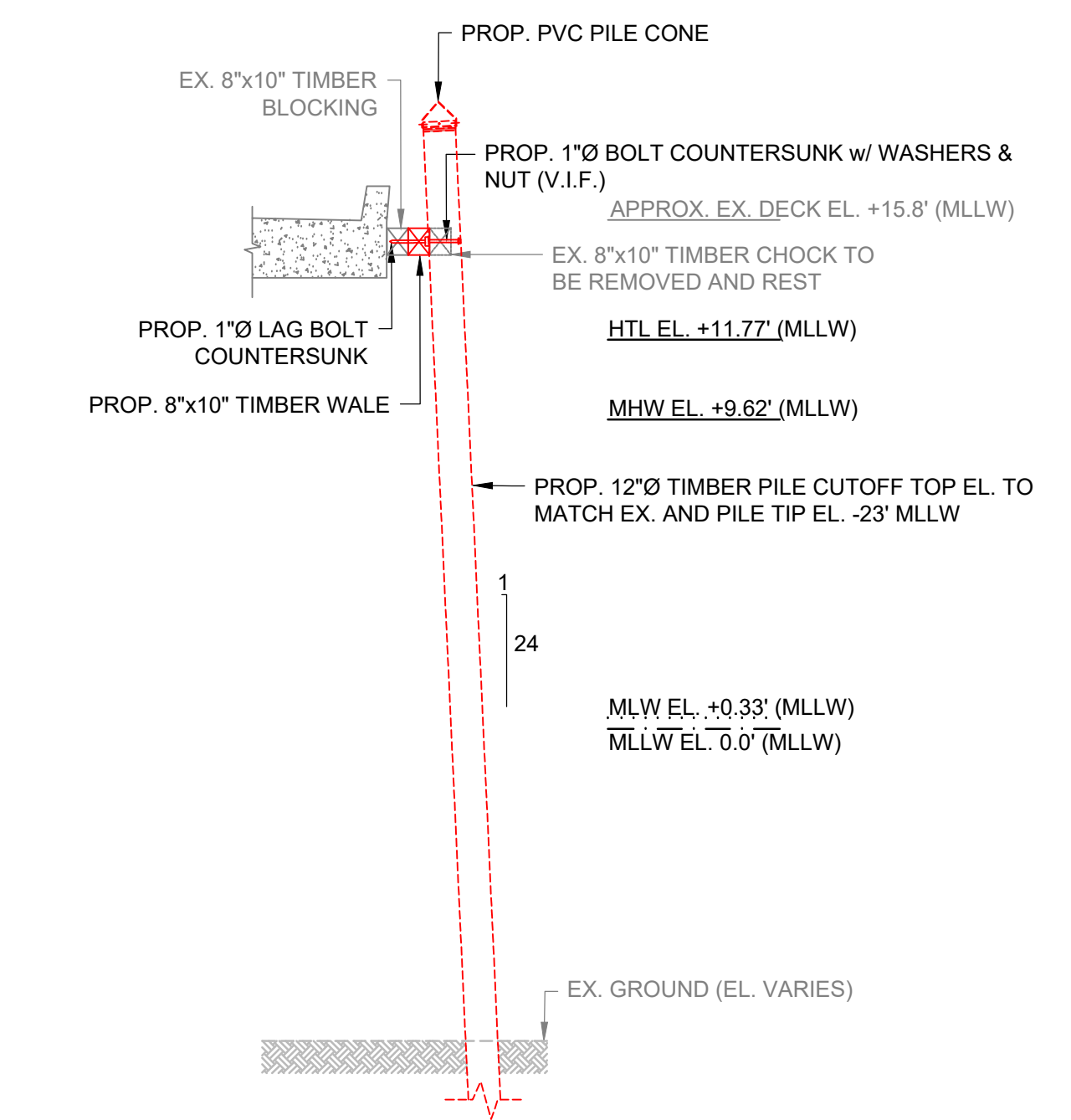
C TIMBER PUSH PILE REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER BLOCKING AND BLOCKING HARDWARE, WALE HARDWARE, UPPER HORIZ. BRACING AND UHMW STRIPS NOT SHOWN FOR CLARITY.



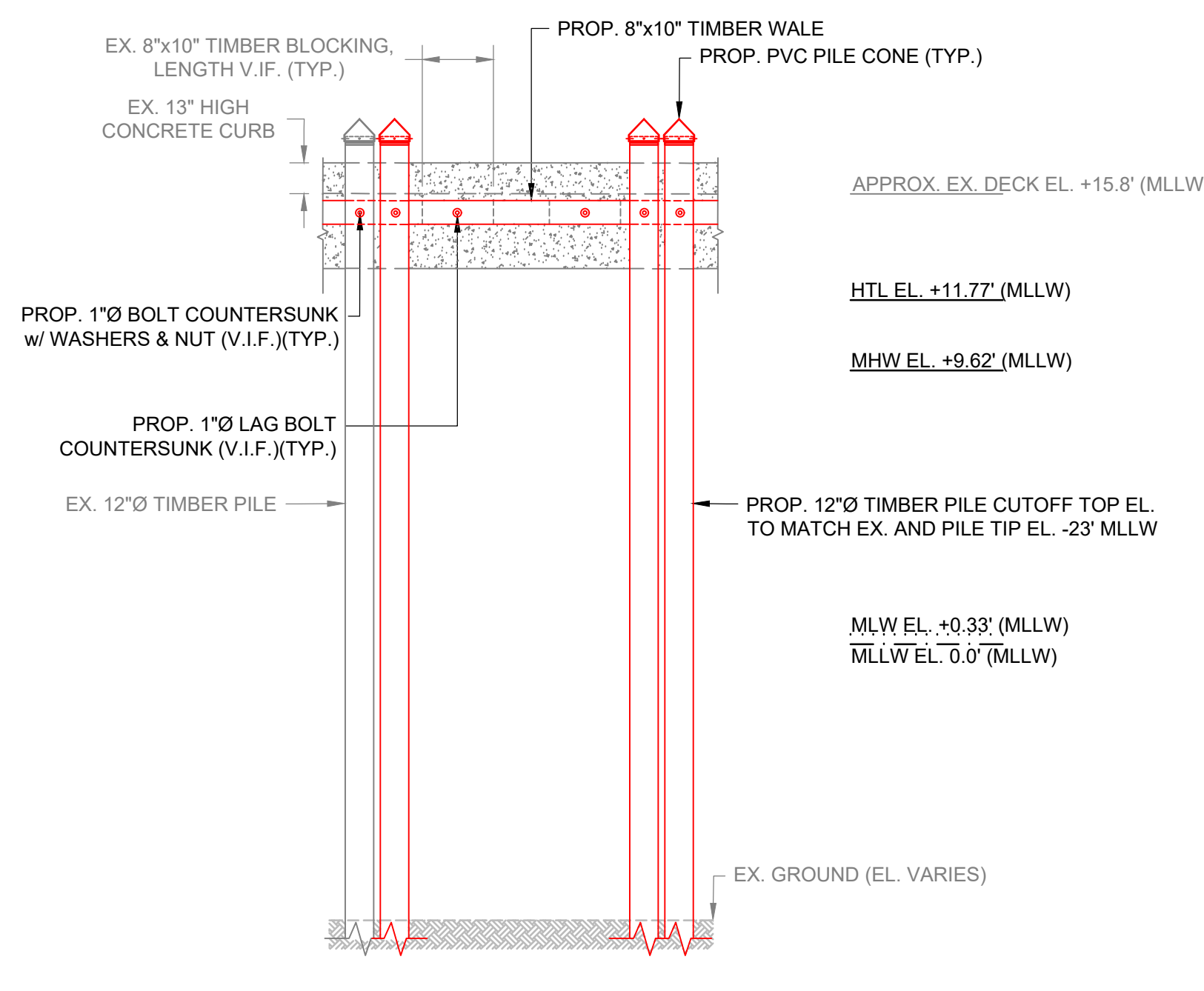
D TIMBER PUSH PILE REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER BLOCKING HARDWARE, HORIZ. BRACING HARDWARE, UPPER HORIZ. BRACING HARDWARE AND UHMW STRIPS NOT SHOWN FOR CLARITY.



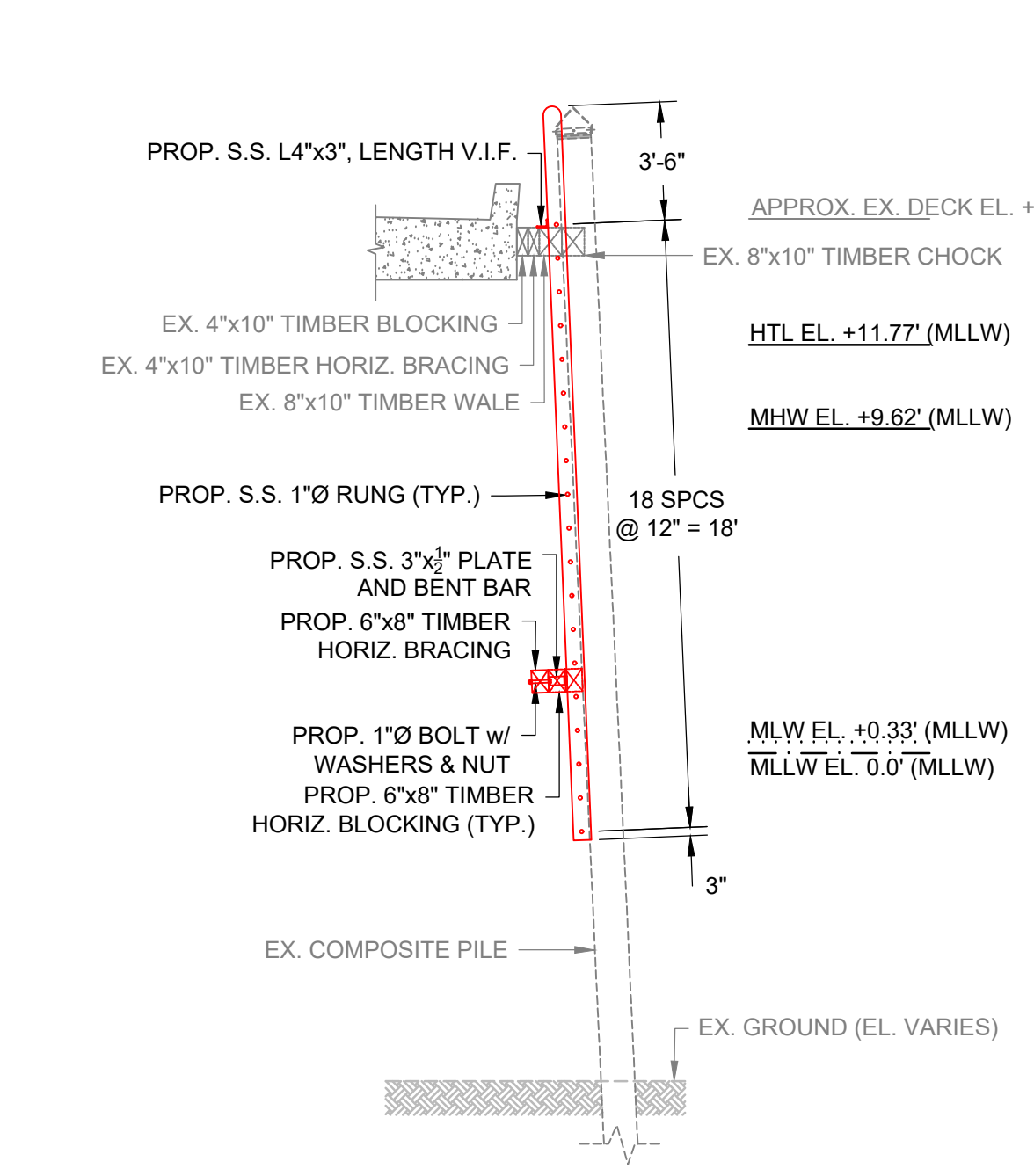
E TYPICAL WALE REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER BLOCKING HARDWARE AND CHOCK HARDWARE NOT SHOWN FOR CLARITY.



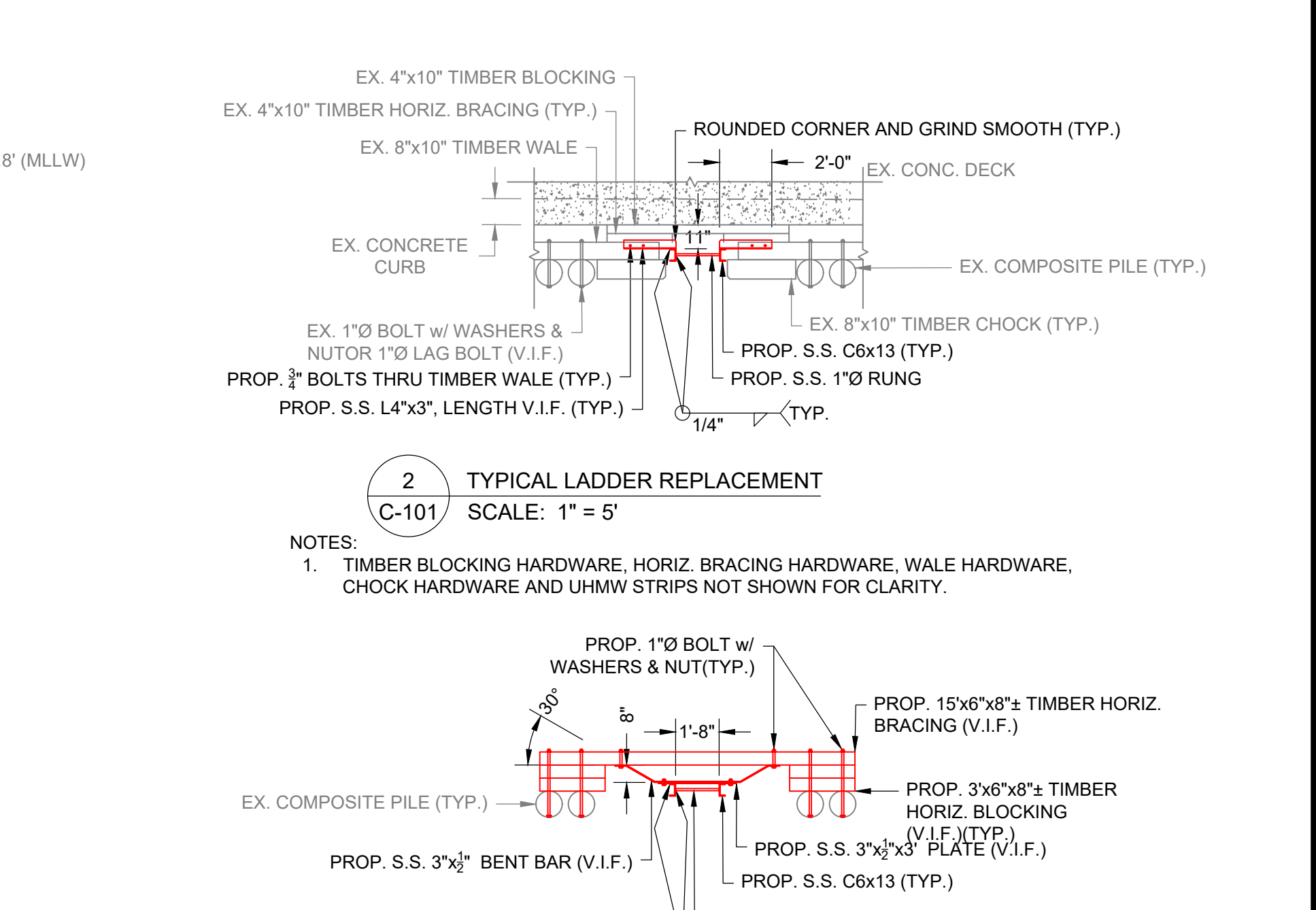
F TYPICAL FENDER PILE & WALE REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER CHOCK AND CHOCK HARDWARE, BLOCKING HARDWARE AND UHMW STRIPS NOT SHOWN FOR CLARITY.



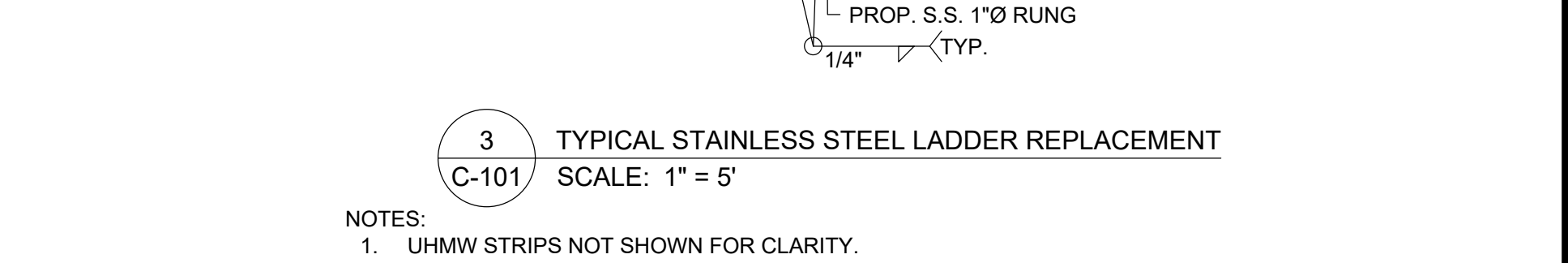
G TYPICAL LADDER REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER BLOCKING HARDWARE, HORIZ. BRACING HARDWARE, WALE HARDWARE, CHOCK HARDWARE AND UHMW STRIPS NOT SHOWN FOR CLARITY.



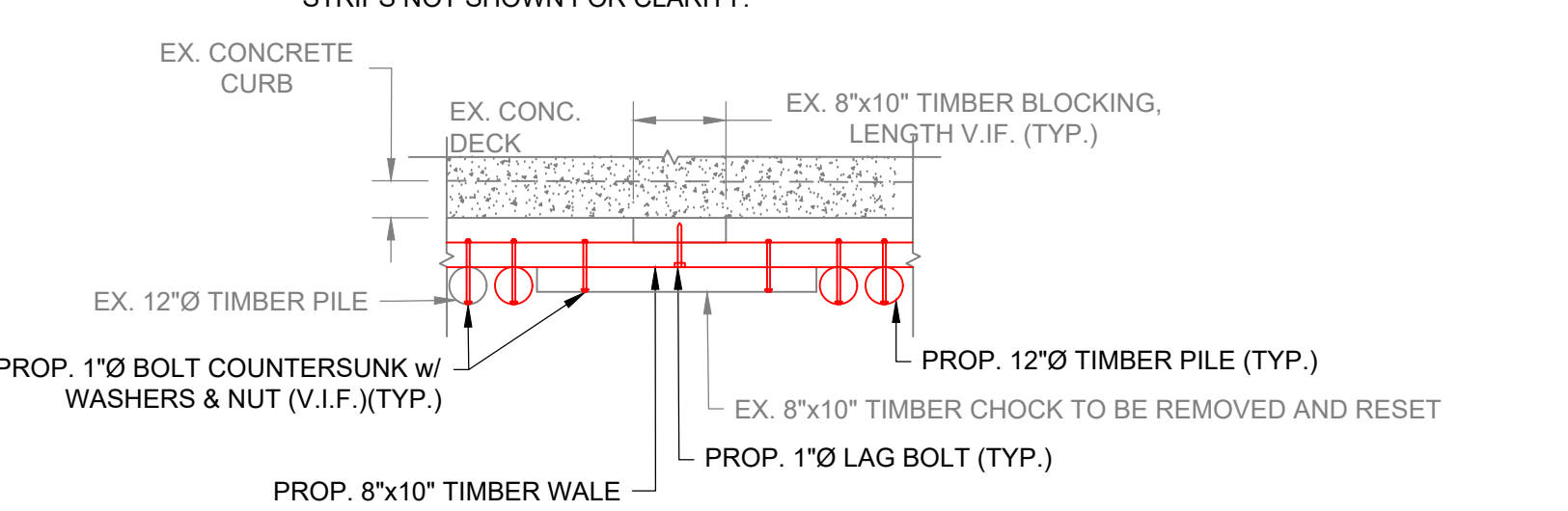
2 TYPICAL LADDER REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER BLOCKING HARDWARE, HORIZ. BRACING HARDWARE, WALE HARDWARE, CHOCK HARDWARE AND UHMW STRIPS NOT SHOWN FOR CLARITY.



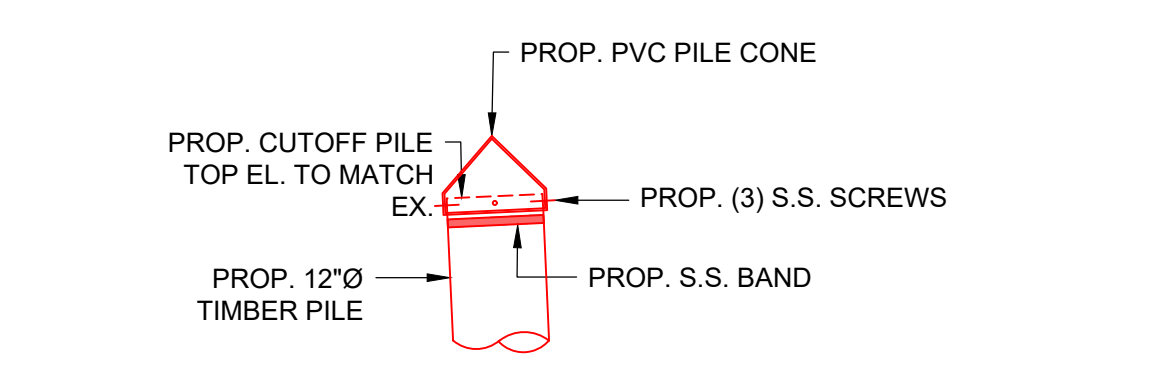
3 TYPICAL STAINLESS STEEL LADDER REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. UHMW STRIPS NOT SHOWN FOR CLARITY.



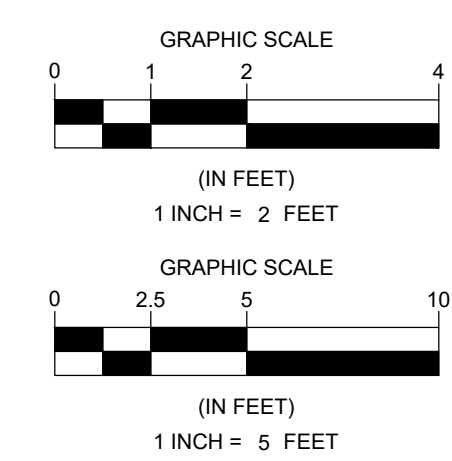
1 TYPICAL FENDER PILE & WALE REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER BLOCKING HARDWARE AND UHMW STRIPS NOT SHOWN FOR CLARITY.



4 TYPICAL PILE CAP REPLACEMENT
C-301 SCALE: 1"=2'

NOTES:
 1. TIMBER BLOCKING HARDWARE AND UHMW STRIPS NOT SHOWN FOR CLARITY.



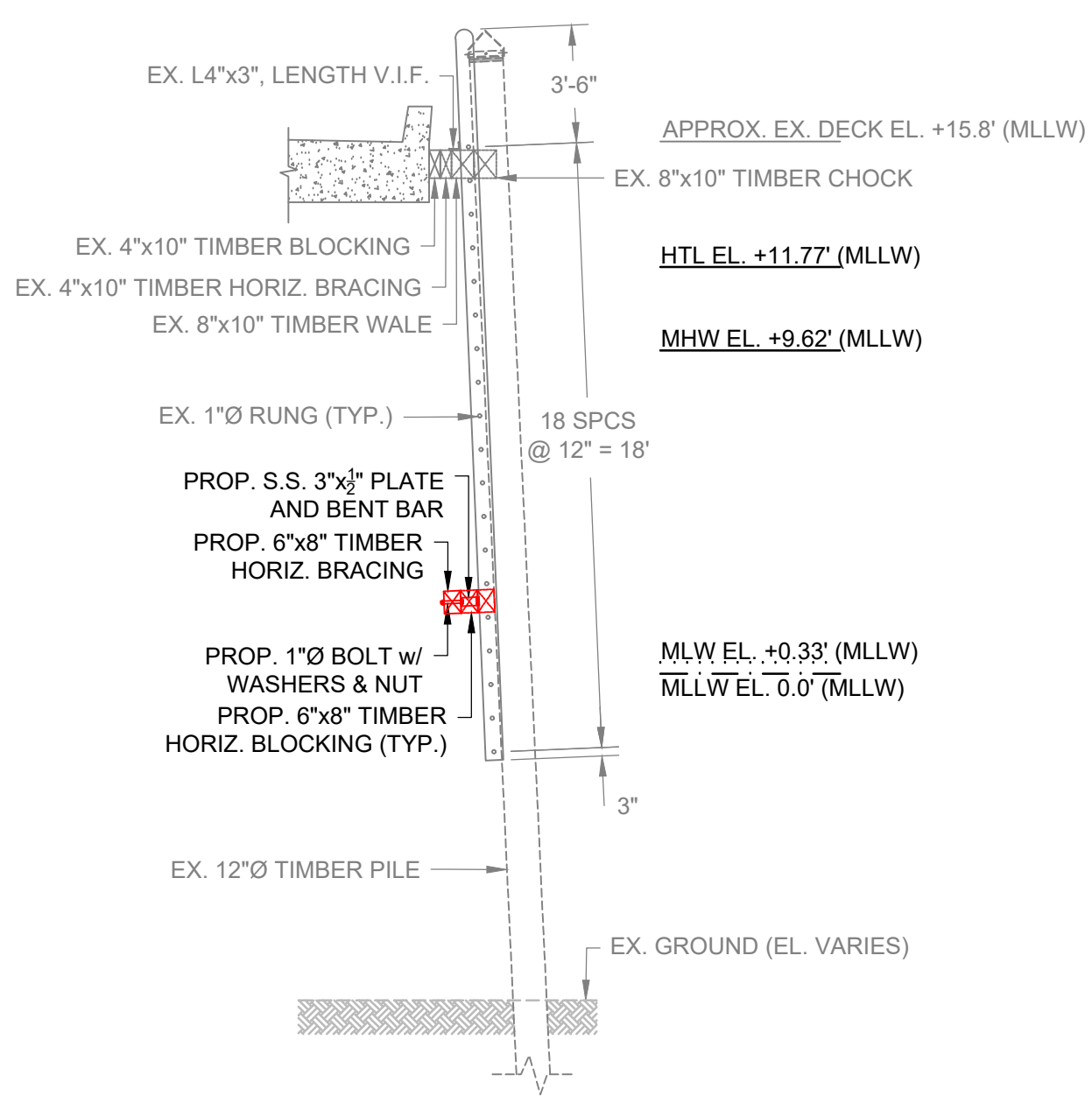
NO.	DATE	BY	DESCRIPTION

DATE OF PREPARATION	
BY	DATE

SHEET TITLE:	
PROPOSED MAIN PIER SECTIONS & DETAILS REPAIRS 1 OF 2	
ISSUANCE:	
ISSUED FOR PERMIT PURPOSES ONLY NOT FOR CONSTRUCTION	
PROJECT NO:	23P237
SHEET NUMBER	C-301

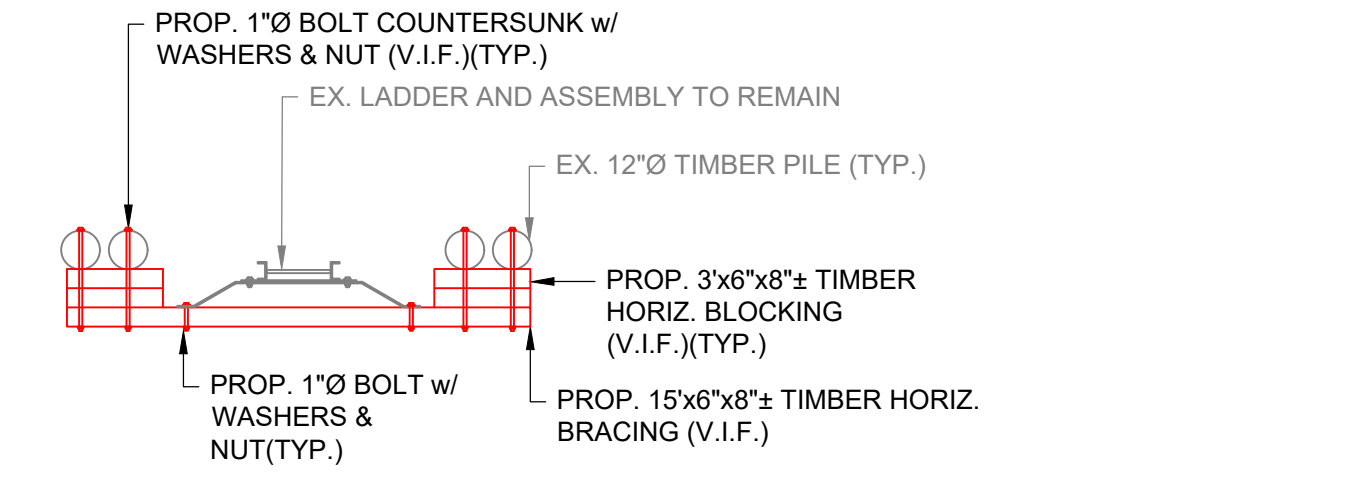
REVISIONS		DATE OF PREPARATION	
NO.	DESCRIPTION	BY	DATE

SHEET TITLE: PROPOSED MAIN PIER SECTIONS & DETAILS REPAIRS 2 OF 2		
ISSUANCE: ISSUED FOR PERMIT PURPOSES ONLY NOT FOR CONSTRUCTION		
PROJECT NO:	23P237	
SHEET NUMBER:	C-302	



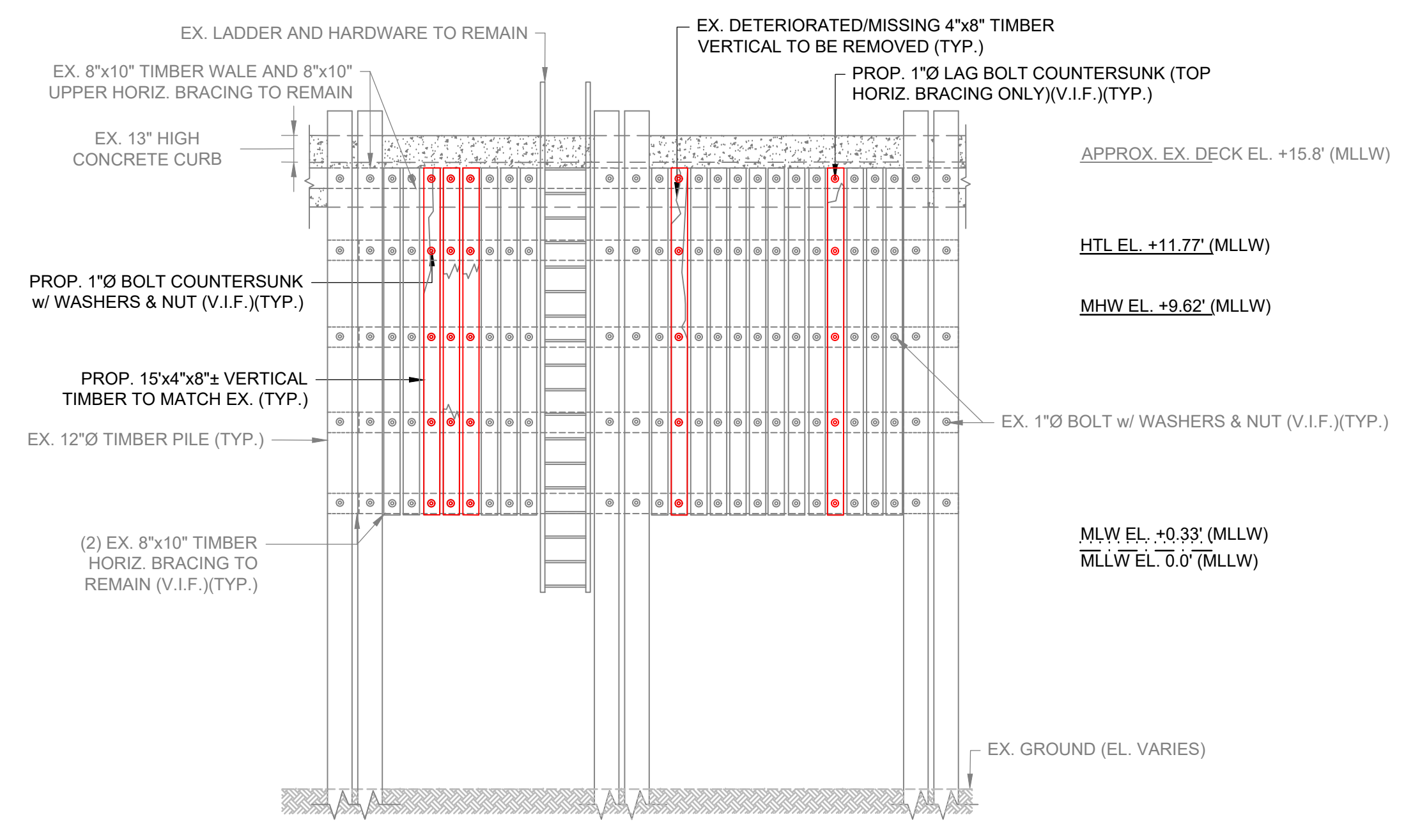
H TYPICAL LOWER LADDER TIMBER SUPPORTS
 C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER BLOCKING HARDWARE, HORIZ. BRACING HARDWARE, WALE HARDWARE, CHOCK HARDWARE AND UHMW STRIPS NOT SHOWN FOR CLARITY.



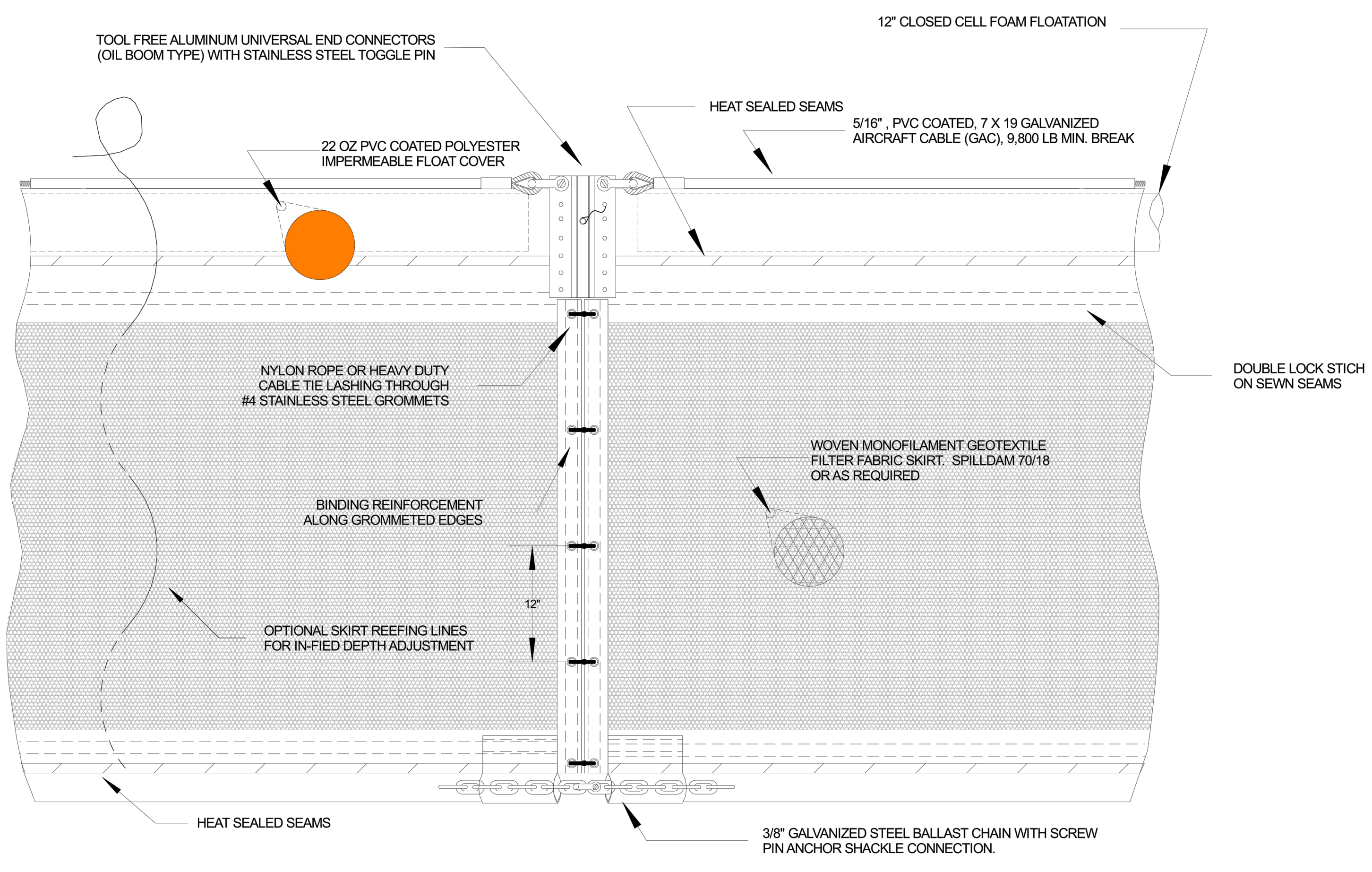
5 LOWER LADDER REPLACEMENT TIMBER SUPPORT REPAIR DETAIL
 C-101 SCALE: 1" = 5'

NOTES:
 1. UHMW STRIPS NOT SHOWN FOR CLARITY.

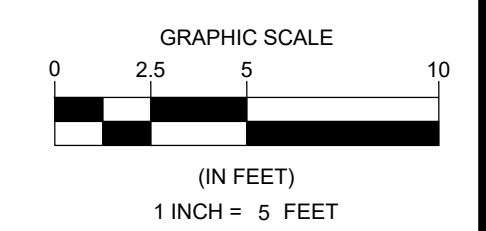


I TIMBER PUSH PILE REPLACEMENT
 C-101 SCALE: 1" = 5'

NOTES:
 1. TIMBER BLOCKING AND BLOCKING HARDWARE, WALE HARDWARE, LADDER HARDWARE, UPPER HORIZ. BRACING, HORIZ. BRACING AND UHMW STRIPS NOT SHOWN FOR CLARITY.



SILTDAM HD PERMEABLE TURBIDITY BARRIERS
 NOT TO SCALE



**Self-Verification Notification for the General Permits for the
Pier Repair Project to USACE (August 26, 2024)**



114 Touro Street
Newport, RI 02840
(401) 236-0360
foth.com

August 26, 2024

U.S. Army Corps of Engineers, Regulatory Division
New England District
696 Virginia Road
Concord, MA 01742

Re: U.S. Army Corps of Engineers Self-Verification Notification
MacMillan Pier Rehabilitation Project
Town of Provincetown, Massachusetts
260 Commercial Street, Provincetown, MA 02657

Dear USACE Reviewer:

On behalf of the Town of Provincetown (Town), Foth Infrastructure & Environment, LLC (Foth) is pleased to provide you with the enclosed Self-Verification Notification (SVN) for the General Permits for Massachusetts (GPs for MA) for the above referenced project. The proposed project consists of the replacement of 53 12-inch diameter timber fender piles within their existing footprint, the replacement of 430 linear feet of fendering wales and chocks, the installation of three (3) new emergency access ladders, and the installation of a new crane to improve offloading efficiency.

The proposed project is necessary to maintain the structural integrity of MacMillan Pier. This site is located adjacent to an active waterfront area, including both public and commercial interests. The Pier provides access to the Provincetown Harbormaster's Office, commercial fishing, ferry terminal, charter tour boats, artist trap sheds, public fishing area, and recreational boating slips. MacMillan Pier is vital to Provincetown's social and economic sustainability.

Enclosed please find the accompanying documents:

1. Self-Verification Notification Massachusetts;
2. Project plans entitled "MacMillan Pier Rehabilitation", dated August 2024, 4 sheets;
3. Order of Conditions, DEP File no. SE 058-0739, Case no. CON-24-83;
4. USGS locus map;
5. Massachusetts DEP Correspondence for 401 WQC;
6. Endangered Species Act – U.S. Fish and Wildlife Service Official Species List and Consistency Letters;
7. Essential Fish Habitat Mapper Report;
8. Endangered Species Act – National Oceanic and Atmospheric Administration Section 7 Mapper; and
9. Previous authorizations
10. Proof of Mailing to SHPO, BUAR and Applicable Tribes

Prior to the submittal of this SVN, the Provincetown Conservation Commission issued an Order of Conditions (OOC), File Number SE 058-0739, Case no. CON-24-83, on August 15, 2024. MassDEP has indicated that a 401 WQC application is not required.

The installation of the piles will be implemented using the best available measures to avoid and minimize adverse impacts to coastal resource areas. Table A below summarizes the project's temporary and permanent intertidal impacts.



Table A: Project Impacts to Land Under Water Bodies (Below Annual High Tide Line)

Proposed Work	Permanent Impacts (square feet)	Temporary Impacts (square feet)	Total (square feet)
Replacement of 53 timber piles	±42 sf	0 sf	±42 sf

Proposed Best Management Practices (BMPs) include, but are not limited to, slow hammer starts for the pile installations to provide adequate time for wildlife to leave the vicinity of the project site. A silt curtain will be employed during the installation of the piles. It is anticipated that the proposed work will occur in the Fall of 2024 and will take up to approximately 21 days.

On behalf the Town of Provincetown and Foth, we thank you for your attention and response. If you have any questions, or should require any additional information, please feel free to contact me at Mackenzie.Bryan@Foth.com or at (401) 236-0366.

Sincerely,
Foth Infrastructure & Environment, LLC

Mack Bryan
Project Manager

Cc: Jaime Demetriou (MacMillan Pier – Pier Manager)
Carrie Marshall (Foth)

U.S. Army Corps of Engineers (USACE)
SELF-VERIFICATION NOTIFICATION (SVN)

DATA REQUIRED BY THE PRIVACY ACT OF 1974

Authority Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332.

Principal Purpose This information will be used in evaluating activities under Self-Verification procedures within Massachusetts.

Routine Uses Routine uses will include: (1) Documenting compliance with the terms and conditions of the General Permit (GP) for activities that may require authorization pursuant to one or more of USACE's Regulatory authorities. (2) Records may be referred to other Federal, State, and local agencies for evaluation and enforcement purposes.

Disclosure Failure to fully comply and abide by the GP terms and conditions prior to commencing work and after completion project may result in formal enforcement action, up to and including monetary penalties and/or legal action, pursuant to 33 CFR Part 326.

Instructions The permittee must complete ALL required sections of this document before commencing USACE-regulated activities. A copy of this completed SVN must be kept on site during construction and be made available for review by USACE and other Federal, State, & Local regulatory authorities at any time. Within 30 days of initiating project construction, the permittee shall submit the completed SVN to USACE. The SVN shall be submitted to USACE as **ONE signed document** that includes project plans and documentation that supports each field (e.g., emails, letters, description, phone calls, surveys). Electronic submissions to the following address are strongly preferred: cenae-r-ma-sv@usace.army.mil. The email subject line shall contain the following: GP #, SVN, City/Town, and date submitted.

(ITEMS 1 THRU 3 TO BE FILLED BY USACE)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED
--------------------	----------------------	------------------

APPLICANT AND AGENT INFORMATION

<p>4. APPLICANT'S NAME</p> <p>First - Jaime Middle - Last - Demetriou</p> <p>Company - MacMillan Pier - Pier Manager</p> <p>E-mail Address - JDemetriou@Provincetown-ma.gov</p>	<p>7. AGENT'S ADDRESS:</p> <p>First - Mack Middle - Last - Bryan</p> <p>Company - Foth Infrastructure & Environment, LLC</p> <p>E-mail Address - Mackenzie.Bryan@Foth.com</p>
<p>5. APPLICANT'S ADDRESS:</p> <p>Address- 24 MacMillan Wharf</p> <p>City - Provincetown State - MA Zip - 02657 Country - USA</p>	<p>8. AGENT'S ADDRESS:</p> <p>Address- 114 Touro Street</p> <p>City - Newport State - RI Zip - 02840 Country - USA</p>
<p>6. APPLICANT'S PHONE NOS. w/AREA CODE</p> <p>a. Residence b. Business c. Fax</p> <p align="center">508-487-7030</p>	<p>9. AGENTS PHONE NOS. w/AREA CODE</p> <p>a. Residence b. Business c. Fax</p> <p align="center">401-236-0366</p>

NAME, LOCATION, AND DESCRIPTION OF PROJECT SITE

10. PROJECT NAME OR TITLE MacMillan Pier Rehabilitation	
11. FILE NUMBER(S) OF PREVIOUS USACE ACTIONS ON THE SITE (if applicable) NAE-199802651	12. NAME OF WATERBODY Provincetown Harbor
13. PROJECT COORDINATES (in decimal degrees) Latitude: °N Longitude: °W 42.04936111 70.18139167	14. PROJECT STREET ADDRESS (if applicable) Address 1 MacMillan Wharf City - Provincetown State - MA Zip - 02657

ACTIVITY TYPE, PROJECT IMPACTS, AVOIDANCE & MINIMIZATION

15. GENERAL PERMIT ACTIVITIES (CHECK ALL THAT APPLY)

1 <input type="checkbox"/>	6 <input type="checkbox"/>	11 <input type="checkbox"/>	16 <input type="checkbox"/>	21 <input type="checkbox"/>
2 <input checked="" type="checkbox"/>	7 <input type="checkbox"/>	12 <input type="checkbox"/>	17 <input type="checkbox"/>	22 <input type="checkbox"/>
3 <input type="checkbox"/>	8 <input type="checkbox"/>	13 <input type="checkbox"/>	18 <input type="checkbox"/>	23 <input type="checkbox"/>
4 <input type="checkbox"/>	9 <input type="checkbox"/>	14 <input type="checkbox"/>	19 <input type="checkbox"/>	24 <input type="checkbox"/>
5 <input type="checkbox"/>	10 <input type="checkbox"/>	15 <input type="checkbox"/>	20 <input type="checkbox"/>	25 <input type="checkbox"/>

16. SUMMARY OF PROJECT IMPACTS (see instructions)

Area (square feet)	Length (linear feet)	Volume (cubic yards)	Duration
42 (Net 0)			Permanent

17. PROJECT PLANS (BY CHECKING THE BOXES BELOW, YOU CERTIFY THESE ITEMS ARE COMPLETE) (see instructions)

- a. Plans shall at least contain the following: Vicinity Map, Plan View, and Typical Cross Section View of the proposed activity.
- b. All direct, indirect and secondary impacts from USACE regulated activities are shown on the project plans.
- c. The size of the impact area for each activity (acre, square feet, linear feet) are shown on the project plans.
- d. For discharges of fill material (§404), the volume of fill material is identified on the project plans.
- e. The duration of each impact, permanent or temporary (X days), is identified on the project plans.
- f. Do activities with permanent impacts result in the loss of waters? If so, this is identified on the project plans.
- g. All aquatic resources in the vicinity of the USACE regulated activities are delineated on the project plans.

18. AVOIDANCE & MINIMIZATION (BY CHECKING THE BOXES BELOW, YOU CERTIFY THESE CRITERIA ARE MET) (see instructions)

- a. The project has been designed to avoid and minimize impacts to aquatic resources.
- b. The footprint of activities in waters of the U.S. has been reduced to only what is necessary to achieve the overall project purpose.
- c. All practicable measures have been taken to avoid and minimize impacts to aquatic resources through construction techniques and site access (e.g., Best Management Practices, Time of Year Restrictions).
- d. All temporary impacts from USACE regulated activities will be restored upon completion of construction and the project area will be returned to pre-construction contours and conditions.

COMPLIANCE WITH FEDERAL REGULATIONS & SUPPLEMENTAL INFORMATION

19. DUE DILIGENCE (see instructions)

Complete the entries below to document compliance with the following Federal requirements. Construction may NOT begin if a PCN is/may be required, and you must contact USACE to determine permitting requirements. Documentation that demonstrates how the activity complies with each field below shall be submitted to the USACE as noted in the instructions block. See each General Condition (GC) in the GP for how to comply with each requirement.

- a. State Historic Preservation Officer Per Appendix A, SHPO was notified and they did not respond with concerns within 30 days.
- b. Massachusetts BUAR Per Appendix A, BUAR was notified and they did not respond with concerns within 30 days.
- c. Tribal Historic Preservation Officers The Tribe(s) were notified and they didn't respond with concerns within 30 days.
- d. Endangered Species Act - NOAA Another Federal agency has reached a no effect determination.
- e. Endangered Species Act - USFWS Another Federal action agency reached a no effect determination.
- f. Northern Long Eared Bat (ESA) No effect determination reached with the Rangewide D-Key. See Instructions below.*
- g. Essential Fish Habitat The activity fully complies with GC 11.
- h. Wild & Scenic Rivers There are no WSR's within 0.25 miles of the project area.
- i. 401 Water Quality Certification 401 MassDEP determined that a 401 WQC is not required for the activity.
401 WQC/OOC File Number: SE 058-0739 OOC issued: 8/15/24 401 issued:
- j. Section 408 Permission Not Required per GC 15a-f, no Federal Projects are within the project vicinity.
- k. Coastal Zone Per GC 9, the project has CZM federal consistency concurrence.
- l. Construction Mats N/A, the activity does not require the installation of construction mats.
- m. Time of Year Restrictions The project complies with TOY Restrictions in GC 20.
- n. Vernal Pools Per GC 28, the project is not located in a vernal pool.
- o. Sediment & Erosion Controls Per GC 25, the activity uses BMPs to avoid/minimize sedimentation & erosion.
- p. Stream/Wetland Crossings The activity does not require a stream/wetland crossing.

20. AQUACULTURE ACTIVITIES - GP 18 (see instructions)

- a. If required, an Aquaculture Certification from the Massachusetts Division of Marine Fisheries was obtained prior to commencing work.
- b. Coordination with the U.S. Coast Guard pursuant to Private Aids to Navigation has occurred prior to commencing work.
- c. If required, a MEPA Certificate was obtained from the Massachusetts Environmental Protection Agency prior to commencing work. **Select Option**
- d. The prospective permittee contacted local authorities (e.g. harbormaster, select board, shellfish constable) for authorization of their facility prior to commencing work.

21. ADDITIONAL INFORMATION/ATTACHMENTS (see instructions)

- a. The project plans are enclosed in this SVN submittal (see block 17).
- b. The activity IS NOT funded through the Bipartisan Infrastructure Bill (also known as the Infrastructure Investment and Jobs Act).
- c. All required state, local and federal approvals were acquired prior to starting construction in USACE jurisdiction.
- d. After construction of the activity is completed, a complete Certificate of Compliance will be submitted to USACE.

22. IS THERE ANOTHER LEAD FEDERAL AGENCY:

- YES NO

23. STATEMENT OF AUTHORIZATION (see instructions)

I certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

James Dunn 8/8/24 *Mad Bryan* 8/8/24
SIGNATURE OF APPLICANT DATE SIGNATURE OF AGENT DATE

24. SIGNATURES (see instructions)

I hereby certify that the information in this Self-Verification Notification is complete and accurate. As the applicant or their duly authorized agent, I certify the activity was completed in accordance with the terms and conditions of the GP. This includes all applicable terms, general conditions, and activity-specific GP criteria. I agree to allow the duly authorized representatives of the Corps of Engineers Regulatory Program and other regulatory or advisory agencies to enter upon the premises of the project site at reasonable times to evaluate inspect and photograph site conditions. This consent to enter the property is superior to, takes precedence over, and waives any communication to the contrary. For example, if the property is posted as "no trespassing" this consent specifically supersedes and waives that prohibition and grants permission to enter the property despite such posting.

James Dunn 8/8/24 *Mad Bryan* 8/8/24
SIGNATURE OF APPLICANT DATE SIGNATURE OF AGENT DATE

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

**Instructions for Preparing a
Department of the Army
General Permit (GP) Self-Verification**

Blocks 1 through 3. To be completed by the Corps of Engineers.

Block 4. Applicant' Name. Enter the name and the e-mail address of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the name of the organization and responsible officer and title. If more than one party is associated with the self-verification, please attach a sheet of paper with the necessary information marked Block 4.

Block 5. Address of Applicant. Please provide the full address of the party or parties responsible for the self-verification. If more space is needed, attach an extra sheet of paper marked Block 5.

Block 6. Applicant Telephone Number(s). Please provide the telephone number where you can usually be reached during normal business hours.

Blocks 7 through 9. To be completed, if you choose to have an agent.

Block 7. Authorized Agent's Name and Title. Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer, consultant, or any other person or organization. Note: An agent is not required.

Blocks 8 and 9. Agent's Address and Telephone Number. Please provide the complete mailing address of the agent, along with the telephone number where they can be reached during normal business hours.

Block 10. Proposed General Permit Activity Name or Title. Please provide a name identifying the proposed GP activity, e.g., Windward Marina, Rolling Hills Subdivision, or Smith Commercial Center.

Block 11. File Number(s) of Previous USACE Actions on the Site Please provide any known USACE file number. If the activity does not have a known USACE file number, you may state N/A.

Block 12. Name of Waterbody. Please provide the name (if it has a name) of any stream, lake, marsh, or other waterway to be directly impacted by the GP activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

Block 13. Proposed Activity Coordinates. Please enter the latitude and longitude of where the proposed GP activity is located. Indicate whether the project location provided is the center of the project or whether the project location is provided as the latitude and longitude for each of the "corners" of the project area. If there are multiple sites, please list the latitude and longitude of each site (center or corners) on a separate sheet of paper and mark as Block 13.

Block 14. Proposed Activity Street Address. If the proposed activity is located at a site having a street address (not a box number), enter it in Block 14.

Block 15. General Permit Activity Type. Please select all GP activity types that apply to the proposed activity. A list of GP activity types can be found in Section III of the GP.

Block 16. Summary of Project Impacts. Please provide ALL proposed impacts, both temporary and permanent in duration, that are located in Waters of the United States. The area of impact shall be provided in square feet (SF). When applicable, impacts that result in conversion of stream bank or shoreline must also be identified in linear feet (LF). Dredging or the discharge of dredged or fill material shall also include the volume, cubic yards (CY), of material removed from or placed into Waters of the U.S. If more entries are required, please attach a table matching the desired format in Block 16.

Block 17. Project Plans. Please verify that items a-g are included in the project plans. Three types of illustrations are necessary to properly depict the proposed work. These illustrations or drawings are identified as a Vicinity Map, a Plan View (Aerial view) and a Cross Section Map. For linear projects (e.g. roads, subsurface utility lines, etc.) gradient drawings (longitudinal profile) should also be included. Plans must accurately depict the existing conditions and all aspects of the proposed activity located in waters of the U.S. Please submit one copy of all drawings formatted to print on 8½ x 11 inch or 11 x 17 inch plain white paper. Use the fewest number of sheets necessary for your drawings or illustrations. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross section). While illustrations need not be certified engineering sheets; they should be clear, accurate, contain all necessary information, and depict all proposed work. Each submission must also include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current wetland delineation manual and regional supplement published by USACE.

Block 18. Avoidance & Minimization. Please verify that items a-d have been implemented for the proposed activity.

Block 19. Due Diligence. Please complete all the fields and submit documentation to USACE to demonstrate compliance with the above requirements. This Documentation may include emails, letters, meeting notes, phone call log, project narrative, project plans, a species list from the NOAA Section 7 Mapper, a completed copy of the IPAC determination keys, etc. Documentation should be limited to what is necessary to demonstrate how the proposed activity meets each requirement. Refer to the MA GP, Appendix A, for specific guidance on the identification of previously identified historic properties and previously unidentified historic properties. Endangered Species: *The applicant must be designated as the non-federal representative for the purposes of Section 7 consultation to select the Rangewide D-Key options. Otherwise, the applicant shall select the following option when IPAC indicates the NLEB is present: "The activity IS located within the NLEB Species Range (PCN Required)."

Block 20. Aquaculture Activities. Please verify that items a-d have been obtained or completed prior to commencing work in waters of the U.S.

Block 21. Additional Information/Attachments. Please verify that items a-d have been completed prior to commencing work in waters of the U.S.

Block 22. Lead Federal Agency. Please identify if there is another lead federal agency involved with the proposed activity. Enter the lead federal agency name (e.g., the Federal Emergency Management Agency, FEMA) and the agency's designated person of contact for the activity.

Block 23. Statement of Authorization. The applicant shall sign this section for all activities. If an agent is to be employed, the agent shall sign this section.

Block 24. Signatures. The SVN must be signed by the person proposing to undertake the GP activity, and if applicable, the authorized party (agent) that prepared the SVN. The signature of the person proposing to undertake the GP activity shall be an affirmation that the party submitting the SVN possesses the requisite property rights to undertake the GP activity.

MACMILLAN PIER REHABILITATION TOWN OF PROVINCETOWN

MACMILLAN PIER, PROVINCETOWN, MA 02657 AUGUST 2024

Prepared for:
Town of Provincetown

Prepared by:
Foth Infrastructure & Environment, LLC



DRAWING INDEX

SHEET NUMBER	TITLE
G-001	COVER SHEET
V-101	EXISTING SITE PLAN
C-101	PROPOSED SITE PLAN
C-301	PROPOSED SECTIONS & DETAILS

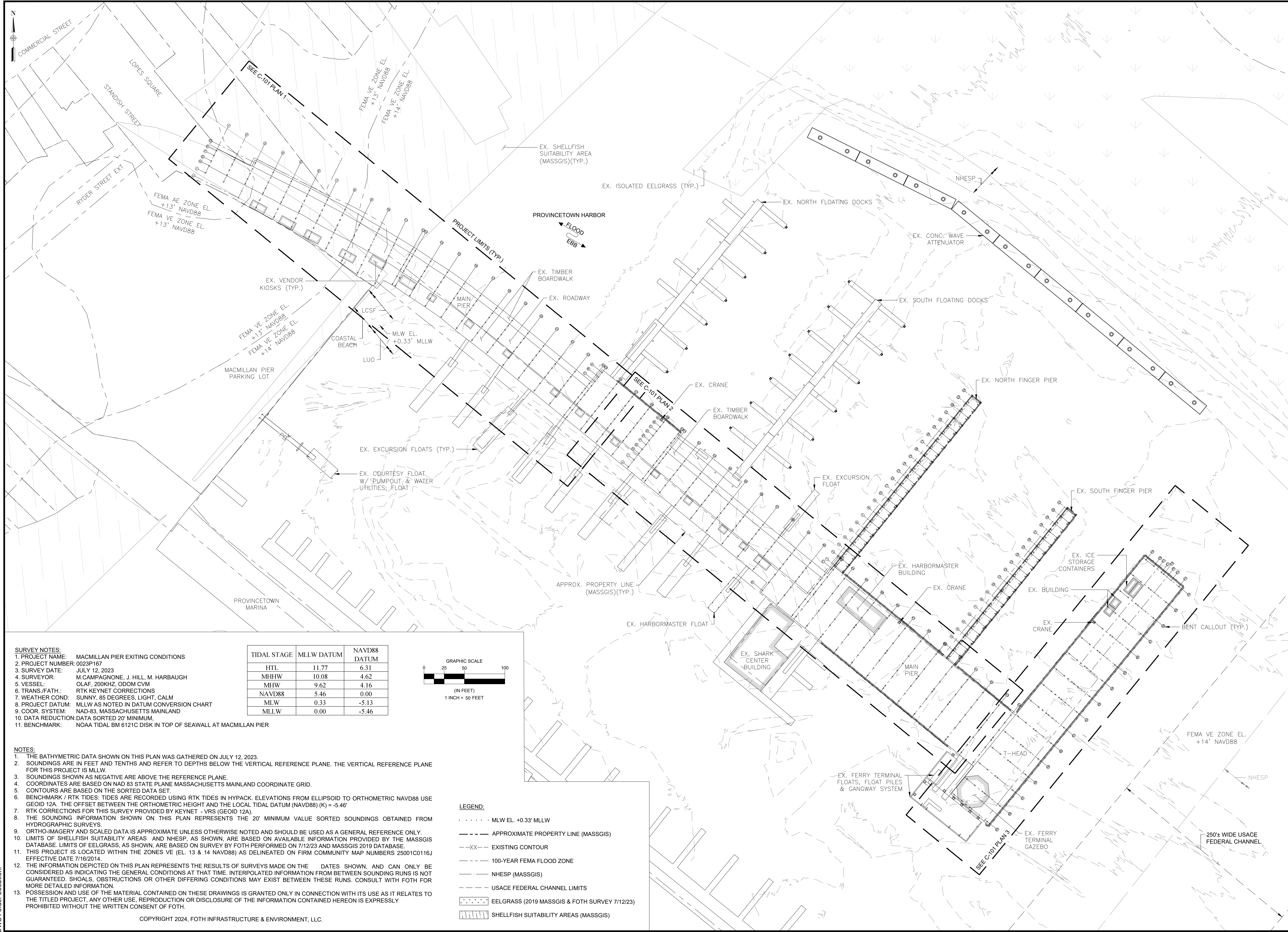


VICINITY MAP



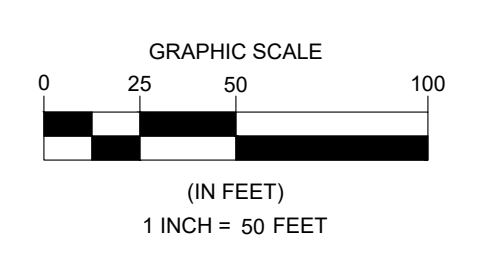
LOCATION MAP

SHEET TITLE	COVER SHEET
SHEET NUMBER	G-001



SURVEY NOTES:
 1. PROJECT NAME: MACMILLAN PIER EXITING CONDITIONS
 2. PROJECT NUMBER: 0023P167
 3. SURVEY DATE: JULY 12, 2023
 4. SURVEYOR: M. CAMPAGNONE, J. HILL, M. HARBAUGH
 5. VESSEL: OLAF, 200KHZ, ODOM CVM
 6. TRANS./FATH.: RTK KEYNET CORRECTIONS
 7. WEATHER COND: SUNNY, 85 DEGREES, LIGHT, CALM
 8. PROJECT DATUM: MLLW AS NOTED IN DATUM CONVERSION CHART
 9. COOR. SYSTEM: NAD-83, MASSACHUSETTS MAINLAND
 10. DATA REDUCTION: DATA SORTED 20' MINIMUM
 11. BENCHMARK: NOAA TIDAL BM 6121C DISK IN TOP OF SEAWALL AT MACMILLAN PIER

TIDAL STAGE	MLLW DATUM	NAVD88 DATUM
HTL	11.77	6.31
MHHW	10.08	4.62
MHW	9.62	4.16
NAVD88	5.46	0.00
MLW	0.33	-5.13
MLLW	0.00	-5.46



NOTES:
 1. THE BATHYMETRIC DATA SHOWN ON THIS PLAN WAS GATHERED ON JULY 12, 2023.
 2. SOUNDINGS ARE IN FEET AND TENTHS AND REFER TO DEPTHS BELOW THE VERTICAL REFERENCE PLANE. THE VERTICAL REFERENCE PLANE FOR THIS PROJECT IS MLLW.
 3. SOUNDINGS SHOWN AS NEGATIVE ARE ABOVE THE REFERENCE PLANE.
 4. COORDINATES ARE BASED ON NAD 83 STATE PLANE MASSACHUSETTS MAINLAND COORDINATE GRID.
 5. CONTOURS ARE BASED ON THE SORTED DATA SET.
 6. BENCHMARK / RTK TIDES: TIDES ARE RECORDED USING RTK TIDES IN HYPACK. ELEVATIONS FROM ELLIPSOID TO ORTHOMETRIC NAVD88 USE GEOID 12A. THE OFFSET BETWEEN THE ORTHOMETRIC HEIGHT AND THE LOCAL TIDAL DATUM (NAVD88) (K) = -5.46'
 7. RTK CORRECTIONS FOR THIS SURVEY PROVIDED BY KEYNET - VRS (GEOID 12A).
 8. THE SOUNDING INFORMATION SHOWN ON THIS PLAN REPRESENTS THE 20' MINIMUM VALUE SORTED SOUNDINGS OBTAINED FROM HYDROGRAPHIC SURVEYS.
 9. ORTHO-IMAGERY AND SCALED DATA IS APPROXIMATE UNLESS OTHERWISE NOTED AND SHOULD BE USED AS A GENERAL REFERENCE ONLY.
 10. LIMITS OF SHELLFISH SUITABILITY AREAS AND NHESP, AS SHOWN, ARE BASED ON AVAILABLE INFORMATION PROVIDED BY THE MASSGIS DATABASE. LIMITS OF EELGRASS, AS SHOWN, ARE BASED ON SURVEY BY FOTH PERFORMED ON 7/12/23 AND MASSGIS 2019 DATABASE.
 11. THIS PROJECT IS LOCATED WITHIN THE ZONES VE (EL. 13 & 14 NAVD88) AS DELINEATED ON FIRM COMMUNITY MAP NUMBERS 25001C0116J EFFECTIVE DATE 7/16/2014.
 12. THE INFORMATION DEPICTED ON THIS PLAN REPRESENTS THE RESULTS OF SURVEYS MADE ON THE DATES SHOWN, AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITIONS AT THAT TIME. INTERPOLATED INFORMATION FROM BETWEEN SOUNDING RUNS IS NOT GUARANTEED. SHOALS, OBSTRUCTIONS OR OTHER DIFFERING CONDITIONS MAY EXIST BETWEEN THESE RUNS. CONSULT WITH FOTH FOR MORE DETAILED INFORMATION.
 13. POSSESSION AND USE OF THE MATERIAL CONTAINED ON THESE DRAWINGS IS GRANTED ONLY IN CONNECTION WITH ITS USE AS IT RELATES TO THE TITLED PROJECT. ANY OTHER USE, REPRODUCTION OR DISCLOSURE OF THE INFORMATION CONTAINED HEREON IS EXPRESSLY PROHIBITED WITHOUT THE WRITTEN CONSENT OF FOTH.

- LEGEND:**
- MLLW EL. +0.33' MLLW
 - APPROXIMATE PROPERTY LINE (MASSGIS)
 - X-X- EXISTING CONTOUR
 - 100-YEAR FEMA FLOOD ZONE
 - NHESP (MASSGIS)
 - USACE FEDERAL CHANNEL LIMITS
 - [Pattern] EELGRASS (2019 MASSGIS & FOTH SURVEY 7/12/23)
 - [Pattern] SHELLFISH SUITABILITY AREAS (MASSGIS)

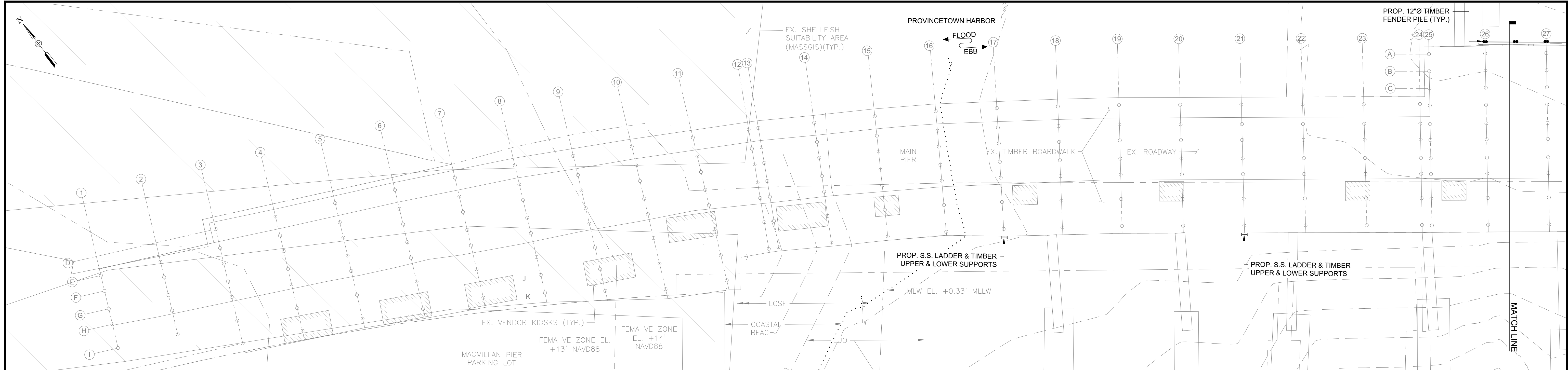
REVISIONS		DATE OF PREPARATION	
NO.	DESCRIPTION	BY	DATE
1			
2			
3			
4			
5			

EXISTING SITE PLAN

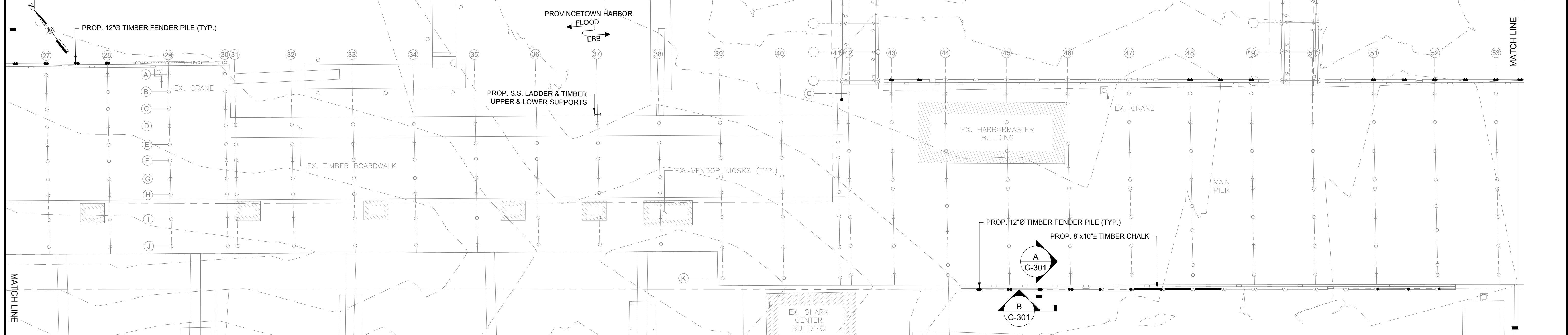
ISSUANCE:
ISSUED FOR PERMIT PURPOSES ONLY NOT FOR CONSTRUCTION

PROJECT NO: 23P237
 SHEET NUMBER: V-101

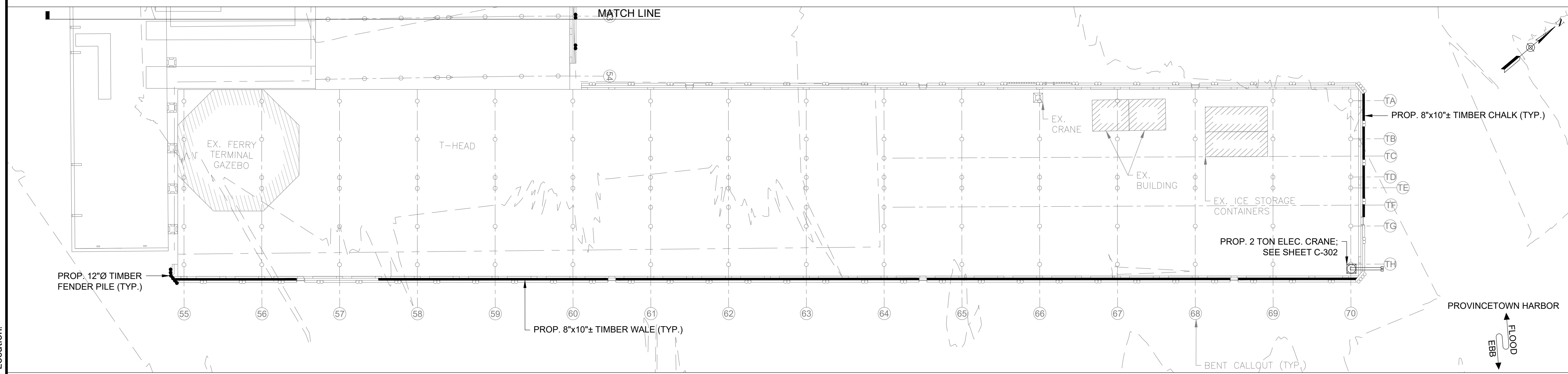
Monday, August 26, 2024 12:06:13 PM
 DWG Filename: macmillan pier rehabilitation - phase ii pld_svn.dwg Layout: v-101
 DWG Folder Location:



1 MAIN PIER (BENTS 1 TO 27)
 C-101 SCALE: 1" = 20'

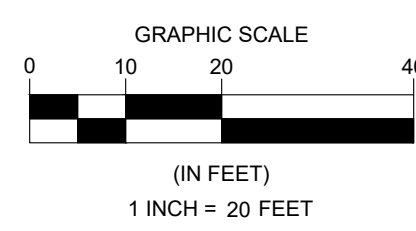


2 MAIN PIER (BENTS 27 TO 54)
 C-101 SCALE: 1" = 20'



3 T-HEAD PORTION OF MAIN PIER (BENTS 55 TO 70)
 C-101 SCALE: 1" = 20'

NOTES:
 1. PILE DRIVING IS ANTICIPATED TO OCCUR OVER 15 WORKING DAYS.
 2. PERMANENT IMPACTS DUE TO PILE INSTALLATION TOTAL APPROX. 42 SF WITHIN FOOTPRINT OF EX. PILES.



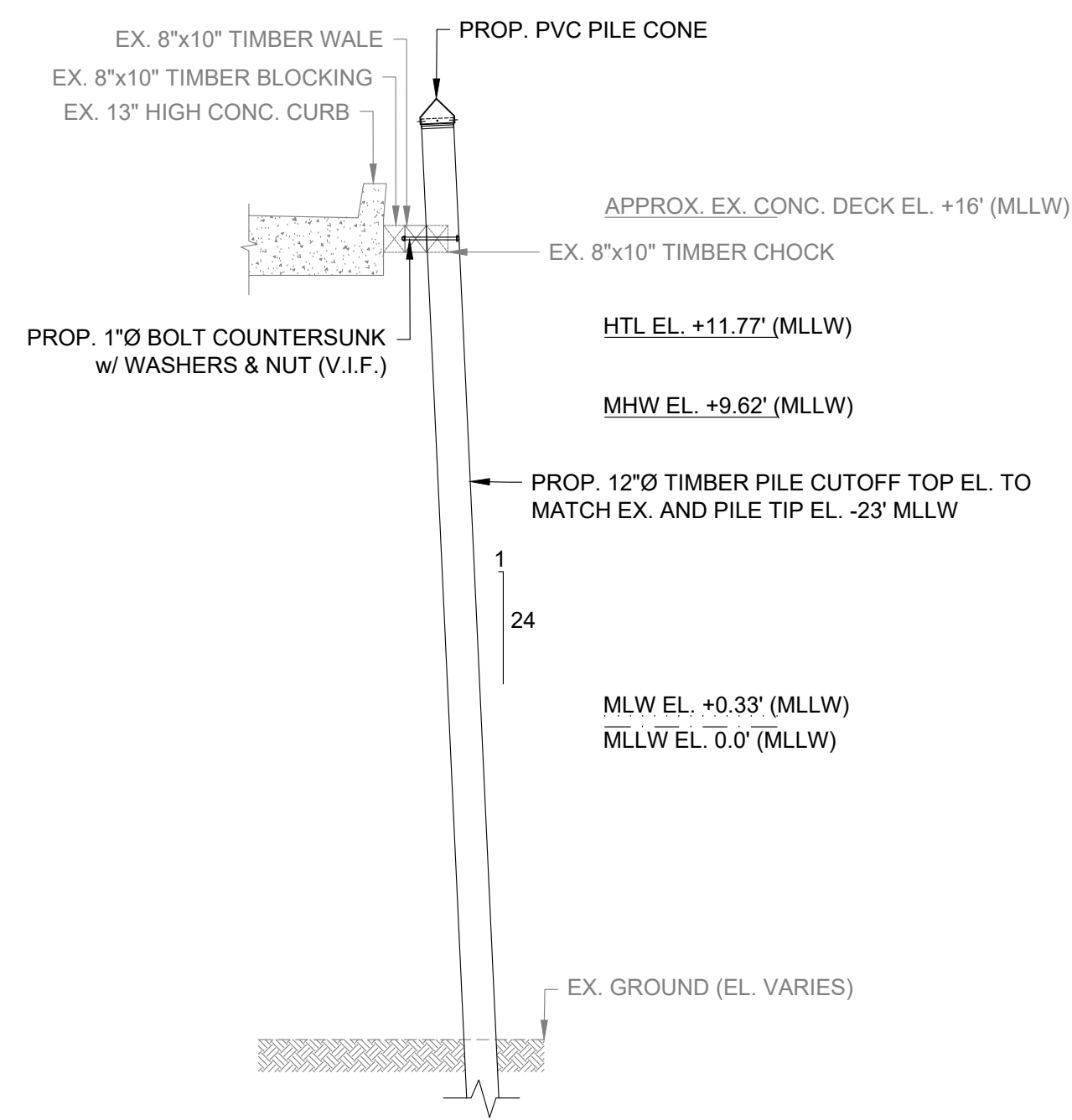
REVISIONS		DATE		DESCRIPTION	
NO.	BY	DATE	DESCRIPTION	NO.	BY

DATE OF PREPARATION		
SURVEYED	BY	DATE
DRAWN	MGB/BPF	2/7/2024
DESIGNED	SRS	10/13/2023
CHECKED	SRS	2/7/2024

SHEET TITLE:
PROPOSED MAIN PIER REPAIRS

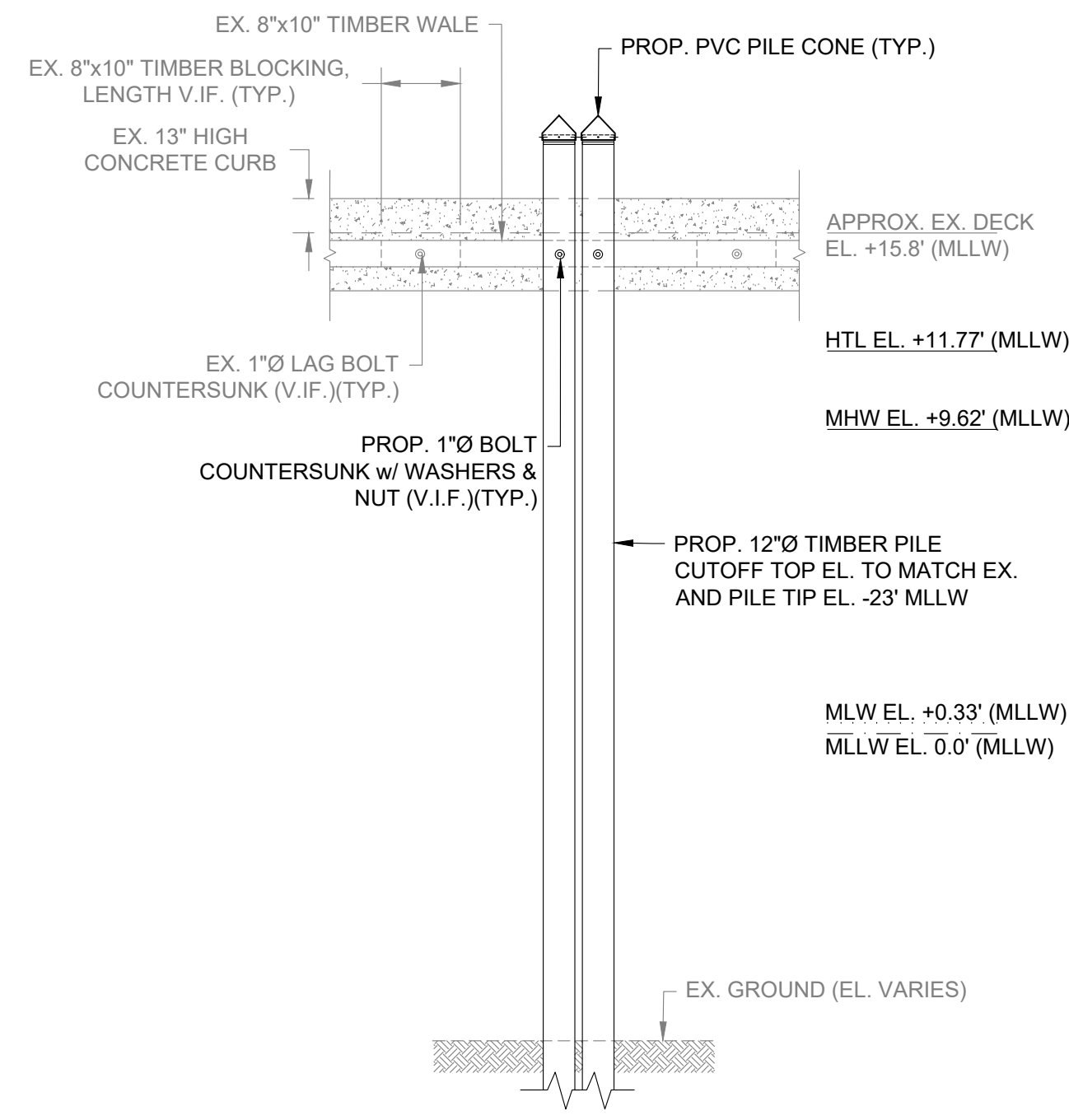
ISSUANCE:
**ISSUED FOR PERMIT PURPOSES ONLY
 NOT FOR CONSTRUCTION**

PROJECT NO: 23P237
 SHEET NUMBER
C-101



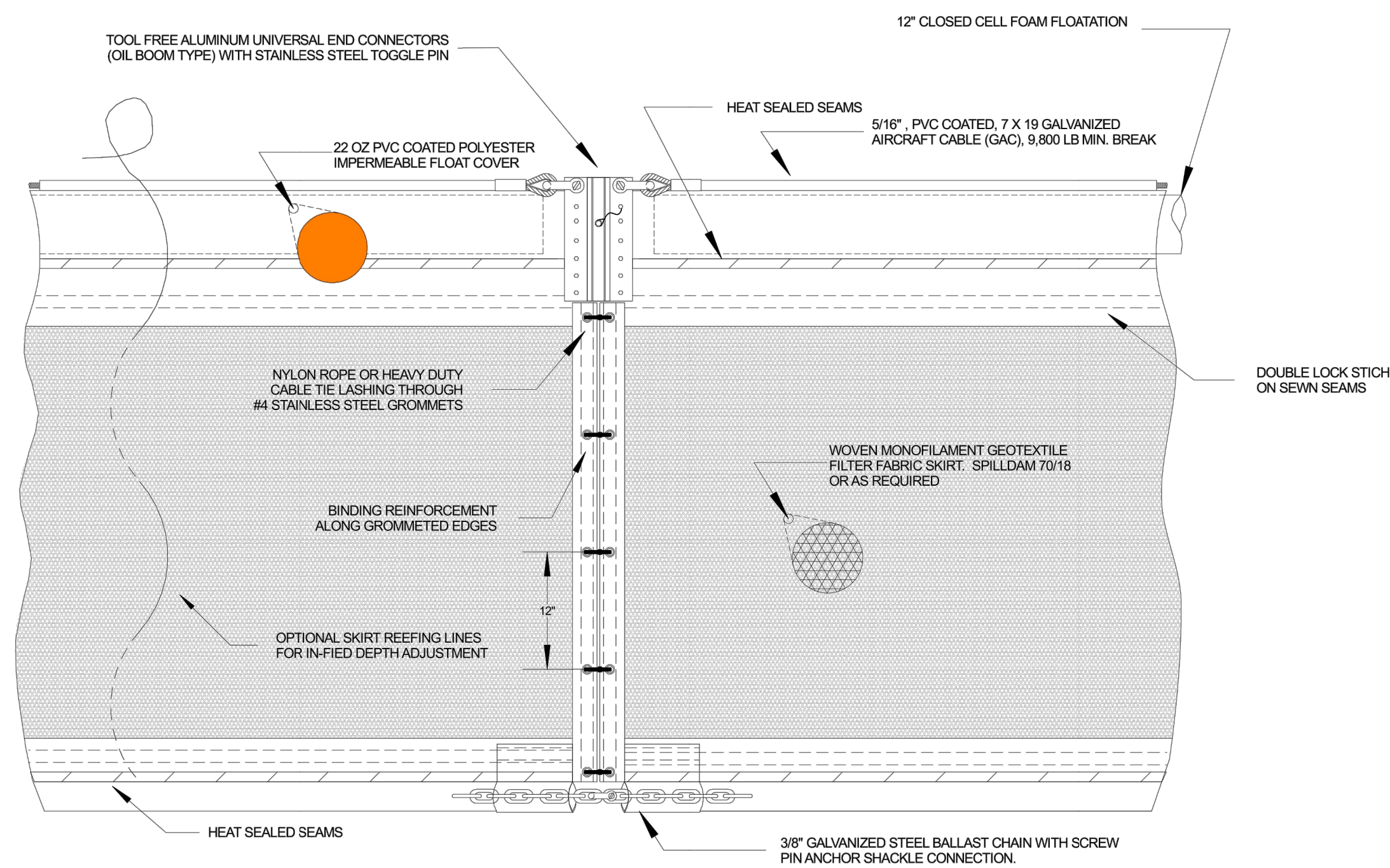
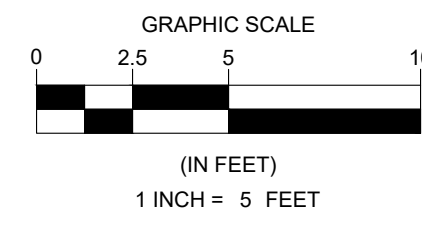
A TYPICAL FENDER PILE REPLACEMENT
C-101 SCALE: 1" = 5'

NOTES:
1. TIMBER BLOCKING HARDWARE, WALE HARDWARE, AND CHOCK HARDWARE NOT SHOWN FOR CLARITY.

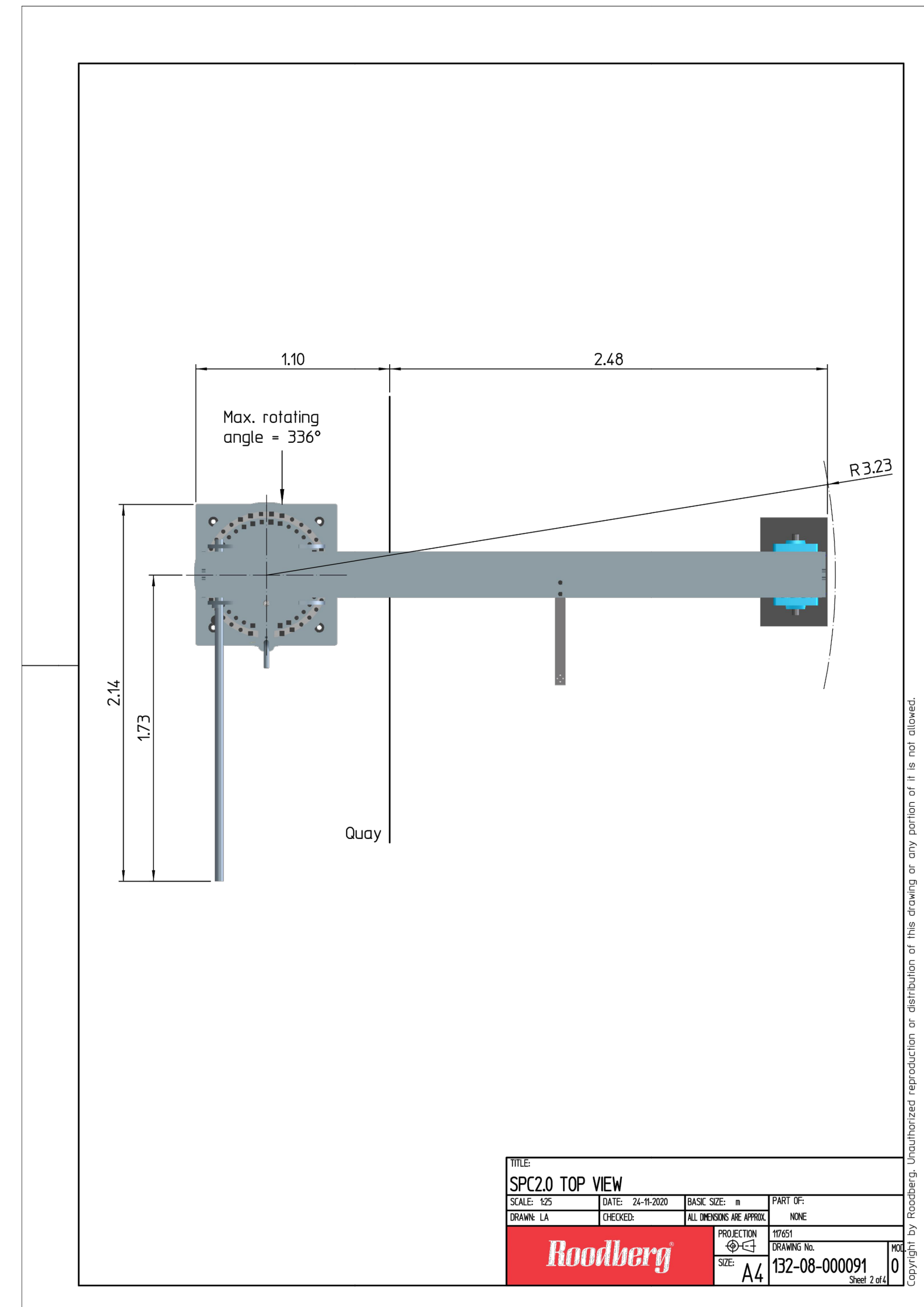


B TYPICAL FENDER PILE REPLACEMENT
C-101 SCALE: 1" = 5'

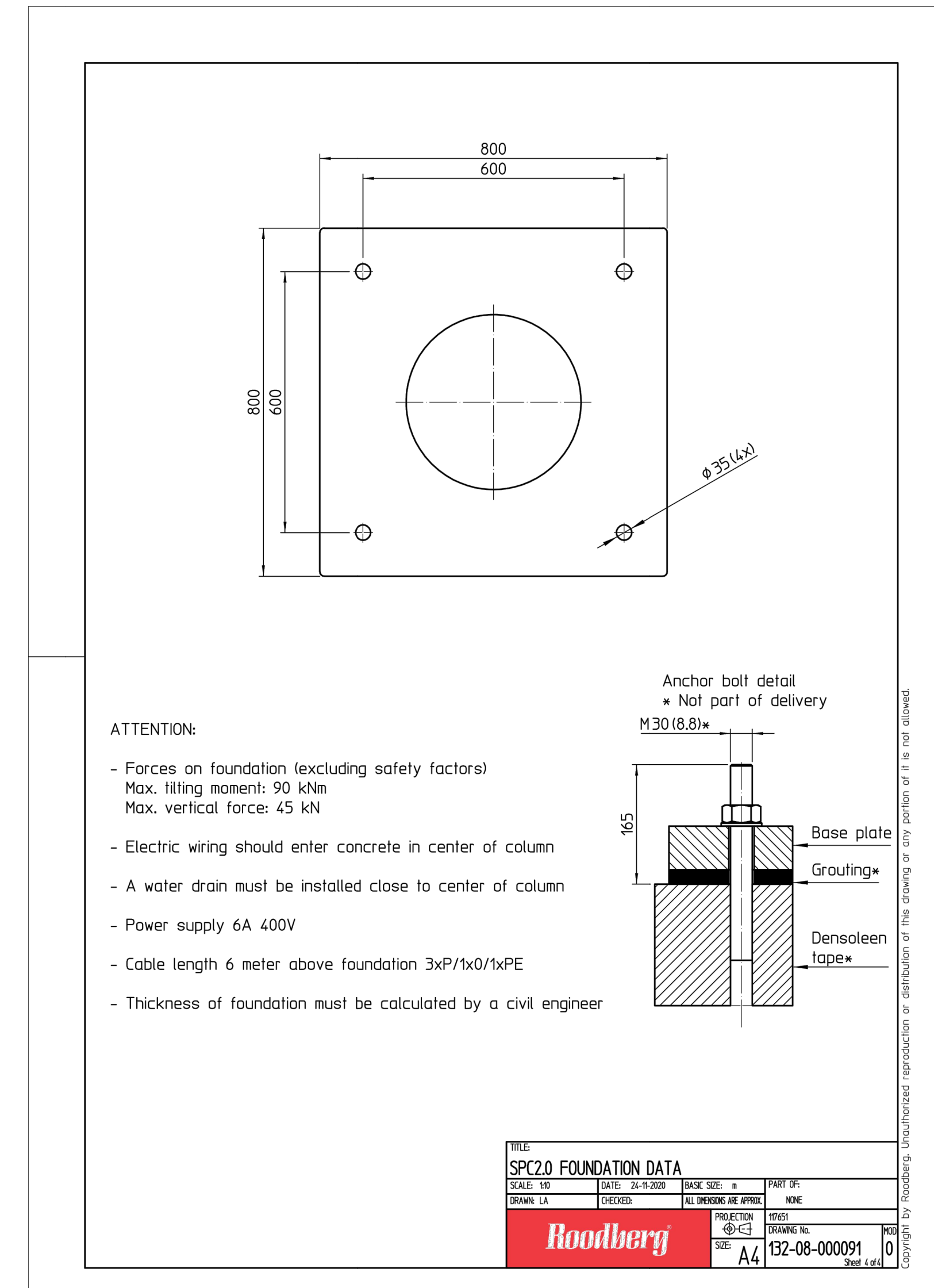
NOTES:
1. TIMBER CHOCK AND CHOCK HARDWARE AND BLOCKING HARDWARE NOT SHOWN FOR CLARITY.



SILTDAM HD PERMEABLE TURBIDITY BARRIERS
NOT TO SCALE



TITLE: SPC2.0 TOP VIEW			
SCALE: 1/8"	DATE: 24-9-2020	DRAWN: LA	CHECKED: []
BASK SIZE: a	PROJECT: []	PROJ. NO: 132-08-000091	SHEET: 1 of 1
Roodberg			



- ATTENTION:
- Forces on foundation (excluding safety factors)
Max. tilting moment: 90 kNm
Max. vertical force: 45 kN
 - Electric wiring should enter concrete in center of column
 - A water drain must be installed close to center of column
 - Power supply 6A 400V
 - Cable length 6 meter above foundation 3xP/1xO/1xPE
 - Thickness of foundation must be calculated by a civil engineer

TITLE: SPC2.0 FOUNDATION DATA			
SCALE: 1/8"	DATE: 24-9-2020	DRAWN: LA	CHECKED: []
BASK SIZE: a	PROJECT: []	PROJ. NO: 132-08-000091	SHEET: 1 of 1
Roodberg			



TOWN OF PROVINCETOWN
16 MACMILLAN PIER
PROVINCETOWN, MA 02657
MACMILLAN PIER REHABILITATION
PROVINCETOWN, MA

NO.	DATE	DESCRIPTION

DATE OF PREPARATION		
BY	DATE	
SURVEYED	AS NOTED	AS NOTED
DRAWN	MGB/BPF	2/7/2024
DESIGNED	SRS	10/13/2023
CHECKED	SRS	2/7/2024

SHEET TITLE:
PROPOSED SECTIONS & DETAILS

ISSUANCE:
ISSUED FOR PERMIT PURPOSES ONLY NOT FOR CONSTRUCTION

PROJECT NO: 23P237
SHEET NUMBER
C-301



PROVINCETOWN CONSERVATION COMMISSION

**OFFICE OF COMMUNITY DEVELOPMENT
TOWN OF PROVINCETOWN
260 COMMERCIAL STREET
PROVINCETOWN, MASSACHUSETTS 02657
(508) 487-7020**



By Hand Delivery

August 15, 2024

Jamie Demetriou
MacMillan Pier – Harbormaster's Office
Provincetown MA 02657

RE: Order of Conditions, DEP File no. SE 058-0739, Case no. CON-24-83
MacMillan Pier, Provincetown, MA

Dear Jamie:

Enclosed is the original Order of Conditions referenced above, which was approved by the Provincetown Conservation Commission at its public hearing on August 6, 2024. The Order must be recorded at the Barnstable County Registry of Deeds or filed with the Barnstable Registration District of the Land Court, as applicable, and the recording/filing information must be provided to the Conservation Commission prior to commencement of work.

Please let me know when this project will commence so that we can schedule a pre-construction site visit. If you have any questions, please feel free to contact me by phone at (508) 487-7000 x571 or by email at mmillett@provincetown-ma.gov.

Regards,

Melyssa Millett
Conservation Agent & Environmental Planner

Enclosures

cc: DEP Southeast Region (by eDEP)
Property File



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

A. General Information

- 1. Conservation Commission PROVINCETOWN
- 2. Issuance a. OOC b. Amended OOC
- 3. Applicant Details
 - a. First Name JAIME b. Last Name DEMTRIOU
 - c. Organization MACMILLAN PIER - PIER MANAGER
 - d. Mailing Address 24 MACMILLAN WHARF
 - e. City/Town PROVINCETOWN f. State MA g. Zip Code 02657
- 4. Property Owner
 - a. First Name b. Last Name
 - c. Organization TOWN OF PROVINCETOWN
 - d. Mailing Address 260 COMMERCIAL STREET
 - e. City/Town PROVINCETOWN f. State MA g. Zip Code 02657
- 5. Project Location
 - a. Street Address 1 MACMILLAN PIER
 - b. City/Town PROVINCETOWN c. Zip Code 02657
 - d. Assessors 11-3 e. Parcel/Lot# 9-0
 - Map/Plat#
 - f. Latitude 42.05025N g. Longitude 70.18297W
- 6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
BARNSTABLE		6010	127
- 7. Dates
 - a. Date NOI Filed : 7/10/2024 b. Date Public Hearing Closed: 8/6/2024 c. Date Of Issuance: 8/15/2024
- 8. Final Approved Plans and Other Documents
 - a. Plan Title: SEE ATTACHMENT
 - b. Plan Prepared by: A
 - c. Plan Signed/Stamped by:
 - d. Revised Final Date:
 - e. Scale:

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act
Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

<input type="checkbox"/> Public Water Supply	<input checked="" type="checkbox"/> Land Containing Shellfish	<input type="checkbox"/> Prevention of Pollution
<input type="checkbox"/> Private Water Supply	<input checked="" type="checkbox"/> Fisheries	<input checked="" type="checkbox"/> Protection of Wildlife Habitat
<input type="checkbox"/> Ground Water Supply	<input checked="" type="checkbox"/> Storm Damage Prevention	<input checked="" type="checkbox"/> Flood Control

2. Commission hereby finds the project, as proposed, is:



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 MassDEP File #:058-0739
 eDEP Transaction #:1776565
 City/Town:PROVINCETOWN

Approved subject to:

a. The following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

b. The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**

c. The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a). _____ a. linear feet

Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	Cubic Feet Flood Storage _____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
	Cubic Feet Flood Storage _____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____	_____		



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

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Provided by MassDEP:
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 City/Town:PROVINCETOWN

	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input checked="" type="checkbox"/> Land Under the Ocean	<u>63</u>	<u>63</u>		
	a. square feet	b. square feet		
	<u>0</u>			
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u>	<u> </u>		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u>	<u> </u>		
	a. square feet	b. square feet		

22. Restoration/Enhancement (For Approvals Only)



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

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Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c & d or B.17.c & d above, please entered the additional amount here.

_____ a. square feet of BVW

_____ b. square feet of Salt Marsh

23.

Γ Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

_____ a. number of new stream crossings

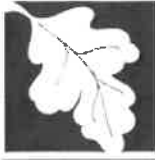
_____ b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has 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. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work..
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

" Massachusetts Department of Environmental Protection"



**Massachusetts Department of Environmental
Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

[or "MassDEP"]

File Number : "058-0739"

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;
 - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
 - b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per



**Massachusetts Department of Environmental
Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File #:058-0739

eDEP Transaction #:1776565

City/Town:PROVINCETOWN

the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

Credits) shall not be altered without the prior written approval of the issuing authority.

- 1) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby (check one that applies):

- a. DENIES the proposed work which cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw _____

2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

- b. APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw PROVINCETOWN
WETLANDS
PROTECTION
BYLAW AND
REGULATIONS

2. Citation _____

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows:
SEE ATTACHMENT A



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
058-0739
 MassDEP File #

eDEP Transaction #
Provincetown
 City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

8/15/24
 1. Date of Issuance
3
 2. Number of Signers

Provincetown Conservation Commission

Signature <u>[Handwritten Signature]</u>	<u>Alfred Famiglietti, Chair</u> Printed Name
Signature <u>[Handwritten Signature]</u>	<u>Nathaniel Mayo, Vice Chair</u> Printed Name
Signature <u>[Handwritten Signature]</u>	<u>Oriana Conklin</u> Printed Name
Signature <u>[Handwritten Signature]</u>	<u>Joseph Cooper</u> Printed Name
Signature <u>[Handwritten Signature]</u>	<u>Mark Adams</u> Printed Name
Signature _____	<u>Emma Fillion, Alternate</u> Printed Name
Signature _____	Printed Name
Signature _____	Printed Name

by hand delivery on
8/15/24
 Date

by certified mail, return receipt requested, on

 Date



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:058-0739
eDEP Transaction #:1776565
City/Town:PROVINCETOWN

E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

8/15/2024
1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

3
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Nathaniel Mayo

Joseph Cooper

Mark Adams

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

G. Recording Information

This Order of Conditions must be 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. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land



PROVINCETOWN CONSERVATION COMMISSION
OFFICE OF COMMUNITY DEVELOPMENT
TOWN OF PROVINCETOWN
260 COMMERCIAL STREET
PROVINCETOWN, MASSACHUSETTS 02657
TELEPHONE: 508.487.7000 EXT. 554
FAX: 508.487.7040



SPECIAL ORDER OF CONDITIONS

- FOR:** Town of Provincetown, Municipal Pier Rehabilitation Proposal, including all phases of replacing 79 timber fender piles within existing footprints, replacing 555 linear feet of fendering wales and chocks, replacing two emergency access ladders, installing three new ladders, repairing 150 linear feet of ladder bracing supports, repairing seven timber push piles, and installing a new crane to improve offloading efficiency.
DEP # SE 058-0739
- JURISDICTION:** M.G.L. Ch.131, sec. 40 (Wetlands Protection Act)
310 CMR 10.00 (Regulations for the Act)
Provincetown Local Bylaw Chapter 12
- SCOPE:** The above cited references provide jurisdiction over the following relevant wetland resource areas: nearshore land under the ocean (inshore, subtidal and intertidal); offshore land under the ocean; a designated port area; beaches, including but not limited to, from the exposed intertidal to the upper foreshore summer berm, winter berm and/or storm berm and continuing to the base of the nearest coastal bank or fore dune; dunes (natural coastal formations created by deposition of wind and/or water); and coastal banks.
- PURPOSE:** To protect the following relevant public interests within these resource areas, regardless of ownership: flood control; storm damage prevention; pollution prevention; land containing shellfish; fisheries; wildlife habitat; and recreation.
- DATED:** AUGUST 15, 2024
- FINAL APPROVED PLANS AND DOCUMENTS:**
“MacMillan Pier Rehabilitation”; Prepared by Foth Infrastructure and Environment LLC.; Stamped by Scott Skuncik PE; dated 2/7/2024, revised 7/10/2024; scale= as noted.

Notice of Intent, dated July 10, 2024, and supplemental information.

SECTION I. PRE-CONSTRUCTION

1. The burden of compliance for this Special Order of Conditions, including those identified as being in effect in perpetuity, shall be on the applicant. The Pier Manager shall act as the applicant's liaison and shall be responsible for the applicant's compliance. The Director of the Department of Public Works shall be copied on all reports and correspondence regarding this Special Order of Conditions.
2. Permitted activity is hereby restricted to the limits of work and activities specified in the Notice of Intent materials and on the approved plan of record, dated and identified as such, submitted to the Commission for this proposal.
3. Proof of recording of these approved Special Order of Conditions, the plan of record and other materials at the Barnstable County Registry of Deeds shall be provided by Pier Manager prior to the commencement of permitted activity on any site.
4. Changes or alterations to the plan of record shall require the submission to the Conservation Agent by the Pier Manager of a written request, accompanied by revised plans, to amend the existing Special Order of Conditions prior to the commencement of said changes.
5. The project's file number, issued by the Department of Environmental Protection, and the Special Orders of Conditions shall be weatherproofed and posted in a clearly visible location on all activity sites, along with the Commission's office phone number, 487-7020, for further information. Posting sites shall include, but not be limited to, the Pier area, Town Landings (beach side) at Gosnold, Court, Freeman and Johnson Streets (which postings shall be readable from both directions) and land-based staging areas for the storage of materials. The maintenance of these postings, and their replacement when necessary, shall be the sole responsibility of the applicant.
6. A site conference shall be held at least forty-eight hours prior to the commencement of permitted activity for the purpose of reviewing and discussing the Special Orders of Conditions. The specific timing and location of this conference shall be jointly determined by the Conservation Agent, the Pier Manager, and the Director of the Department of Public Works. In attendance at this meeting shall be the Pier Manager, the Conservation Agent, and any Commissioner wishing to attend, the prime contractor, other contractors or subcontractors as determined by the applicant and/or prime contractor who can potentially benefit from a more complete understanding of the Special Order of Conditions for this project and abutters and other interested parties who have indicated a desire to be so informed.
7. The Pier Manager may initiate, when appropriate, additional construction meetings with contractors, the DPW, the Conservation Agent and project engineers. These meetings will include discussions regarding environmental risk assessments and other issues related to the project.
8. Spill Prevention - The facility shall have on-site, or readily available, a MassDEP spill

prevention trailer in case of the inadvertent discharge of petrochemicals. The trailer shall contain absorbent pads and booms, mops and floating barrier booms in several sizes. The applicant shall ensure that staff is trained in the identification of spill types and in the deployment of remediation and containment equipment.

9. Spill Prevention - All mechanized vehicles under contract, subcontract or lease, participating in any manner in any phase of activity within the resource areas, shall carry absorbent materials or ensure the ready availability of the spill prevention trailer to immediately respond to the inadvertent discharge of petrochemicals.
10. Spill Prevention - Fuel transfer activity – Protocols for this activity shall follow best management practices and Massachusetts State Fire Marshal guidelines to regulate safe transfer of any fuel and to mitigate inadvertent discharges within the resource areas.
11. Erosion control standards are to be maintained where applicable to prevent the migration of non-indigenous silt, sediment, particulates or fines, into the resource areas. Floating silt curtains shall be installed when in-water work is taking place. Erosion controls shall remain in place until conservation agent approval for removal is received in writing.
12. No in-water, silt-producing activities such as pile driving, or removal should take place from February 1 – June 30 of any year.
13. Confinement of food trash shall be as specified in pertinent bidding documents and construction standards. Food debris shall at all times be confined to appropriate containers, which shall be emptied on a regular basis.
14. Air and waterborne dispersal of non-indigenous materials from this project into the resource areas is prohibited. Supplies, materials, and wastes must be secured to prevent windblown debris.
15. This document shall be included in all construction contracts and subcontracts. Specifications in this Special Order of Conditions shall supersede any conflicting contract requirements. The applicant shall be responsible for providing copies of these Special Conditions to project engineers, contractors and, if required by unforeseen circumstance, their successors.
16. Violation of any condition of this Order shall be responded to with immediate notification of the Pier Manager by the Conservation Agent and additional enforcement action may be taken. An Enforcement Order issued by the Commission may require that job site activity cease and desist, that resource area alterations are corrected and resource areas returned to their original condition, that a restoration plan is filed with the Commission or that a public hearing is scheduled.
17. Other applicable approvals from federal, state and local permitting agencies shall be obtained by the applicant prior to the commencement of activities permitted by the Commission.

SECTION II. CONSTRUCTION

1. Performance standards shall include, but not be limited to, the prohibition of any discharge of concrete, petrochemicals, solvents or solvent-based products, preservatives or physical debris into the resource areas.
2. Temporary areas, such as the Municipal Parking Lot, shall be utilized for the storage of materials and shall not in any manner impact the resource areas. Material will be secured to prevent windblown debris.
3. Materials will be handled and staged to prevent windblown debris from packaging, strapping, plastic wrap, or loose materials.
4. Details of the Project Narrative, Construction Protocol, and the Final Approved Plans shall be incorporated in these Conditions.
5. As much work as possible shall be conducted from the pier to minimize impacts to wildlife and/or wetlands. If the construction protocol requires use of a barge, the applicant shall contact the Harbormaster and provide dates, placement, and barge information to both the Harbormaster and Conservation Agent as soon as possible. The applicant shall monitor tidal heights to ensure that the barge is not sitting on the coastal beach at any time. If a barge is used, the applicant and contractor shall notify the Harbormaster and Conservation Agent at least 72 hours in advance. The construction barge should not anchor within eelgrass habitat and should be staged outside eelgrass habitat when not directly involved in construction activities.
6. All materials and debris shall be properly stored within the work area and shall not be stored on the coastal beach. Temporary areas, such as the Municipal Parking Lot, utilized for the storage of materials shall not in any manner impact the resource areas. Material will be secured to prevent windblown debris. Debris shall either be removed from the worksite daily or stored within covered dumpsters placed on existing pavement or other disturbed area. All equipment and materials shall be removed upon project completion. The site shall be cleaned up immediately following the completion of construction.
7. The conservation agent shall be informed of any proposed changes to approved plans or construction sequence, which shall require either written conservation agent approval or, if significant, filing of a new application.
8. An emergency spill kit shall be kept on site to remediate any leaks or spills from equipment or vehicles used during construction. Fueling, cleaning, or repairs of equipment may not occur within 100ft of any wetland resource area, and they shall be inspected daily for leaks.

SECTION III. POST-CONSTRUCTION

1. Erosion controls shall be removed only upon written receipt of conservation agent approval.
2. The Pier Manager shall be responsible for the proper and regular maintenance of the pier components to prevent degradation and loss of its structural integrity. This shall be an ongoing maintenance condition which shall not expire upon the issuance of a certificate of compliance.
3. Upon completion of construction, the Pier Manager shall submit written notification thereof to the conservation agent, who shall promptly schedule a site visit to confirm that the work has been substantially completed in accordance with the approved plans, and the applicant shall thereafter submit a Request for a Certificate of Compliance to the Conservation Commission. 'As built' plans, stamped by a professional engineer, shall also be submitted to the Commission at that time.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 MassDEP File #:058-0739
 eDEP Transaction #:1776565
 City/Town:PROVINCETOWN

subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

PROVINCETOWN
 Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:
PROVINCETOWN
 Conservation Commission

Please be advised that the Order of Conditions for the Project at:

1 MACMILLAN PIER 058-0739
 Project Location MassDEP File Number

Has been recorded at the Registry of Deeds of:

County	Book	Page

for:
Property Owner

and has been noted in the chain of title of the affected property in:

Book Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

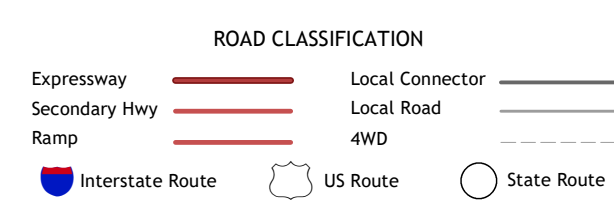
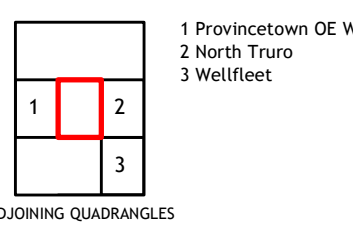
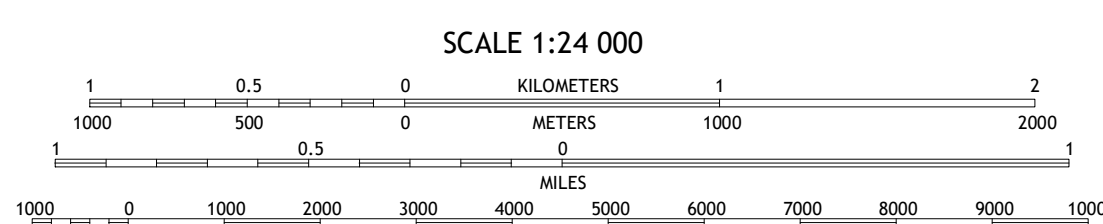
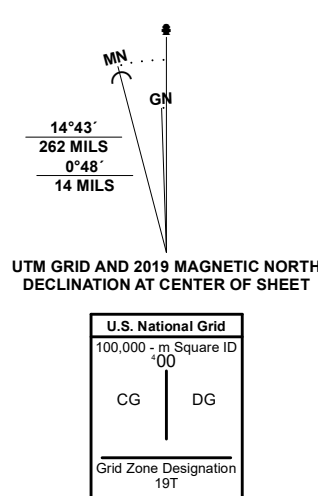
Document Number

Signature of Applicant

Rev. 4/1/2010



Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
World Geodetic System of 1984 (WGS84)
Projection and 1 000-meter grid: Universal Transverse Mercator, Zone 19T
This map is not a legal document. Boundaries may be generalized for this map scale. Private lands within government reservations may not be shown. Obtain permission before entering private lands.



Imagery: N.A.I.P., July 2016 - September 2016
Roads: U.S. Census Bureau, 2016
Names: GNS, 1974 - 2018
Hydrography: National Hydrography Dataset, 2005 - 2015
Contours: National Elevation Dataset, 2012
Boundaries: Multiple sources; see metadata file 2016 - 2017
Wetlands: FWS National Wetlands Inventory 2008 - 2011

CONTOUR INTERVAL 10 FEET
NORTH AMERICAN VERTICAL DATUM OF 1988
This map was produced to conform with the National Geospatial Program US Topo Product Standard.



From: SERO_NOI@MassMail.state.ma.us <SERO_NOI@MassMail.state.ma.us>
Sent: Wednesday, July 24, 2024 3:54 PM
To: jdemetriou@provincetown-ma.gov; peter.j.backhaus@mass.gov; Bryan, Mack <Mackenzie.Bryan@foth.com>
Cc: sero_noi@state.ma.us; mmillett@provincetown-ma.gov; sero_noi@state.ma.us
Subject: [External] MassDEP NOI File Number

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOUTHEAST REGIONAL OFFICE
20 RIVERSIDE DRIVE, LAKEVILLE, MA 02347 508-946-2700

Date: 07/24/2024 Municipality PROVINCETOWN

RE: **NOTIFICATION OF WETLANDS PROTECTION ACT FILE NUMBER**

The Department of Environmental Protection has received a Notice of Intent filed in accordance with the Wetlands Protection Act (M.G.L. c. 131, §40):

Applicant	MACMILLAN PIER - PIER MANAGER	Owner Address
Address	24 MACMILLAN WHARF, PROVINCETOWN MA	
Locus	16 MACMILLAN PIER** , PROVINCETOWN MA	

This project has been assigned the following file # : **SE 058-0739**

ISSUANCE OF A FILE NUMBER INDICATES ONLY COMPLETENESS OF SUBMITTAL, NOT APPROVAL OF APPLICATION

Although a file # is being issued, please note the following:

While not mapped as a shellfish suitability area, the Applicant and Conservation Commission should coordinate with the local Shellfish Constable to ensure area is not classified as Land Containing Shellfish. If determined to be so, please provide an updated calculation of impact area for that Resource Area to the Department (SERO).

ADDITIONAL REQUIREMENTS:

Based upon the information submitted in and with your Notice of Intent a separate 401 Water Quality Certification application form is not required. Provided that:

- (a) activities are conducted in compliance with MGL c.131, §40 (the Wetlands Protection Act) and the Final Order of Conditions permitting the activities does not result in the loss of more than 5,000 square feet cumulatively of bordering and isolated vegetated wetlands and Land Under Water and/or the dredging of more than 100 cubic yards of Land Under Water;
- (b) the Final Order of Conditions requires at least 1:1 replacement of Bordering Vegetated Wetlands pursuant to 310 CMR 10.55(4)(b);
- (c) the project is not listed in 314 CMR 9.04(1) through (11) including: discharge of dredged or fill material to any Outstanding Resource Water; any part of a subdivision unless deed restricted, so long as the discharge is not to an Outstanding Resource Water see 314 CMR 9.04(3); activities exempt from MGL c.131, §40 (except for normal maintenance and improvement of land in agricultural or aquacultural use); discharge of dredged or fill material to an isolated vegetated wetland identified as rare and endangered species habitat; loss of any salt marsh; activities subject to an individual 404 permit.

If impacts to resource areas or project size increases beyond that described in the Notice of Intent or there are discrepancies therein, you must notify MassDEP and request a determination that the criteria of 314 CMR 9.03 have been met before the activity may begin.

Regards,
for MassDEP,

Peter.J.Backhaus@mass.gov



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104

In Reply Refer To:
Project Code: 2024-0125635
Project Name: Macmillan Pier Rehabilitation

08/05/2024 13:13:32 UTC

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

Updated 4/12/2023 - Please review this letter each time you request an Official Species List, we will continue to update it with additional information and links to websites may change.

About Official Species Lists

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Federal and non-Federal project proponents have responsibilities under the Act to consider effects on listed species.

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested by returning to an existing project's page in IPaC.

Endangered Species Act Project Review

Please visit the “**New England Field Office Endangered Species Project Review and Consultation**” website for step-by-step instructions on how to consider effects on listed

species and prepare and submit a project review package if necessary:

<https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review>

NOTE Please do not use the **Consultation Package Builder** tool in IPaC except in specific situations following coordination with our office. Please follow the project review guidance on our website instead and reference your **Project Code** in all correspondence.

Northern Long-eared Bat - (Updated 4/12/2023) The Service published a final rule to reclassify the northern long-eared bat (NLEB) as endangered on November 30, 2022. The final rule went into effect on March 31, 2023. You may utilize the **Northern Long-eared Bat Rangewide Determination Key** available in IPaC. More information about this Determination Key and the Interim Consultation Framework are available on the northern long-eared bat species page:

<https://www.fws.gov/species/northern-long-eared-bat-myotis-septentrionalis>

For projects that previously utilized the 4(d) Determination Key, the change in the species' status may trigger the need to re-initiate consultation for any actions that are not completed and for which the Federal action agency retains discretion once the new listing determination becomes effective. If your project was not completed by March 31, 2023, and may result in incidental take of NLEB, please reach out to our office at newengland@fws.gov to see if reinitiation is necessary.

Additional Info About Section 7 of the Act

Under section 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to determine whether projects may affect threatened and endangered species and/or designated critical habitat. If a Federal agency, or its non-Federal representative, determines that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Federal agency also may need to consider proposed species and proposed critical habitat in the consultation. 50 CFR 402.14(c)(1) specifies the information required for consultation under the Act regardless of the format of the evaluation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<https://www.fws.gov/service/section-7-consultations>

In addition to consultation requirements under Section 7(a)(2) of the ESA, please note that under sections 7(a)(1) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species. Please contact NEFO if you would like more information.

Candidate species that appear on the enclosed species list have no current protections under the ESA. The species' occurrence on an official species list does not convey a requirement to

consider impacts to this species as you would a proposed, threatened, or endangered species. The ESA does not provide for interagency consultations on candidate species under section 7, however, the Service recommends that all project proponents incorporate measures into projects to benefit candidate species and their habitats wherever possible.

Migratory Birds

In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see:

<https://www.fws.gov/program/migratory-bird-permit>

<https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Please feel free to contact us at **newengland@fws.gov** with your **Project Code** in the subject line if you need more information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat.

Attachment(s): Official Species List

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New England Ecological Services Field Office

70 Commercial Street, Suite 300

Concord, NH 03301-5094

(603) 223-2541

PROJECT SUMMARY

Project Code: 2024-0125635
Project Name: Macmillan Pier Rehabilitation
Project Type: Boatlift/Boathouse/Dock/Pier/Piles - Maintenance/Modificaton
Project Description: The proposed project consists of the replacement of 53 12-inch diameter timber fender piles within their existing footprint, the replacement of 430 linear feet of fendering wales and chocks, the installation of three (3) new emergency access ladders, and the installation of a new crane to improve offloading efficiency.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.05053975,-70.18348420597783,14z>



Counties: Barnstable County, Massachusetts

ENDANGERED SPECIES ACT SPECIES

There is a total of 5 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

BIRDS

NAME	STATUS
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered
Rufa Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Provincetown town
Name: Carrie Marshall
Address: 114 Touro Street
City: Newport
State: RI
Zip: 02840
Email: carrie.marshall@foth.com
Phone: 2392473997



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104

In Reply Refer To:
Project code: 2024-0125635
Project Name: Macmillan Pier Rehabilitation

08/05/2024 13:20:23 UTC

Subject: Consistency letter for the 'Macmillan Pier Rehabilitation' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated August 05, 2024 to verify that the **Macmillan Pier Rehabilitation** (Proposed Action) may rely on the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action will have no effect on the endangered Indiana bat (*Myotis sodalis*) or the endangered northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species**. If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities:

If your initial bridge/culvert or structure assessment failed to detect Indiana bats and/or NLEBs use or occupancy, yet later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of the incident. In these instances, potential incidental take of Indiana bats and/or NLEBs may be exempted provided that the take is reported to the Service.

If the Proposed Action may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please advise the lead Federal action agency accordingly.

The following species may occur in your project area and **are not** covered by this determination:

- Monarch Butterfly *Danaus plexippus* Candidate
- Roseate Tern *Sterna dougallii dougallii* Endangered
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

PROJECT DESCRIPTION

The following project name and description was collected in IPaC as part of the endangered species review process.

NAME

Macmillan Pier Rehabilitation

DESCRIPTION

The proposed project consists of the replacement of 53 12-inch diameter timber fender piles within their existing footprint, the replacement of 430 linear feet of fendering wales and chocks, the installation of three (3) new emergency access ladders, and the installation of a new crane to improve offloading efficiency.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.05053975,-70.18348420597783,14z>



DETERMINATION KEY RESULT

Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana bat and/or the endangered northern long-eared bat.

Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for these two species.

QUALIFICATION INTERVIEW

1. Is the project within the range of the Indiana bat^[1]?

[1] See [Indiana bat species profile](#)

Automatically answered

No

2. Is the project within the range of the northern long-eared bat^[1]?

[1] See [northern long-eared bat species profile](#)

Automatically answered

Yes

3. [Semantic] Does your proposed action intersect an area where Indiana bats and northern long-eared bats are not likely to occur?

Automatically answered

Yes

DETERMINATION KEY DESCRIPTION: FHWA, FRA, FTA PROGRAMMATIC CONSULTATION FOR TRANSPORTATION PROJECTS AFFECTING NLEB OR INDIANA BAT

This key was last updated in IPaC on October 30, 2023. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which may require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the endangered **northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion \(dated March 23, 2023\) for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.

IPAC USER CONTACT INFORMATION

Agency: Provincetown town

Name: Carrie Marshall

Address: 114 Touro Street

City: Newport

State: RI

Zip: 02840

Email: carrie.marshall@foth.com

Phone: 2392473997



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104

In Reply Refer To:
Project code: 2024-0125635
Project Name: Macmillan Pier Rehabilitation

08/05/2024 13:17:47 UTC

Federal Nexus: yes
Federal Action Agency (if applicable): Provincetown town

Subject: Federal agency coordination under the Endangered Species Act, Section 7 for
'Macmillan Pier Rehabilitation'

Dear Carrie Marshall:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on August 05, 2024, for “Macmillan Pier Rehabilitation” (here forward, Project). This project has been assigned Project Code 2024-0125635 and all future correspondence should clearly reference this number.

The Service developed the IPaC system and associated species’ determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into the IPaC must accurately represent the full scope and details of the Project. Failure to accurately represent or implement the Project as detailed in IPaC or the Northeast Determination Key (DKey), invalidates this letter. **Answers to certain questions in the DKey commit the project proponent to implementation of conservation measures that must be followed for the ESA determination to remain valid.**

To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), to a federally listed species or designated critical habitat. Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17). Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no further consultation with, or concurrence from, the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical

habitat, formal consultation is required (except when the Service concurs, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

Species	Listing Status	Determination
Roseate Tern (<i>Sterna dougallii dougallii</i>)	Endangered	No effect
Rufa Red Knot (<i>Calidris canutus rufa</i>)	Threatened	No effect

Conclusion If there are no updates on listed species, no further consultation/coordination for this project is required for the species identified above. However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope, timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions occurs, additional consultation with the Service should take place before project implements any changes which are final or commits additional resources.

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Long-eared Bat *Myotis septentrionalis* Endangered
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

To complete consultation for species that have reached a "May Affect" determination and/or species may occur in your project area and are not covered by this conclusion, please visit the "New England Field Office Endangered Species Project Review and Consultation" website for step-by-step instructions on how to consider effects on these listed species and/or critical habitats, avoid and minimize potential adverse effects, and prepare and submit a project review package if necessary: <https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review>

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or PermitsR5MB@fws.gov, with any questions regarding potential impacts to Eagles.

If you have any questions regarding this letter or need further assistance, please contact the New England Ecological Services Field Office and reference the Project Code associated with this Project.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

Macmillan Pier Rehabilitation

2. Description

The following description was provided for the project 'Macmillan Pier Rehabilitation':

The proposed project consists of the replacement of 53 12-inch diameter timber fender piles within their existing footprint, the replacement of 430 linear feet of fendering wales and chocks, the installation of three (3) new emergency access ladders, and the installation of a new crane to improve offloading efficiency.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.05053975,-70.18348420597783,14z>



QUALIFICATION INTERVIEW

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

Yes

2. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed species?

Note: This question could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered, or proposed species.

No

3. Is the action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

Yes

4. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) the lead agency for this project?

No

5. Are you including in this analysis all impacts to federally listed species that may result from the entirety of the project (not just the activities under federal jurisdiction)?

Note: If there are project activities that will impact listed species that are considered to be outside of the jurisdiction of the federal action agency submitting this key, contact your local Ecological Services Field Office to determine whether it is appropriate to use this key. If your Ecological Services Field Office agrees that impacts to listed species that are outside the federal action agency's jurisdiction will be addressed through a separate process, you can answer yes to this question and continue through the key.

Yes

6. Are you the lead federal action agency or designated non-federal representative requesting concurrence on behalf of the lead Federal Action Agency?

Yes

7. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)?

No

8. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

No

9. Is the lead federal action agency the Natural Resources Conservation Service?

No

10. Will the proposed project involve the use of herbicide where listed species are present?

No

11. Are there any caves or anthropogenic features suitable for hibernating or roosting bats within the area expected to be impacted by the project?

No

12. Does any component of the project associated with this action include activities or structures that may pose a collision risk to **birds** (e.g., plane-based surveys, land-based or offshore wind turbines, communication towers, high voltage transmission lines, any type of towers with or without guy wires)?

Note: For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

No

13. Does any component of the project associated with this action include activities or structures that may pose a collision risk to **bats** (e.g., plane-based surveys, land-based or offshore wind turbines)?

Note: For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

No

14. Will the proposed project result in permanent changes to water quantity in a stream or temporary changes that would be sufficient to result in impacts to listed species?

For example, will the proposed project include any activities that would alter stream flow, such as water withdrawal, hydropower energy production, impoundments, intake structures, diversion structures, and/or turbines? Projects that include temporary and limited water reductions that will not displace listed species or appreciably change water availability for listed species (e.g. listed species will experience no changes to feeding, breeding or sheltering) can answer "No". Note: This question refers only to the amount of water present in a stream, other water quality factors, including sedimentation and turbidity, will be addressed in following questions.

No

15. Will the proposed project affect wetlands where listed species are present?

This includes, for example, project activities within wetlands, project activities within 300 feet of wetlands that may have impacts on wetlands, water withdrawals and/or discharge of contaminants (even with a NPDES).

No

16. Will the proposed project activities (including upland project activities) occur within 0.125 miles of the water's edge of a stream or tributary of a stream where listed species may be present?

Yes

17. Will the proposed project directly affect a streambed (below ordinary high water mark (OHWM)) of the stream or tributary where listed species may be present?

No

18. Will the proposed project bore underneath (directional bore or horizontal directional drill) a stream where listed species may be present?

No

19. Will the proposed project involve a new point source discharge into a stream or change an existing point source discharge (e.g., outfalls; leachate ponds) where listed species may be present?

No

20. Will the proposed project involve the removal of excess sediment or debris, dredging or in-stream gravel mining where listed species may be present?

No

21. Will the proposed project involve the creation of a new water-borne contaminant source where listed species may be present?

Note New water-borne contaminant sources occur through improper storage, usage, or creation of chemicals. For example: leachate ponds and pits containing chemicals that are not NSF/ANSI 60 compliant have contaminated waterways. Sedimentation will be addressed in a separate question.

No

22. Will the proposed project involve perennial stream loss, in a stream or tributary of a stream where listed species may be present, that would require an individual permit under 404 of the Clean Water Act?

No

23. Will the proposed project involve blasting where listed species may be present?

No

24. Will the proposed project include activities that could negatively affect fish movement temporarily or permanently (including fish stocking, harvesting, or creation of barriers to fish passage).

No

25. Will the proposed project involve earth moving that could cause erosion and sedimentation, and/or contamination along a stream or tributary of a stream where listed species may be present?

Note: Answer "Yes" to this question if erosion and sediment control measures will be used to protect the stream.

No

26. Will earth moving activities result in sediment being introduced to streams or tributaries of streams where listed species may be present through activities such as, but not limited to, valley fills, large-scale vegetation removal, and/or change in site topography?

No

27. Will the proposed project involve vegetation removal within 200 feet of a perennial stream bank where aquatic listed species may be present?

No

28. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project? If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

Yes

29. Is the project being funded, lead, or managed in whole or in part by U.S Fish and Wildlife Restoration and Recovery Program (e.g., Partners, Coastal, Fisheries, Wildlife and Sport Fish Restoration, Refuges)?

No

30. Will the proposed project result in changes to beach dynamics that may modify formation of habitat over time?

Note: Examples of projects that result in changes to beach dynamics include 1) construction of offshore breakwaters and groins; 2) mining of sand from an updrift ebb tidal delta; 3) removing or adding beach sands; and 4) projects that stabilize dunes (including placement of sand fences or planting vegetation).

No

31. [Hidden Semantic] Is the project area located within the red knot AOI?

Automatically answered

Yes

32. If you have determined that the red knot is unlikely to occur within your project's action area or that your project is unlikely to have any potential effects on the red knot, you may wish to make a "no effect" determination for the red knot. Additional guidance on how to make this decision can be found in the project review section of your local Ecological Services Field Office's website. CBFO: <https://www.fws.gov/office/chesapeake-bay-ecological-services/project-review> ; MEFO: <https://www.fws.gov/office/maine-ecological-services> ; NJFO: <https://www.fws.gov/office/new-jersey-ecological-services/new-jersey-field-office-project-review-guide> ; NEFO: <https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review#Step5> ; WVFO: <https://www.fws.gov/office/west-virginia-ecological-services/project-planning>. If you are unsure, answer "No" and continue through the key.

Would you like to make a no effect determination for the red knot?

Yes

33. [Hidden Semantic] Is the project area located within the roseate tern AOI?

Automatically answered

Yes

34. If you have determined that the roseate tern is unlikely to occur within your project's action area or that your project is unlikely to have any potential effects on the roseate tern, you may wish to make a "no effect" determination for the roseate tern. Additional guidance on how to make this decision can be found in the project review section of your local Ecological Services Field Office's website. CBFO: <https://www.fws.gov/office/chesapeake-bay-ecological-services/project-review> ; MEFO: <https://www.fws.gov/office/maine-ecological-services> ; NJFO: <https://www.fws.gov/office/new-jersey-ecological-services/new-jersey-field-office-project-review-guide> ; NEFO: <https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review#Step5> ; WVFO: <https://www.fws.gov/office/west-virginia-ecological-services/project-planning>. If you are unsure, answer "No" and continue through the key.

Would you like to make a no effect determination for the roseate tern?

Yes

35. [Semantic] Does the project intersect the Virginia big-eared bat critical habitat?

Automatically answered

No

36. [Semantic] Does the project intersect the Indiana bat critical habitat?

Automatically answered

No

37. [Semantic] Does the project intersect the candy darter critical habitat?

Automatically answered

No

38. [Semantic] Does the project intersect the diamond darter critical habitat?

Automatically answered

No

39. [Semantic] Does the project intersect the Big Sandy crayfish critical habitat?

Automatically answered

No

40. [Hidden Semantic] Does the project intersect the Guyandotte River crayfish critical habitat?

Automatically answered

No

41. Do you have any other documents that you want to include with this submission?

No

PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?

0

2. Approximately how many total acres of disturbance are within the disturbance/
construction limits of the proposed project?

0.001

3. Briefly describe the habitat within the construction/disturbance limits of the project site.

Coastal habitat

IPAC USER CONTACT INFORMATION

Agency: Provincetown town

Name: Carrie Marshall

Address: 114 Touro Street

City: Newport

State: RI

Zip: 02840

Email: carrie.marshall@foth.com

Phone: 2392473997

EFH Mapper Report

EFH Data Notice

Essential Fish Habitat (EFH) is defined by textual descriptions contained in the fishery management plans developed by the regional fishery management councils. In most cases mapping data can not fully represent the complexity of the habitats that make up EFH. This report should be used for general interest queries only and should not be interpreted as a definitive evaluation of EFH at this location. A location-specific evaluation of EFH for any official purposes must be performed by a regional expert. Please refer to the following links for the appropriate regional resources.

[Greater Atlantic Regional Office](#)
[Atlantic Highly Migratory Species Management Division](#)

Query Results







Degrees, Minutes, Seconds: Latitude = 42° 3' 0" N, Longitude = 71° 49' 3" W
Decimal Degrees: Latitude = 42.050, Longitude = -70.183



The query location intersects with spatial data representing EFH and/or HAPCs for the following species/management units.




***** WARNING *****











Please note under "Life Stage(s) Found at Location" the category "ALL" indicates that all life stages of that species share the same map and are designated at the queried location.

EFH

Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
		Acadian Redfish	Larvae	New England	Amendment 14 to the Northeast Multispecies FMP
		Albacore Tuna	Juvenile	Secretarial	Amendment 10 to the 2006 Consolidated HMS FMP: EFH
		American Plaice	Adult, Eggs, Juvenile, Larvae	New England	Amendment 14 to the Northeast Multispecies FMP

Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
		Atlantic Butterfish	Adult, Eggs, Juvenile	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11
		Atlantic Cod	Adult, Eggs, Juvenile, Larvae	New England	Amendment 14 to the Northeast Multispecies FMP
		Atlantic Herring	Adult, Juvenile, Larvae	New England	Amendment 3 to the Atlantic Herring FMP
		Atlantic Mackerel	Adult, Eggs, Juvenile, Larvae	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11
		Atlantic Sea Scallop	ALL	New England	Amendment 14 to the Atlantic Sea Scallop FMP
		Atlantic Surfclam	Adult, Juvenile	Mid-Atlantic	Surfclam and Ocean Quahog
		Atlantic Wolffish	ALL	New England	Amendment 14 to the Northeast Multispecies FMP
		Basking Shark	ALL	Secretarial	Amendment 10 to the 2006 Consolidated HMS FMP: EFH
		Black Sea Bass	Adult	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
		Bluefin Tuna	Adult, Juvenile	Secretarial	Amendment 10 to the 2006 Consolidated HMS FMP: EFH
		Bluefish	Adult, Juvenile	Mid-Atlantic	Bluefish
		Haddock	Eggs, Juvenile, Larvae	New England	Amendment 14 to the Northeast Multispecies FMP
		Little Skate	Adult, Juvenile	New England	Amendment 2 to the Northeast Skate Complex FMP
		Longfin Inshore Squid	Adult, Eggs,	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11

Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
			Juvenile		
		Monkfish	Adult, Eggs/Larvae, Juvenile	New England	Amendment 4 to the Monkfish FMP
		Northern Shortfin Squid	Adult	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11
		Ocean Pout	Adult, Eggs, Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
		Pollock	Adult, Eggs, Juvenile, Larvae	New England	Amendment 14 to the Northeast Multispecies FMP
		Red Hake	Adult, Eggs/Larvae/Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
		Scup	Adult, Juvenile	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
		Silver Hake	Adult, Eggs/Larvae	New England	Amendment 14 to the Northeast Multispecies FMP
		Spiny Dogfish	Adult Female, Adult Male, Sub-Adult Female	Mid-Atlantic	Amendment 3 to the Spiny Dogfish FMP
		Summer Flounder	Adult, Larvae	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
		Thorny Skate	Juvenile	New England	Amendment 2 to the Northeast Skate Complex FMP
		White Hake	Adult, Eggs, Juvenile, Larvae	New England	Amendment 14 to the Northeast Multispecies FMP
		White Shark	Juvenile/Adult	Secretarial	Amendment 10 to the 2006 Consolidated HMS FMP: EFH

Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
		Windowpane Flounder	Adult, Eggs, Juvenile, Larvae	New England	Amendment 14 to the Northeast Multispecies FMP
		Winter Flounder	Eggs, Juvenile, Larvae/Adult	New England	Amendment 14 to the Northeast Multispecies FMP
		Winter Skate	Adult, Juvenile	New England	Amendment 2 to the Northeast Skate Complex FMP
		Witch Flounder	Adult, Eggs, Larvae	New England	Amendment 14 to the Northeast Multispecies FMP
		Yellowtail Flounder	Adult, Eggs, Juvenile, Larvae	New England	Amendment 14 to the Northeast Multispecies FMP





Pacific Salmon EFH

No Pacific Salmon Essential Fish Habitat (EFH) were identified at the report location.

Atlantic Salmon

No Atlantic Salmon were identified at the report location.

HAPCs

Link	Data Caveats	HAPC Name	Management Council
		Inshore 20m Juvenile Cod	New England Fishery Management Council
		Summer Flounder SAV	Mid-Atlantic Fishery Management Council

EFH Areas Protected from Fishing

No EFH Areas Protected from Fishing (EFHA) were identified at the report location.

Spatial data does not currently exist for all the managed species in this area. The following is a list of species or management units for which there is no spatial data.

**For links to all EFH text descriptions see the complete data inventory: [open data inventory -->](#)

Spatial data does not currently exist for all the managed species in this area. The following is a list of species or management units for which there is no spatial data.

****For links to all EFH text descriptions see the complete data inventory: [open data inventory -->](#)**

All EFH species have been mapped for the Greater Atlantic region,

Atlantic Highly Migratory Species EFH,

Bigeye Sand Tiger Shark,
Bigeye Sixgill Shark,
Caribbean Sharpnose Shark,
Galapagos Shark,
Narrowtooth Shark,
Sevengill Shark,
Sixgill Shark,
Smooth Hammerhead Shark,
Smalltail Shark

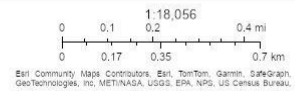
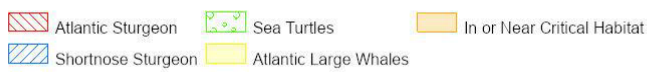


Drawn Action Area & Overlapping S7 Consultation Areas

Area of Interest (AOI) Information

Area : 2,009.02 acres

Aug 2 2024 9:42:23 Eastern Daylight Time



Summary

Name	Count	Area(acres)	Length(mi)
Atlantic Sturgeon	2	2,432.20	N/A
Shortnose Sturgeon	1	1,216.13	N/A
Atlantic Salmon	0	0	N/A
Sea Turtles	4	4,864.52	N/A
Atlantic Large Whales	4	4,864.52	N/A
In or Near Critical Habitat	1	1,152.64	N/A

Atlantic Sturgeon

#	Feature ID	Species	Lifestage	Behavior	Zone	From	Until	From (2)	Until (2)	Area(acres)
1	ANS_C50_ADU_MAF	Atlantic sturgeon	Adult	Migrating & Foraging	N/A	01/01	12/31	N/A	N/A	1,216.10
2	ANS_C50_SUB_MAF	Atlantic sturgeon	Subadult	Migrating & Foraging	N/A	01/01	12/31	N/A	N/A	1,216.10

Shortnose Sturgeon

#	Feature ID	Species	Life Stage	Behavior	Zone	From	Until	From (2)	Until (2)	Area(acres)
1	SNS_C50_ADU_MAF	Shortnose sturgeon	Adult	Migrating & Foraging	N/A	04/01	11/30	N/A	N/A	1,216.13

Sea Turtles

#	Feature ID	Species	Life Stage	Behavior	Zone	From	Until	From (2)	Until (2)	Area(acres)
1	GRN_STN_AJV_MAF	Green sea turtle	Adults and juveniles	Migrating & Foraging	Maine to Massachusetts (N of Cape Cod)	6/1	11/30	No Data	No Data	1,216.13
2	KMP_STN_AJV_MAF	Kemp's ridley sea turtle	Adults and juveniles	Migrating & Foraging	Maine to Massachusetts (N of Cape Cod)	6/1	11/30	No Data	No Data	1,216.13
3	LTR_STN_AJV_MAF	Leatherback sea turtle	Adults and juveniles	Migrating & Foraging	Maine to Massachusetts (N of Cape Cod)	6/1	11/30	No Data	No Data	1,216.13
4	LOG_STN_AJV_MAF	Loggerhead sea turtle	Adults and juveniles	Migrating & Foraging	Maine to Massachusetts (N of Cape Cod)	6/1	11/30	No Data	No Data	1,216.13

Atlantic Large Whales

#	Feature ID	Species	Lifestage	Behavior	Zone	From	Until	From (2)	Until (2)	Area(acres)
1	RIT_WRN_AJV_FOR	North Atlantic right whale	Adults and juveniles	Foraging	Northeast (ME to Cape Cod, MA)	1/1	12/31	No Data	No Data	1,216.13
2	RIT_WRN_AJV_WIN	North Atlantic right whale	Adults and juveniles	Overwintering	Northeast (ME to Cape Cod, MA)	11/1	1/31	No Data	No Data	1,216.13
3	FIN_WFN_AJV_WIN	Fin whale	Adults and juveniles	Overwintering	Northeast (ME to Cape Cod, MA)	11/1	3/31	No Data	No Data	1,216.13
4	FIN_WFN_AJV_FOR	Fin whale	Adults and juveniles	Foraging	Northeast (ME to Cape Cod, MA)	1/1	12/31	No Data	No Data	1,216.13

In or Near Critical Habitat

#	Species	In or Near Critical Habitat	Area(acres)
1	North Atlantic Right Whale	Critical Habitat Unit 1: Feeding Area	1,152.64



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

October 22, 2020

Regulatory Division
File No. NAE-199802651

Doug Boulanger
Pier Manager
260 Commercial Street
Provincetown, Massachusetts 02657

Dear Mr. Boulanger:

This is in response to a recent request dated May 14, 2020 to modify your Department of the Army permit number NAE-1998-2651, that authorized the construction and maintenance of 14' x 600' dock that will serve also as a wave attenuator on the North Dock, one 14' x 200' foot dock that will also serve as a wave attenuator on the South dock, to extend the North dock by 87 feet and to place and maintain three 5' x 30' finger floats and four 5' x 30' on it, to reduce the length of the South dock by 6 feet, to retain and maintain three 8' x 12' sheds located on the floats belonging to the Center for Coastal Research (4W) and the Dolphin Fleet (3W & 5W), a 12' x 42' float located at Noah Santos (8W), a 3' x 8' gangway leading to a 14' x 40' float and to retain and maintain six artist shacks, the Harbormaster's office in its current location, the gazebo and sitting area for the ferry, the over shades and benches located on MacMillan Wharf, and eleven parking spaces for fee for users having essential business on the pier. In addition to maintenance dredge approximately 3754 cubic yards of sand from a 39,605 square foot area of the Fairway to a depth of -6 feet below mean low water (MLW) inshore and -10 below MLW outshore and to maintenance dredge approximately 3,350 cubic yards of sand from a 30,870 square foot area of the Marina Basin to a depth of -9 feet below MLW this includes a 1 foot over dredge. Of this 30,870 square feet 17,770 square feet is within the marina maintenance dredge footprint and 13,100 square feet is new dredging.

This work is located in Provincetown Harbor (off MacMillan Wharf) at 260 Main Street, Provincetown, Massachusetts. The modified work is described on the enclosed plan entitled "PROPOSED CONDITIONS PLAN," on one sheet and dated "11/18/2019" and last revised "5/12/20." The permit is hereby modified to:

- 1) To expand float 2W from 10' x 20' to 10' x 60' and float 7W from 9' x 20' to 13' x 72', add an eight 8' x 12' shed and to relocate it by 2 feet from its original location.
- 2) To lengthen the float identified as "EXPANDED CURTSEY FLOAT/PUMP OUT" from 14' x 40' feet to 14' x 60' feet.
- 3) To extend the permit expiration date from July 6, 2021 to July 6, 2023. Due to a combination of funding constraints and work restrictions imposed in response to the COVID-19 pandemic.

All other terms and conditions of the original permit and modifications remain in full force and effect.

This authorization requires that you notify us before beginning the work and that you allow us to inspect the project. You must complete and return the Work Start Notification Form, if not already submitted, to our office no later than two weeks before the work will begin.

We continually strive to improve our customer service. In order for us to better serve you, please complete our Customer Service Survey located at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

If you have any questions, please contact Crystal Gardner of my staff at (978) 318-8332.

Sincerely,

Christine M. Jacek
Chief, Permits and Enforcement Branch
Regulatory Division

Enclosure

cc:

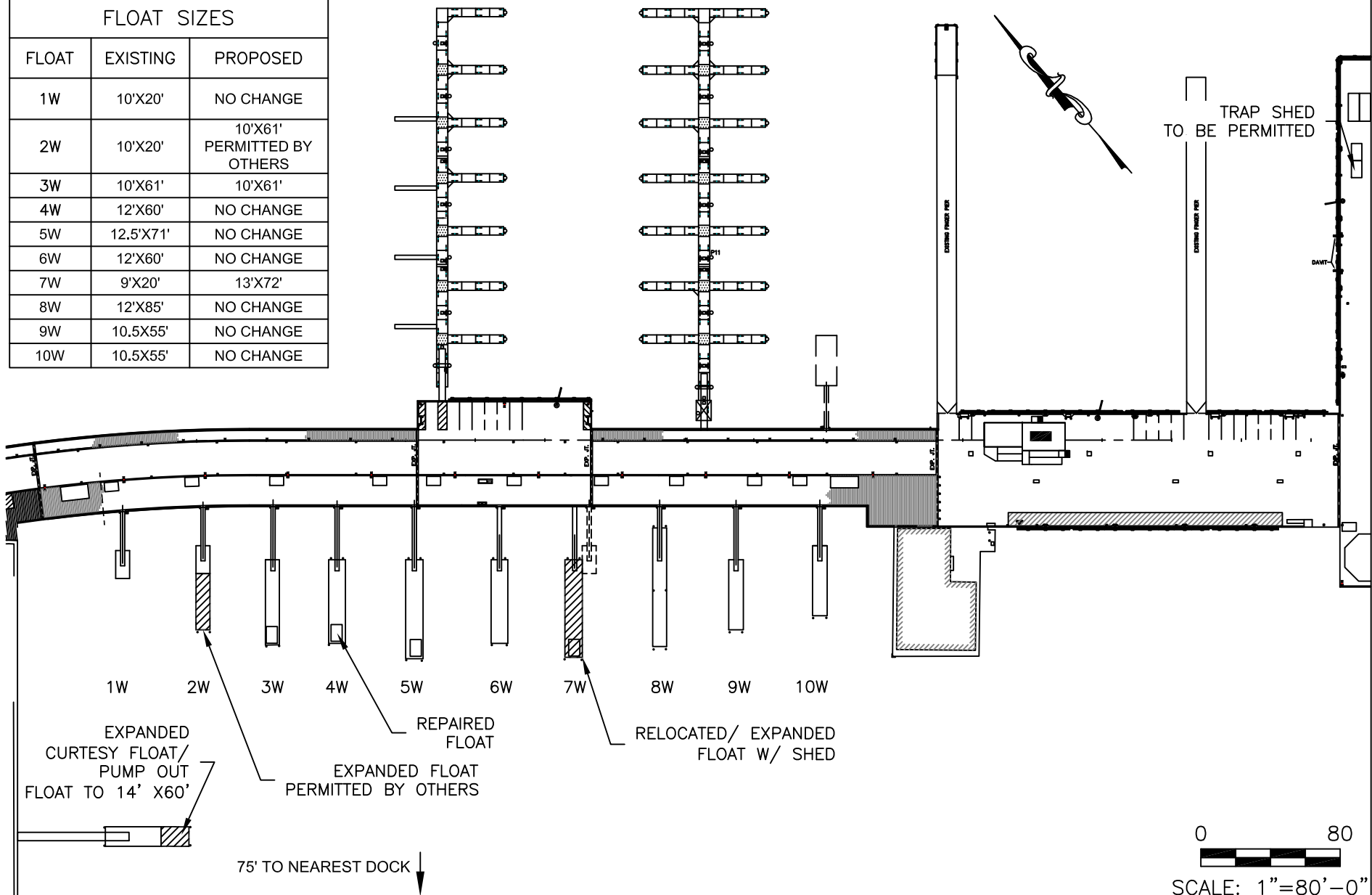
Braford Saunders, GEI Consulting, bsaunders@geiconsultants.com

Ed Reiner, U.S. EPA, Region 1, Boston, Massachusetts, reiner.ed@epa.gov

Chris Boelke, NMFS, Gloucester, MA; christopher.boelke@noaa.gov

Robert Boeri, Coastal Zone Management, Boston, Massachusetts, robert.boeri@mass.gov

FLOAT SIZES		
FLOAT	EXISTING	PROPOSED
1W	10'X20'	NO CHANGE
2W	10'X20'	10'X61' PERMITTED BY OTHERS
3W	10'X61'	10'X61'
4W	12'X60'	NO CHANGE
5W	12.5'X71'	NO CHANGE
6W	12'X60'	NO CHANGE
7W	9'X20'	13'X72'
8W	12'X85'	NO CHANGE
9W	10.5X55'	NO CHANGE
10W	10.5X55'	NO CHANGE



100 YR FLOOD	+18.95
HTL	+11.60
MHW	+9.3
NAVD88	+4.95
MLW	0.0

TITLE: PROPOSED CONDITIONS PLAN

PURPOSE: FLOAT MODIFICATIONS

APPLICATION BY: TOWN OF PROVINCETOWN

IN: PROVINCETOWN
 AT: MACMILLAN WHARF
 COUNTY: BARNSTABLE STATE: MA

FIGURE 16 OF 16
 DATE: 11/18/2019 REV. 5/12/20



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

July 6, 2017

Regulatory Division
File No. NAE-199802651

Rex McKinsey
Harbormaster
Town of Provincetown
260 Commercial Street
Provincetown, Massachusetts 02657

Dear Mr. McKinsey:

Attached are two copies of a Department of the Army permit authorizing your project. **Please sign both copies of the permit and return one signed copy to this office at the address above.**

You are required to complete and return the attached forms to this office:

1. Preliminary Jurisdictional Determination Form to be submitted along with your signed copy of the permit
2. Work Start Notification Form at least two weeks before the anticipated work start date.
3. Compliance Certification Form within one month following the completion of the authorized work.

This permit is a limited authorization containing a specific set of conditions. Please read the permit thoroughly to familiarize yourself with those conditions including any conditions contained on the attached state water quality certification. If a contractor does the work for you, both you and the contractor are responsible for ensuring that the work is done in compliance with the permit's terms and conditions, as any violations could result in civil or criminal penalties.

The Corps of Engineers has consulted with the National Marine Fisheries Service (NMFS) regarding the effects of your project on Essential Fish Habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act. The NMFS provided EFH conservation recommendations, which we included in the attached special conditions #3 through #9. These conditions will reduce turbidity and sedimentation effects on eelgrass beds and to protect sensitive life stages of winter flounder.

A combined Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form, and flow chart explaining the appeals process and your options, are attached to this letter. If you desire to appeal this proffered permit, you must submit a completed RFA form along with any supporting or clarifying information to James W. Haggerty; Administrative Appeals Review Officer; North Atlantic Division, Corps of Engineers; North

Atlantic Fort Hamilton Military Community, Bldg. 301; General Lee Avenue; Brooklyn, NY 11252-6700. Contact info: (347) 370-4650 or james.w.haggerty@usace.army.mil.

In order for an RFA to be accepted by the Corps; the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP.

You may not appeal conditions contained in the State water quality certification or the CZM consistency determination under this program as they are automatically included in the Federal permit. This authorization does not obviate the need to obtain other Federal, state, or local authorizations required by law.

We continually strive to improve our customer service. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

If you have any questions regarding this correspondence, please contact Crystal Gardner at (978) 318-8332, (800) 343-4789, or use (800) 363-4367 within Massachusetts.

Sincerely,



Barbara H. Newman
Chief, Permits and Enforcement Branch
Regulatory Division

Enclosures

cc:

Phil Colarusso, U.S. Environmental Protection Agency Region 1, colarusso.phil@epa.gov

Alison Verkade, National Marine Fisheries Service; alison.verkade@noaa.gov

DEPARTMENT OF THE ARMY PERMIT

Permittee Town of Provincetown

Permit No. NAE-1998-2651

Issuing Office New England District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

Structures

The work involves the construction and maintenance of a 14' x 600' dock that will serve also as a wave attenuator on the North Dock, one 14' x 200' foot dock that will also serve as a wave attenuator on the South dock, to extend the North

(Permit description continued on page 4)

This work is shown on the attached plans entitled, "EXISTING CONDITIONS-MARINA", EXISTING CONDITIONS-FAIRWAY", "PROPOSED CONDITIONS MARINA DREDGING", "PROPOSED SECTIONS", "PROPOSED CONDITIONS MARINA DREDGING", "PROPOSED CONDITIONS FAIRWAY DREDGING", "PROPOSED DREDGE SECTION", "DREDGE QUANTITIES", "PIER DECK PLAN-SHT 1-2", "UNAUTHORIZED DREDGE AREA" and "MARINA DEWATERING DETAILS" on fifteen sheets and dated "10/20/15."

Project Location:

The proposed work is located off MacMillan Wharf in Provincetown Harbor at 260 Main Street, Provincetown, Massachusetts 02657

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on July 6, 2021. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The permittee shall ensure that a copy of this permit is at the work site (and the project office) authorized by this permit whenever work is being performed, and that all personnel with operational control of the site ensure that all appropriate personnel performing work are fully aware of its terms and conditions. The entire permit shall be made a part of any and all contracts and sub-contracts for work that affects areas of Corps jurisdiction at the site of the work authorized by this permit. This shall be achieved by including the entire permit in the specifications for work. The term "entire permit" means this permit (including its drawings, plans, appendices and other attachments) and also includes permit modifications.

(Special conditions continued on Page 4)

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

D. B. Parsapp
(PERMITTEE) TOWN MANAGER

July 19, 2017
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Barbara H. Newman for
(DISTRICT ENGINEER)

July 7 2017
(DATE)

Barbara H. Newman
Chief, Permits & Enforcement Branch
Regulatory Division

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)

(Permit Description continued from page 1)

dock by 87 feet and to place and maintain eight 5' x 30' finger floats on the North Dock, to reduce the length of the South dock by 6 feet, to retain and maintain three 8' x 12' sheds located on the floats belonging to the Center for Coastal Research (4W) and the Dolphin Fleet (3W & 5W), a 12' x 42' float located a Noah Santos (8W), a 3' x 8' gangway leading to a 14' x 40' float and to retain and maintain six artist shacks, the Harbormaster's office in its current location, the gazebo and sitting area for the ferry, the over shades and benches located on MacMillan Wharf, and eleven parking spaces for fee for users having essential business on the pier.

Dredging

Fairway

To maintenance dredge approximately 3754 cubic yards of sand from a 39,605 square foot area to a depth of -6 feet below mean low water (MLW) inshore and -10 below MLW outshore.

Marina Basin

To maintenance dredge approximately 3,350 cubic yards of sand from a 30,870 square foot area to a depth of -9 feet below MLW this includes a 1 foot over dredge. Of this 30,870 square feet 17,770 square feet is within the marina maintenance dredge footprint and 13,100 square feet is new dredging.

(Special Conditions continued from Page 2)

If the permit is issued after the construction specifications, but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. If the permit is issued after receipt of bids or quotes, the entire permit shall be included in the contract or sub-contract. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

2. The permittee shall complete and return the enclosed Work Start Notification Form within two weeks of the proposed work start date and Compliance Certification Form within one month following the completion of the authorized work.
3. No in-water silt producing work shall occur from February 1st to June 30th, of any calendar year to protect sensitive life stages of winter flounder.
4. All pile driving activities shall be conducted and contained within a turbidity curtain extending to the mudline. If a turbidity curtain is not utilized than all pile driving activities authorized herein shall not be conducted during the time of year (TOY) restriction of February 1st to June 30th of any year in order to minimize adverse impacts to winter flounder.
5. Pile driving shall be performed using a vibratory hammer. A slow start technique shall be utilized

(Special Conditions continued on Page 5)

(Special Conditions continued from Page 4)

during the driving of piles to ensure that any mobile marine species in the project impact area have time to leave the project site prior to injury inducing noise levels being reached.

6. The permittee shall install buoy markers and educational signage requesting boaters to avoid special aquatic vegetation (SAV) areas and describing its important role in the marine ecosystem.

7. No vessels shall anchor in areas containing eel grass.

8. A monitoring and mitigation plan shall be submitted for agency review and approval. This plan shall include mitigative measures (e.g. replanting) should decreases in shoot density or edge loss be detected during monitoring. This monitoring shall extend 100 feet into the existing SAV.

9. The permittee shall provide its contractor with the coordinates of the eel grass beds to ensure no anchoring, spuds or other direct impact from the dredge plant or construction equipment will occur.

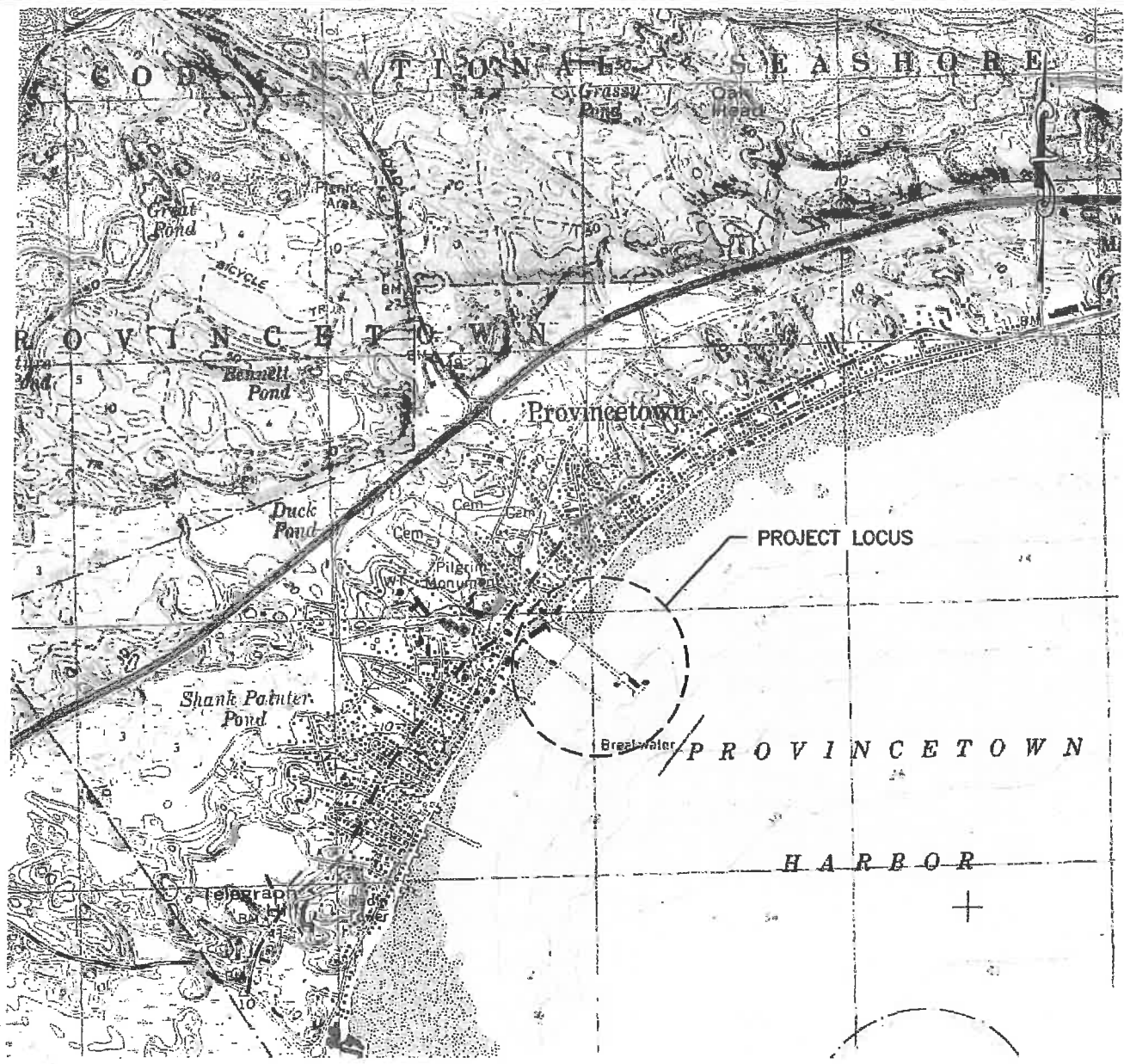
10. The permittee shall not construct or place any other structures or parking spaces on MacMillan Pier (that is not previously authorized) without first obtaining a permit from the Corps.


11. The permittee shall locate all structures (including vessels and floats) far enough outside the Federal Navigation Project (FNP) limits so neither the structures, nor any vessels tied to these structures, encroach into the FNP at any time.

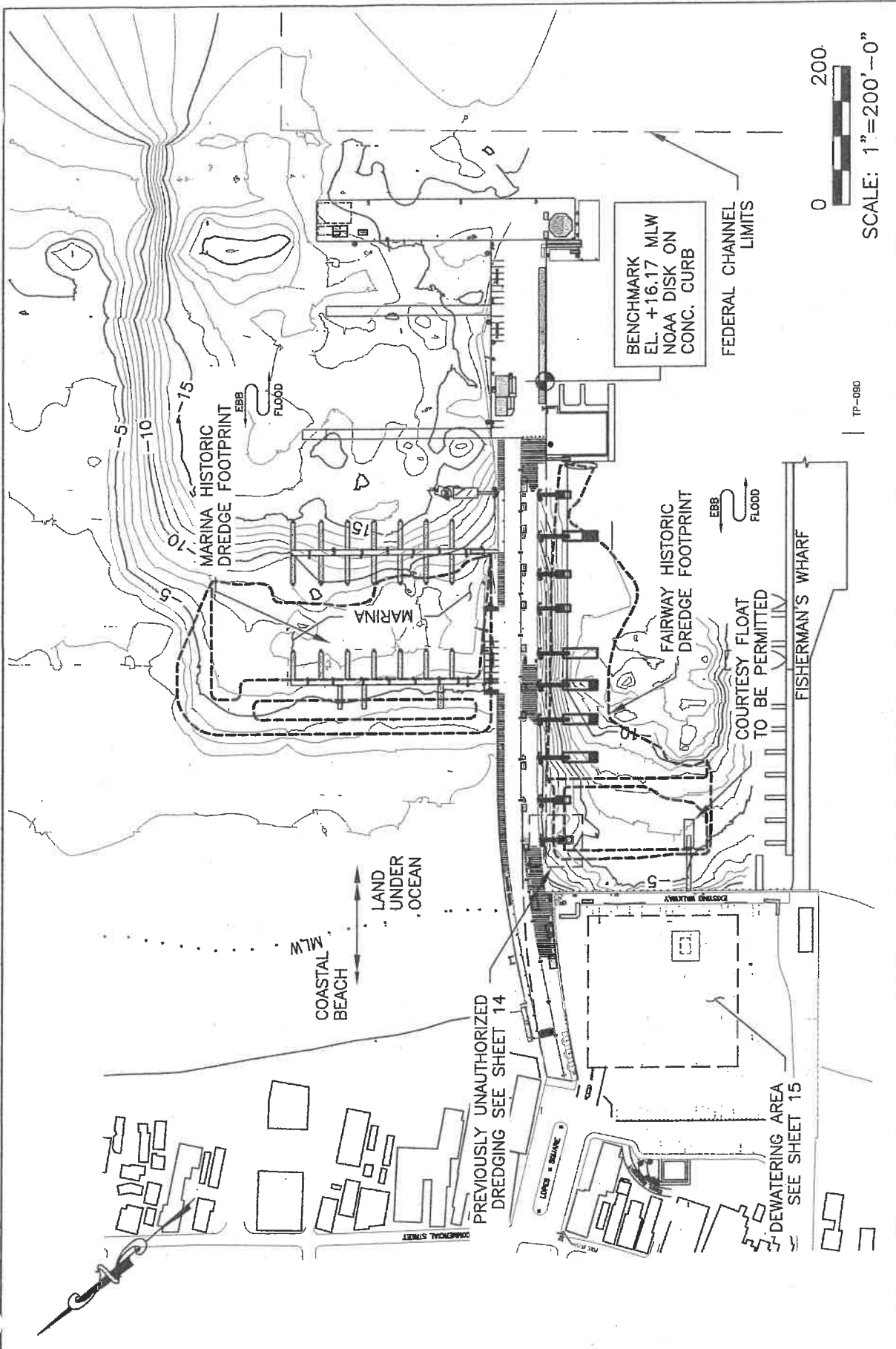
12. The permittee shall not interfere with Corps of Engineers personnel or its contractors engaged in hydrographic surveys, maintenance or improvement of the existing FNP. If, in the opinion of the Corps, the permittee's structures or vessels attached to them must be moved to allow for the maintenance or improvement of the existing FNP, the permittee shall move the structures or vessels as directed by the Corps.

13. The permittee shall not hold the Government or its contractor responsible for damage(s) to these structures or any vessels tied to them during surveying or dredging operations.

File: X:\33911-33925 Provincetown Marina\REGULATORY\ACOE\11-13-15\SHT-01_02_03_04.dwg



PURPOSE: MARINA RECONSTRUCTION	TITLE: LOCUS PLAN	APPLICATION BY: TOWN OF PROVINCETOWN
100 YR FLOOD +18.95 HTL +11.60 MHW +9.3 NGVD +4.10 MLW 0.0	 Bourne Consulting Engineering, PC <small>5 Bond Street Provincetown, MA 01970 TEL (508) 633-0000 FAX (508) 663-0000</small>	IN: PROVINCETOWN AT: MACMILLAN WHARF COUNTY: BARNSTABLE STATE: MA SHEET 1 OF 15 DATE: 10/20/15



IN: PROVINCETOWN
 AT: MACMILLAN WHARF
 COUNTY: BARNSTABLE STATE: MA

SHEET 2 OF 15
 DATE: 10/20/15

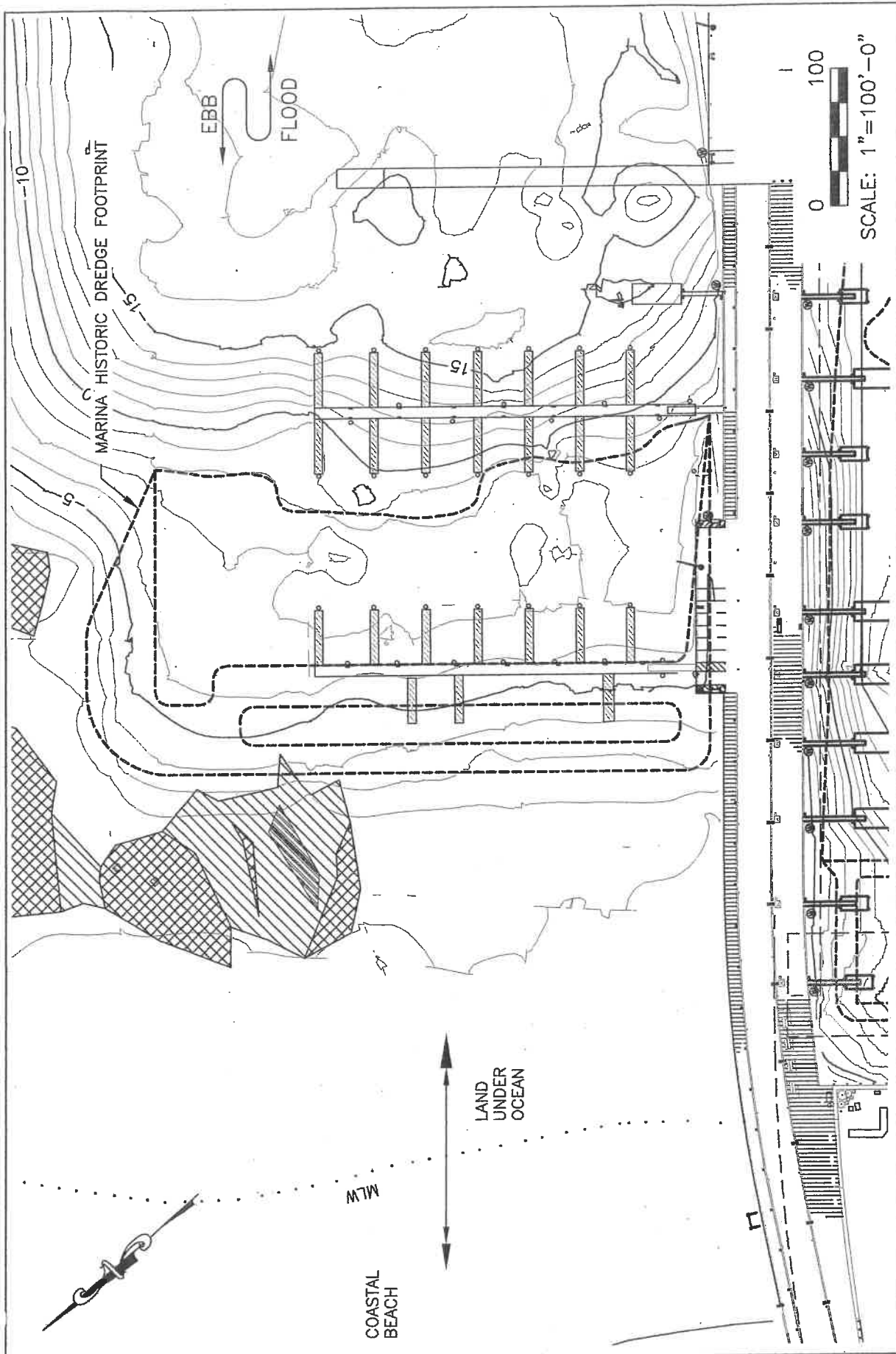
TITLE: **SITE PLAN**

PURPOSE: **MARINA RECONSTRUCTION**

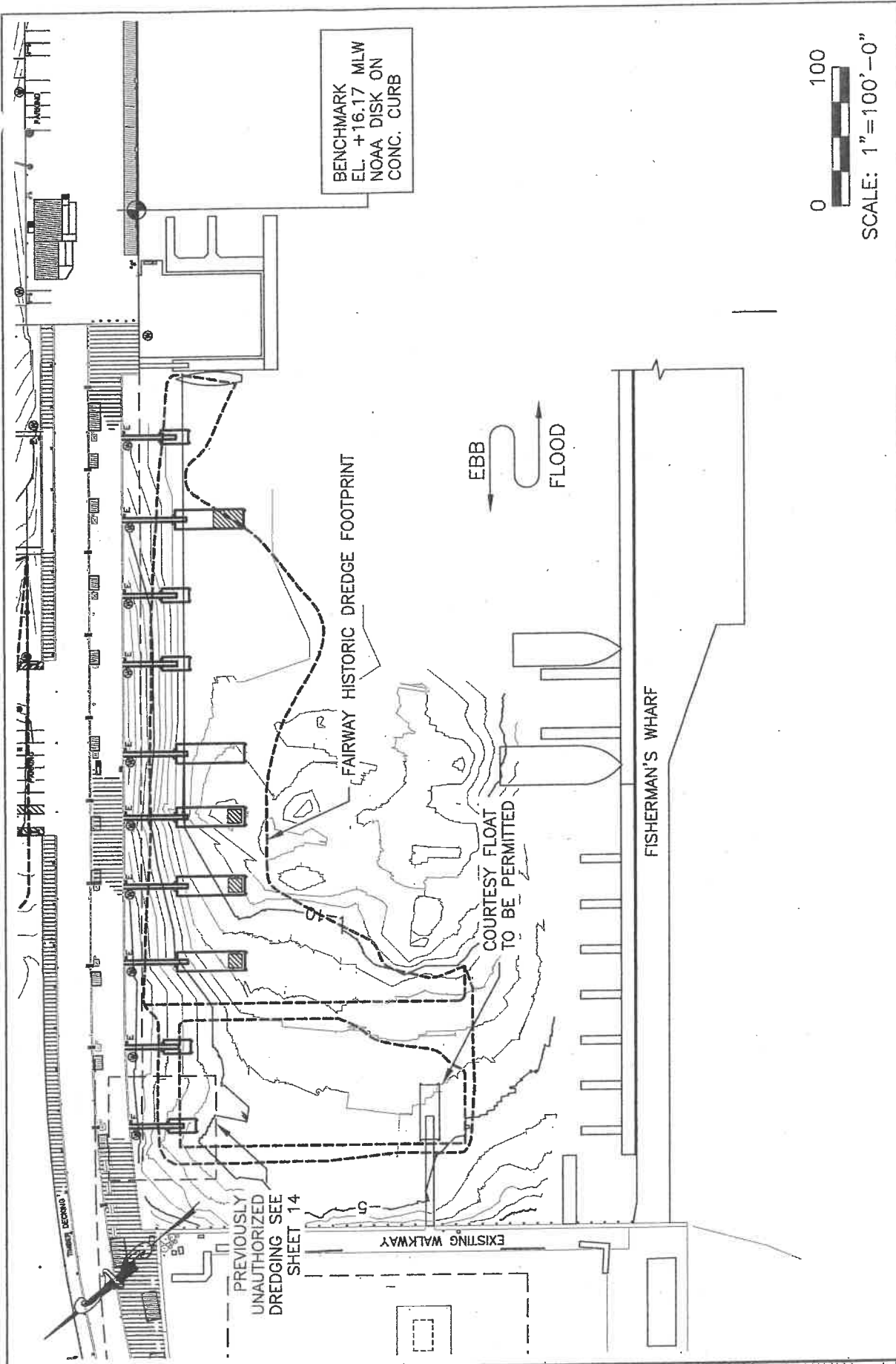
APPLICATION BY: **TOWN OF PROVINCETOWN**


100 YR FLOOD	+18.95	NGVD	+4.10
HIL	+11.60	MLW	0.0
MHW	+9.3		

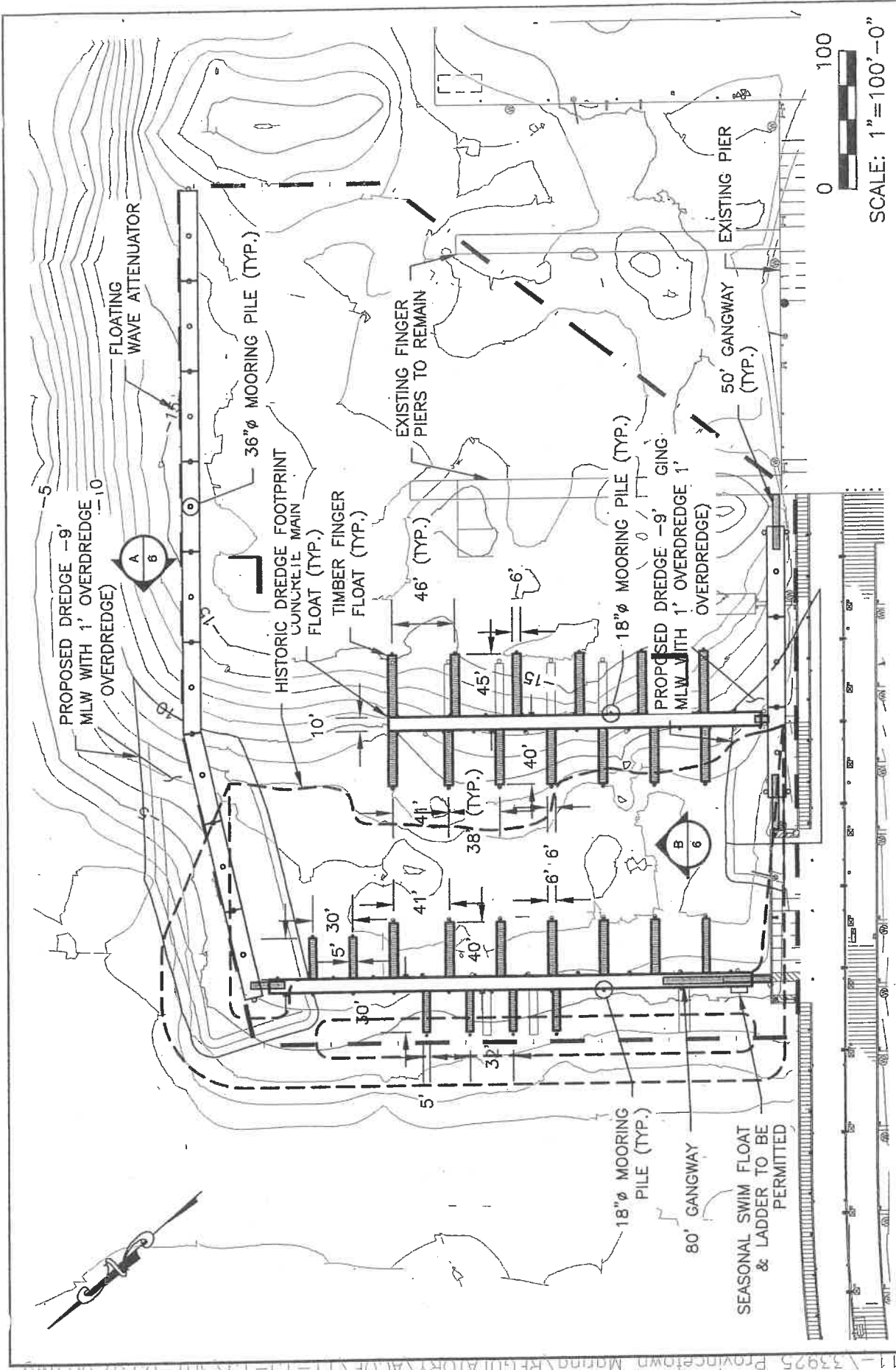
BCE Bourne Consulting Engineering, PC
 3 Paul Street
 Bourne, MA 01929
 TEL: (508) 838-6666 FAX: (508) 838-6666



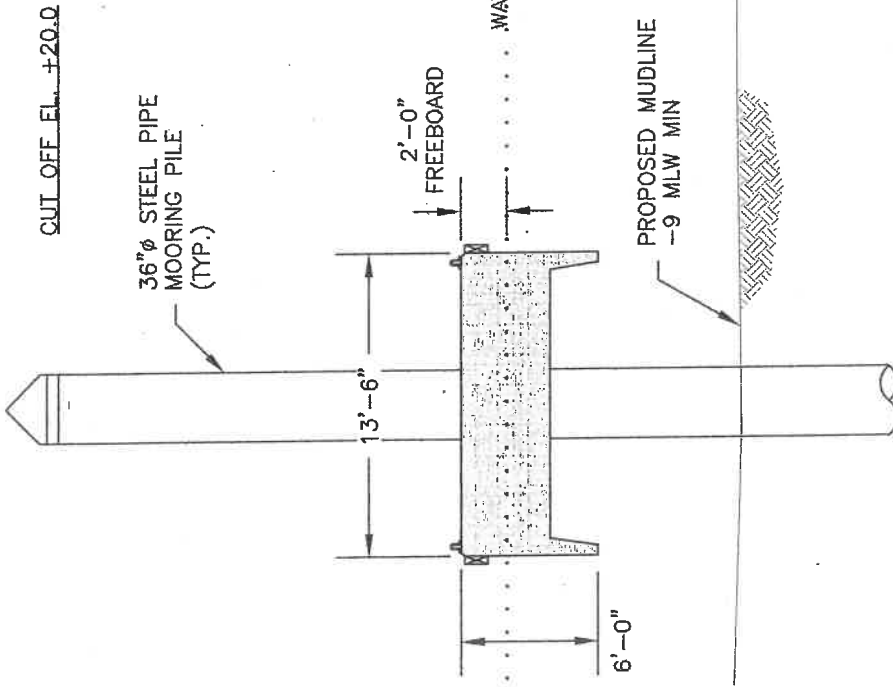
100 YR FLOOD	+18.95	NGVD	+4.10	TITLE:	EXISTING CONDITIONS - MARINA	IN: PROVINCETOWN
HTL	+11.60	MLW	0.0			AT: MACMILLAN WHARF
MHW	+9.3					COUNTY: BARNSTABLE STATE: MA
		Bourne Consulting Engineering, PC <small>3 And Street Provincetown, MA 01970 TEL: (508) 255-4949 FAX: (508) 255-4949</small>		PURPOSE: MARINA RECONSTRUCTION		SHEET 3 OF 15 DATE: 10/20/15
				APPLICATION BY: TOWN OF PROVINCETOWN		



100 YR FLOOD HTL MHW	+18.95 +11.60 +9.3	NGVD MLW	+4.10 0.0	TITLE:	EXISTING CONDITIONS—FAIRWAY	IN: PROVINCETOWN AT: MACMILLAN WHARF COUNTY: BARNSTABLE STATE: MA
 Bourne Consulting Engineering, PC <small>INC. (MA) 030-000 TEL: (508) 253-0000</small>		PURPOSE:		MARINA RECONSTRUCTION	APPLICATION BY:	TOWN OF PROVINCETOWN
PREVIOUSLY UNAUTHORIZED DREDGING SEE SHEET 14		COURTESY FLOAT TO BE PERMITTED		FAIRWAY HISTORIC DREDGE FOOTPRINT		
EXISTING WALKWAY		FISHERMAN'S WHARF		SCALE: 1"=100'-0"		
BENCHMARK EL. +16.17 MLW NOAA DISK ON CONC. CURB		EBB FLOOD		SHEET 4 OF 15 DATE: 10/20/15		

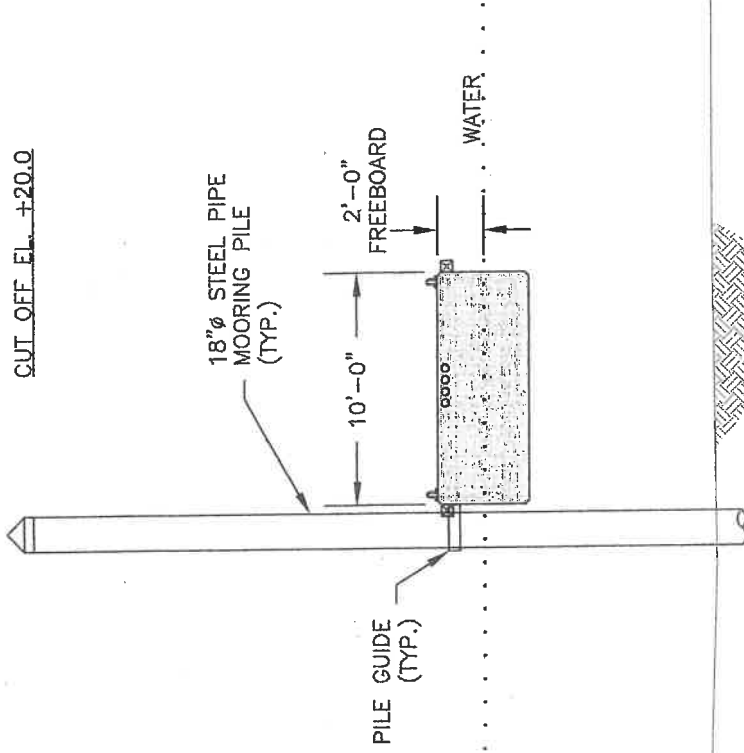


100 YR FLOOD	+18.95	NGVD	+4.10	TITLE:	PROPOSED CONDITIONS	IN: PROVINCETOWN
HTL	+11.60	MLW	0.0		MARINA DREDGING	AT: MACMILLAN WHARF
MHW	+9.3					COUNTY: BARNSTABLE STATE: MA
				PURPOSE:		SHEET 5 OF 15
Bourne Consulting Engineering, PC <small>1 Paul Street Barnstable, MA 02532 TEL: (508) 555-0000 FAX: (508) 555-0000</small>				MARINA RECONSTRUCTION		DATE: 10/20/15
				APPLICATION BY:		
				TOWN OF PROVINCETOWN		



WAVE ATTENUATOR SECTION

SCALE: 1/8"=1'-0"



CONCRETE FLOAT SECTION

SCALE: 1/8"=1'-0"



100 YR FLOOD	+18.95	NGVD	+4.10
HTL	+11.60	MLW	0.0
MHW	+9.3		

PROPOSED SECTIONS

IN: PROVINCETOWN
 AT: MACMILLAN WHARF
 COUNTY: BARNSTABLE STATE: MA

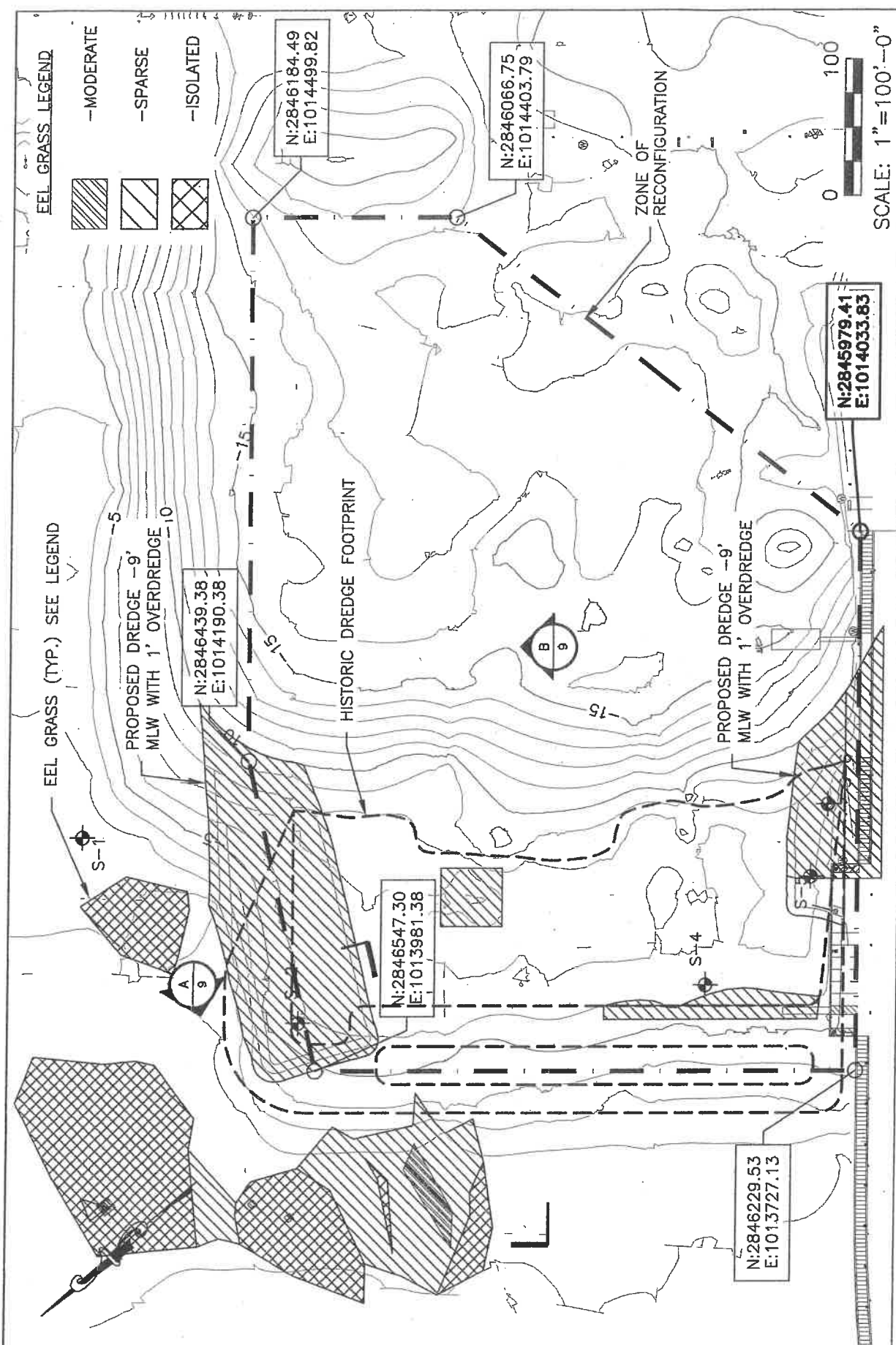
PURPOSE:
MARINA RECONSTRUCTION

APPLICATION BY:
TOWN OF PROVINCETOWN

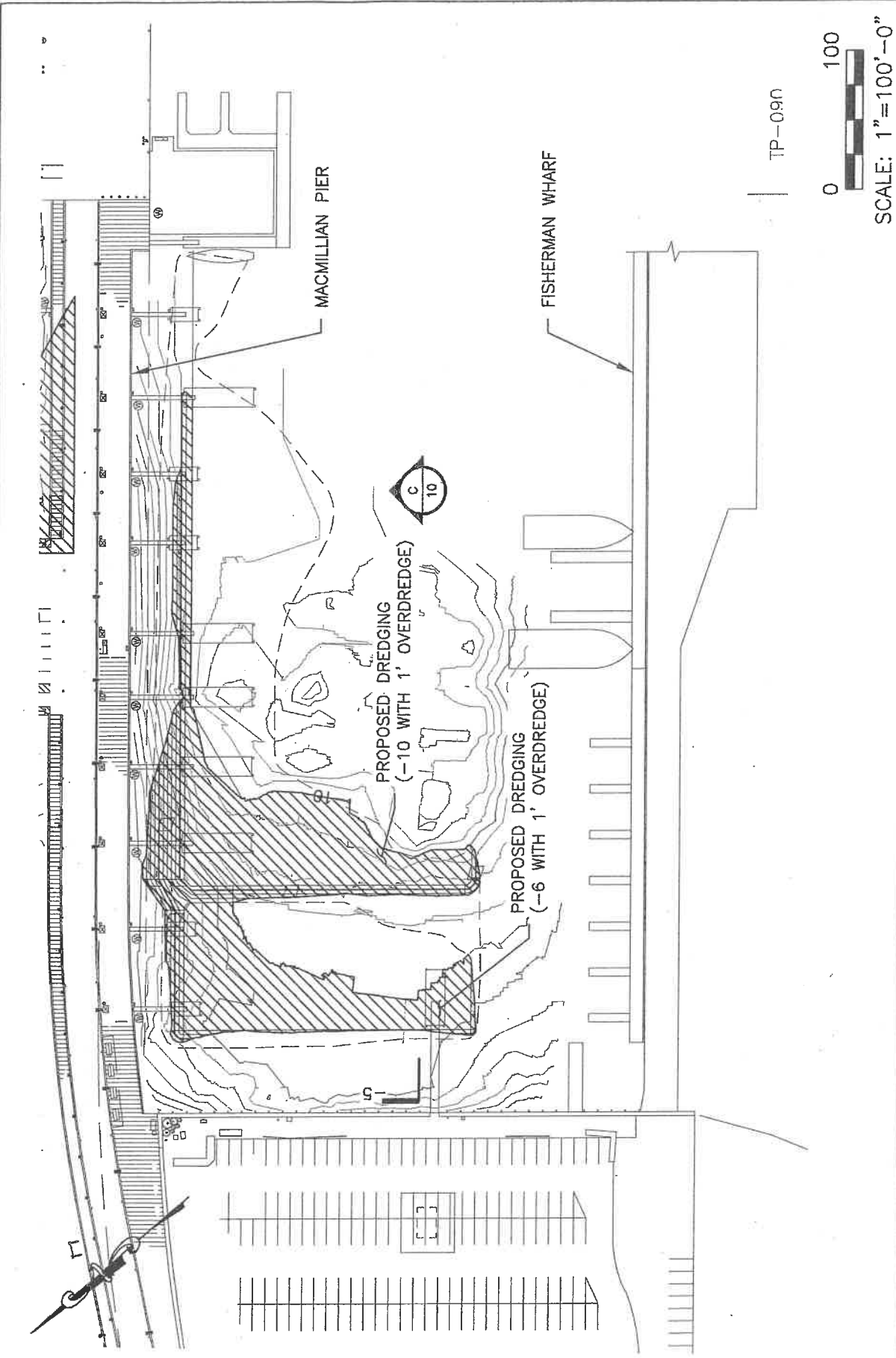
SHEET 6 OF 15
 DATE: 10/20/15

Consulting Engineering, PC

2 Dept Street
 Provincetown, MA 01970
 TEL (508) 891-0000 FAX (508) 891-0000



100 YR FLOOD	+18.95	NGVD	+4.10	TITLE:	PROPOSED CONDITIONS	IN: PROVINCETOWN
HTL	+11.60	MLW	0.0		MARINA DREDGING	AT: MACMILLAN WHARF
MHW	+9.3					COUNTY: BARNSTABLE STATE: MA
				PURPOSE:	MARINA RECONSTRUCTION	SHEET 7 OF 15
<i>Bourse Consulting Engineering, PC</i> <small>3 Amy Street Provincetown, MA 01970 TEL: (508) 553-9989 FAX: (508) 553-9999</small>				APPLICATION BY:	TOWN OF PROVINCETOWN	DATE: 10/20/15



TP-09n

SCALE: 1" = 100'-0"

IN: PROVINCETOWN
 AT: MACMILLAN WHARF
 COUNTY: BARNSTABLE STATE: MA

SHEET 8 OF 15
 DATE: 10/20/15

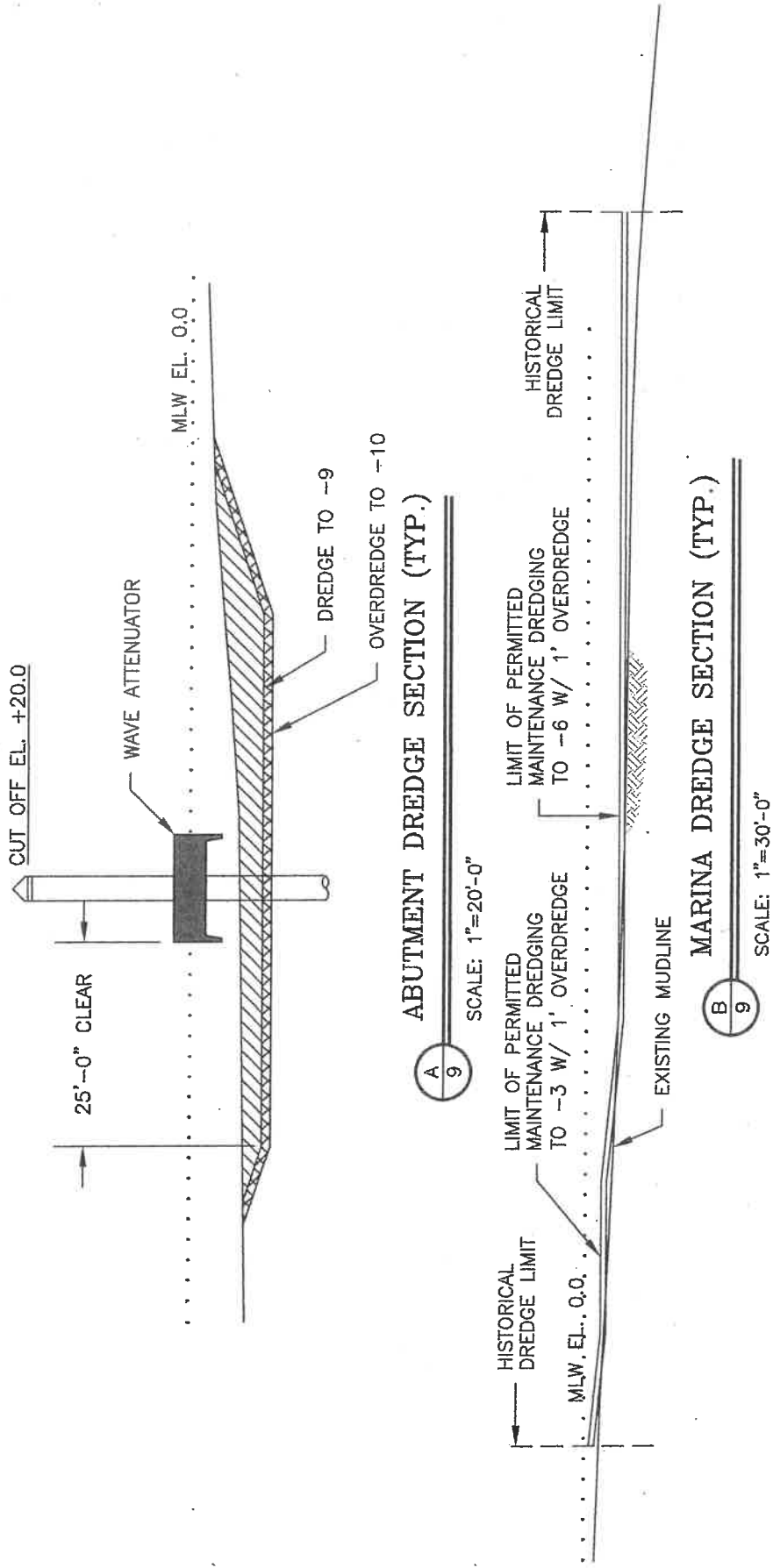
TITLE: PROPOSED CONDITIONS
 FAIRWAY DREDGING

APPLICATION BY:
 TOWN OF PROVINCETOWN

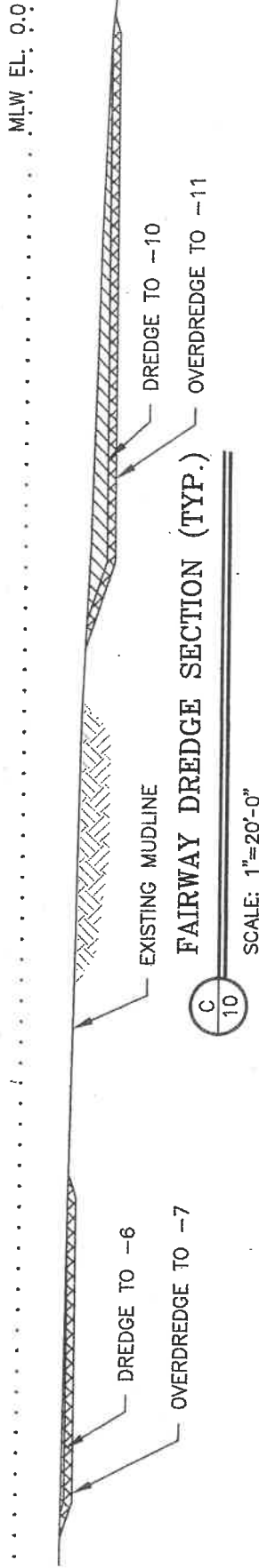
PURPOSE:
 MARINA RECONSTRUCTION

100 YR FLOOD	+18.95	NGVD	+4.10
HTL	+11.60	MLW	0.0
MHW	+9.3		

BCE
 Bourne Consulting Engineering, PC
 2 West Street
 Provincetown, MA 01970
 TEL: (508) 553-4444 FAX: (508) 553-3000



100 YR FLOOD	+18.95	NGVD	+4.10	TITLE:	PROPOSED DREDGE SECTION	IN: PROVINCETOWN
HTL	+11.60	MLW	0.0	PURPOSE:	MARINA RECONSTRUCTION	AT: MACMILLAN WHARF
MHW	+9.3				TOWN OF PROVINCETOWN	COUNTY: BARNSTABLE STATE: MA
				APPLICATION BY: TOWN OF PROVINCETOWN		
				SHEET 9 OF 15 DATE: 10/20/15		



FAIRWAY AREA MAINTENANCE DREDGING	
DREDGE	2,287 CU. YDS
OVERDREDGE	1,467 CU. YDS
TOTAL:	3,754 CU. YDS
MARINA AREA DREDGING	
MAINTENANCE	298 CU. YDS
DREDGE	1,992 CU. YDS
OVERDREDGE	1,060 CU. YDS
TOTAL:	3,350 CU. YDS

FAIRWAY AREA	
MAINTENANCE DREDGING	39,605 SQ. FT
MARINA AREA	
MAINTENANCE DREDGING	3,750 SQ. FT
IMPROVEMENT DREDGING WITHIN HISTORIC FOOTPRINT	17,770 SQ. FT
IMPROVEMENT DREDGING	13,100 SQ. FT
TOTAL FOR MARINA	34,620 SQ. FT

100 YR FLOOD	+18.95	NGVD	+4.10
HIL	+11.60	MLW	0.0
MHW	+9.3		

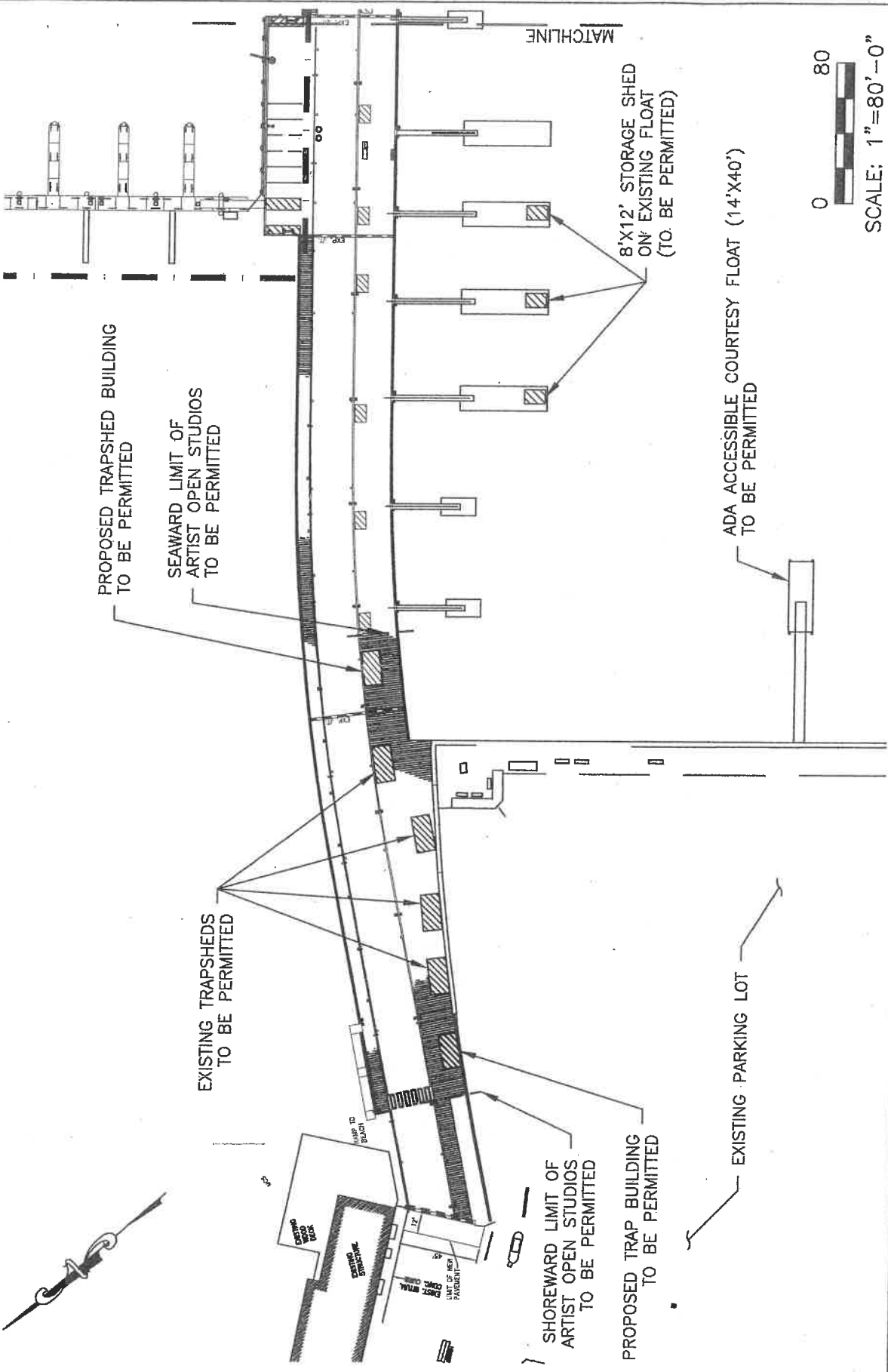
TITLE: DREDGING QUANTITIES


Consulting Engineering, P.C.
 3 Paul Street
 Provincetown, MA 01960
 TEL: (508) 833-9999 FAX: (508) 833-9999

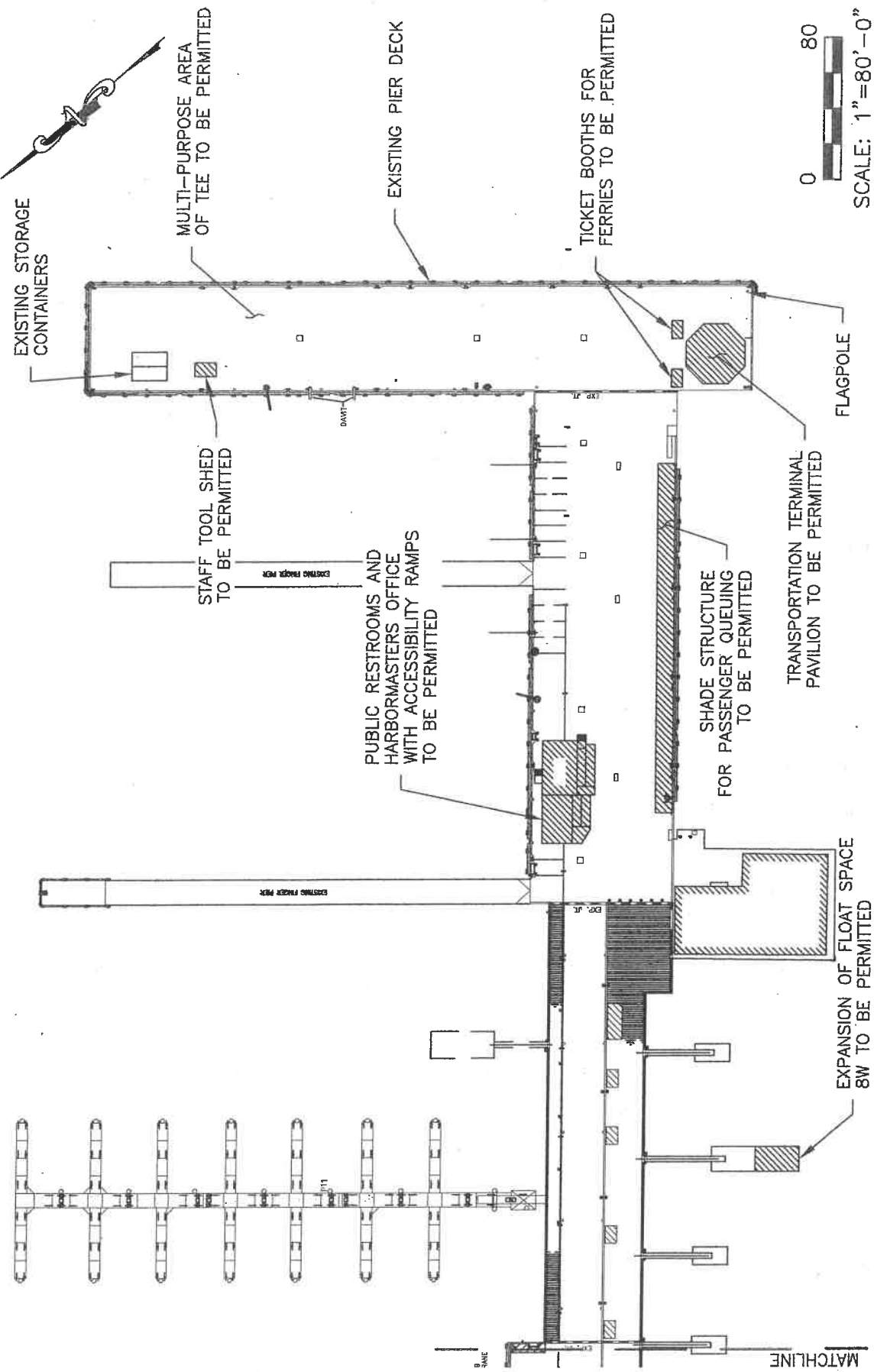
PURPOSE: MARINA RECONSTRUCTION

APPLICATION BY: TOWN OF PROVINCETOWN

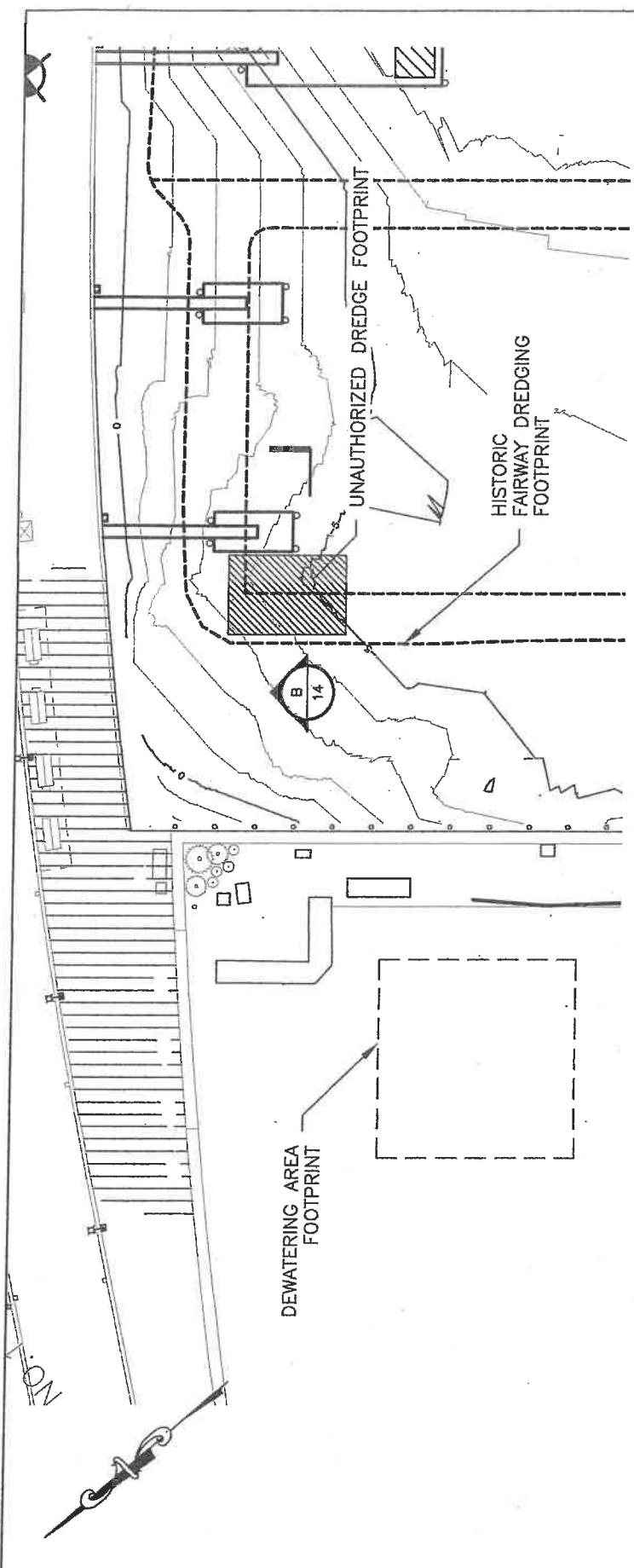
IN: PROVINCETOWN
 AT: MACMILLAN WHARF
 COUNTY: BARNSTABLE STATE: MA
 SHEET 10 OF 15
 DATE: 10/20/15



100 YR FLOOD FTL MHW	+18.95 +11.60 +9.3	NGVD MLW	+4.10 0.0	TITLE: PIER DECK PLAN-SHT 1	IN: PROVINCETOWN AT: MACMILLAN WHARF COUNTY: BARNSTABLE STATE: MA
 Bourne Consulting Engineering, PC <small>2 Paul Street Provincetown, MA 01905 TEL: (508) 558-4444 FAX: (508) 558-4444</small>				PURPOSE: MARINA RECONSTRUCTION	SHEET 12 OF 15 DATE: 10/20/15
				APPLICATION BY: TOWN OF PROVINCETOWN	



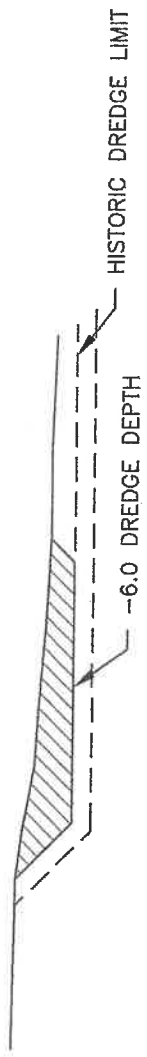
100 YR FLOOD	+18.95	NGVD	+4.10	TITLE:	PIER DECK PLAN-SHT 2	IN: PROVINCETOWN
HTL	+11.60	MLW	0.0			AT: MACMILLAN WHARF
MHW	+9.3					COUNTY: BARNSTABLE STATE: MA.
				PURPOSE:		SHEET 13 OF 15
Bourne Consulting Engineering, PC <small>100 State Street Provincetown, MA 01970 TEL: (508) 452-4444 FAX: (508) 452-4445</small>				APPLICATION BY:		DATE: 10/20/15
				TOWN OF PROVINCETOWN		



DREDGE FOOTPRINT PLAN

SCALE: 1"=20'-0"

A 14



DREDGE SECTION

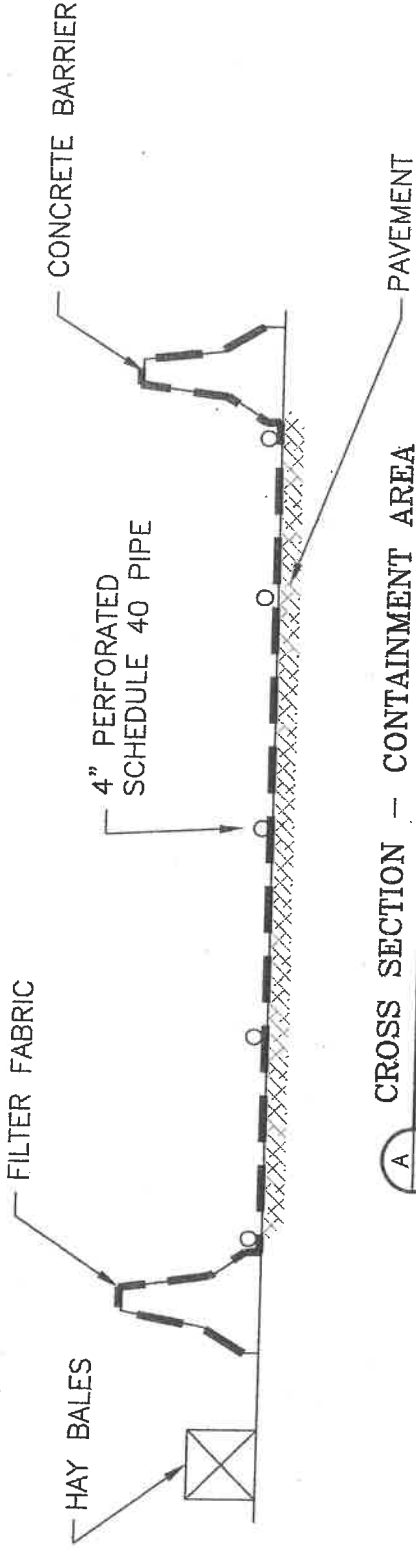
SCALE: 1"=10'-0"

B 14



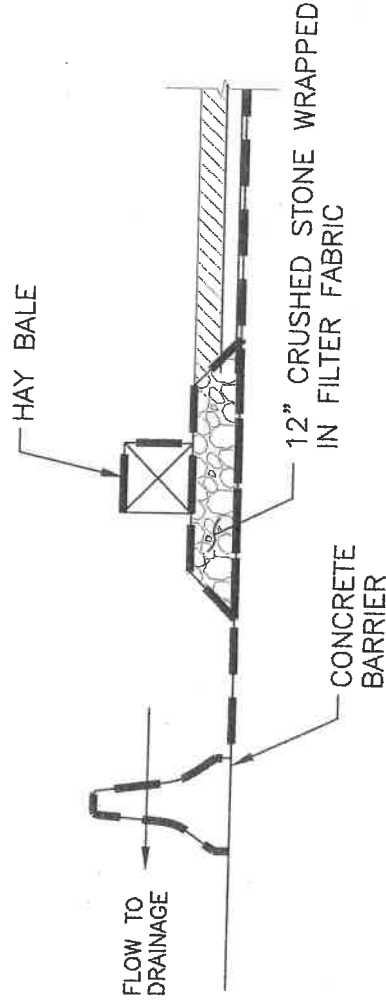
SCALE: 1"=20'-0"

100 YR FLOOD HTL MHW	+18.95 +11.60 +9.3	NGVD MLW	+4.10 0.0	TITLE:	UNAUTHORIZED DREDGE AREA	IN: PROVINCETOWN AT: MACMILLAN WHARF COUNTY: BARNSTABLE STATE: MA
PURPOSE:		MARINA RECONSTRUCTION	APPLICATION BY:	TOWN OF PROVINCETOWN	SHEET 14 OF 15	DATE: 10/20/15
 Bourne Consulting Engineering PC <small>500 Main Street Provincetown, MA 01970 TEL (508) 555-0000 FAX (508) 555-0000</small>						



A
15
CROSS SECTION - CONTAINMENT AREA

SCALE: 1/4" = 1'-0"



B
15
CROSS SECTION - CONTAINMENT AREA

SCALE: 1/4" = 1'-0"

100 YR FLOOD	+18.95	NGVD	+4.10	TITLE: MARINA DEWATERING DETAILS	IN: PROVINCETOWN AT: MACMILLAN WHARF COUNTY: BARNSTABLE STATE: MA
HTL	+11.60	MLW	0.0		
MHW	+9.3				
				PURPOSE: MARINA RECONSTRUCTION	APPLICATION BY: TOWN OF PROVINCETOWN
					SHEET 15 OF 15 DATE: 10/20/15



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
251 Causeway Street, Suite 800, Boston, MA 02114-2136
(617) 626-1200 FAX: (617) 626-1240

April 18, 2017

Town of Provincetown
C/o Russell Titmuss
3 Bent Street
Franklin, MA 02038

Re: CZM Federal Consistency Review of Town of Provincetown-MacMillan Pier-Marina Replacement Project; Provincetown.

Dear Mr. Titmuss:

The Massachusetts Office of Coastal Zone Management (CZM) has completed its review of the proposed project to reconstruct the commercial vessel marina to the north of MacMillan Pier and maintenance dredging of the Fairway between MacMillan Pier and Fisherman's Wharf.

Based upon our review of applicable information, we concur with your certification and find that the activity as proposed is consistent with the CZM enforceable program policies.

If the above-referenced project is modified in any manner, including any changes resulting from permit, license or certification revisions, including those ensuing from an appeal, or the project is noted to be having effects on coastal resources or uses that are different than originally proposed, it is incumbent upon the proponent to notify CZM, submit an explanation of the nature of the change pursuant to 15 CFR 930, and submit any modified state permits, licenses, or certifications. CZM will use this information to determine if further federal consistency review is required.

Thank you for your cooperation with CZM.

Sincerely,

Bruce K. Carlisle,
Director

CZM #15579

cc: Barbara Newman, Chief
Regulatory Branch, NED, US Army Corps of Engineers
Crystal Gardner, Project Manager,
Regulatory Branch, NED, US Army Corps of Engineers
Ben Lynch, Program Chief,
Waterways Regulation, Massachusetts DEP
Ken Chin, Environmental Engineer,
Wetlands Program, Massachusetts DEP
Steve McKenna,
CZM Cape Cod Regional Coordinator





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

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

December 1, 2016

Rex McKinsey
Town of Provincetown
260 Commercial Street
Provincetown, MA 02657

Re: **401 WATER QUALITY CERTIFICATION**
Application for BRP WW 26 - - MAJOR PROJECT DREDGING

At: Provincetown Harbor, PROVINCETOWN

401 WQC Transmittal No: X268724
Wetlands File No:
ACoE Application No:

Dear Mr. McKinsey:

The Department has reviewed your application (BRP WW 26) for a Water Quality Certification, referenced above. In accordance with the provisions of Section 401 of the Federal Clean Water Act as amended (33 U.S.C. §1251 *et seq.*), MGL c.21, §§ 26-53, 314 CMR 9.00 and MGL c.91, 310 CMR 9.00, the Department has determined there is reasonable assurance the project or activity will be conducted in a manner which will not violate applicable water quality standards (314 CMR 4.00) and other applicable requirements of state law.

The waters of Provincetown Harbor are designated in the Massachusetts Surface Water Quality Standards as Class SA. Such waters are intended "as excellent habitat for fish, other aquatic life and wildlife and for primary and secondary contact recreation." Anti-degradation provisions of these Standards require that "existing uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

Background: In October 2000, the Department issued Chapter 91 License No. 8621 to the Town of Provincetown to reconstruct the MacMillan Pier. The scope of the MacMillan Pier Reconstruction Project included dredging of the marina basin to the north of the pier to depths of 6 feet below Mean Low Water (MLW) with an allowance of one foot overdredge and Dredging of the fairway between MacMillan Pier and Fishermen's Wharf to depths of 10 feet below MLW with one foot overdredge. The license also authorized construction of a new marina on the

north which consisted of 9,900 ft² of floating docks, two gangways, 38 steel mooring piles and 600 feet of timber wave fence.

All the elements were constructed with the exception of the timber wave fence. An appeal was filed against the Chapter 91 license prior to construction. The primary concern raised was the installation of a potentially unsightly (at low water) fixed barrier and the potential odors impacting residents and pier users. The project was modified and the timber wave fence was eliminated.

After construction completion in early 2003, the marina was damaged by a storm in December 2003, and has deteriorated further despite numerous repairs conducted since 2003. The Inner Harbor is protected by a rubble mound breakwater which extends for over 2,000 feet to protect it from exposure to the open waters of Cape Cod Bay to the south east. However, the location and extent of the breakwater leaves the marina exposed to fetches of up to 1½ miles to the north east and to the south (see Figure 1).

The existing marina comprises two main concrete docks with finger floats providing a total of 39 slips. The North Dock comprises a 271 foot long main with seven 40 feet by 6 feet fingers. The South Dock comprises a 281 foot long main with fourteen 40 feet by 6 feet fingers. Dinghy docks are provided on the northern (shoreward) side of the North Dock. Each dock is accessed by a 40 feet long by 4 feet wide gangway directly from the MacMillan Pier.

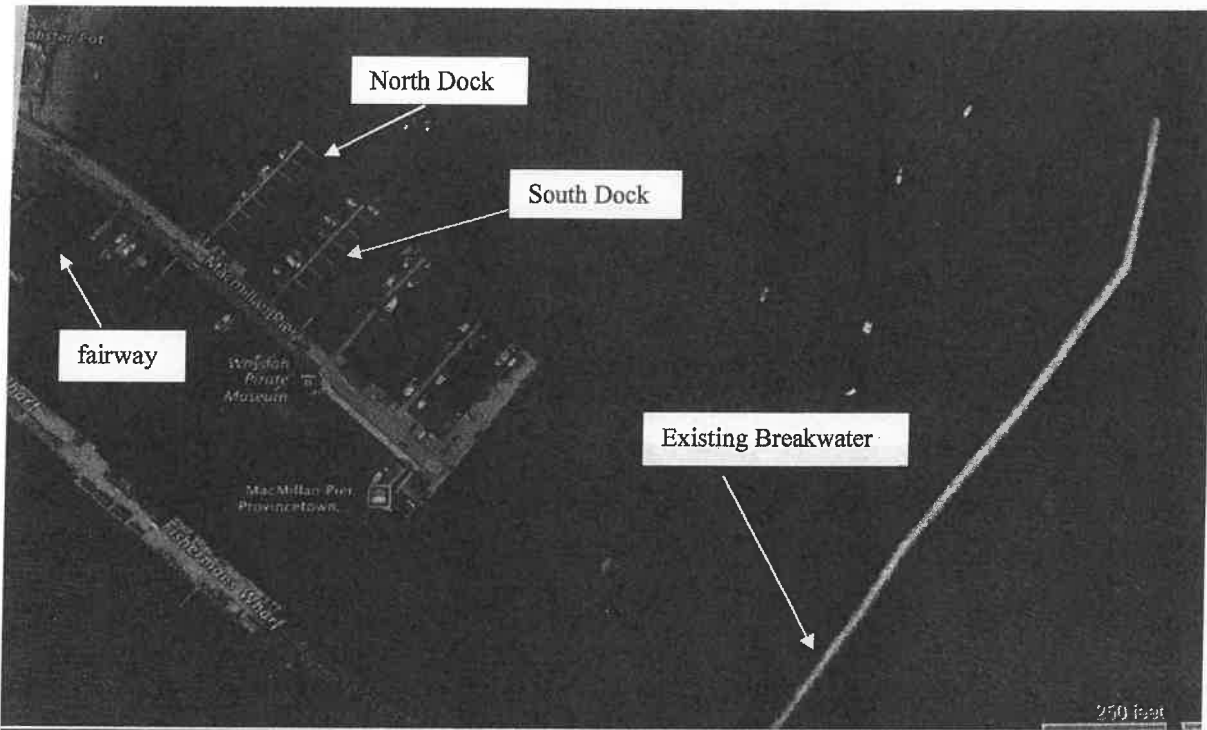
Proposed project: The proposed project scope entails conducting maintenance dredging at the marina basin and fairway as part of the scope for reconstructing the marina and to add floating wave attenuators.

Dredging of the Marina Basin has two components, maintenance dredging of 250 yd³ of sediment and improvement dredging to deepen the area below the proposed floating attenuators to ensure sufficient depth at all times to prevent grounding.

The minimum design depth of the floating attenuators is -8.5 feet MLW. The floating attenuators have a draft of 4 feet. The lowest predicted astronomical tide is -2.43 feet MLW and, in order to prevent grounding of the attenuators, the absolute minimum water depth should be -6.5 feet MLW under totally calm water conditions. Predicted wave heights are up to 2 feet for a 10 year storm condition and the minimum depth is based on the sum of vertical movement of the attenuator floats.

Figure 1

Existing Configuration of MacMillan Pier



The majority of the length of the attenuator will be in sufficient depth of water without any dredging. Of the total 800 feet length of the attenuator, 500 feet of the length is in currently existing water depths of 10 feet or more. Most of the area requiring deepening is within the previously dredged marina basin which only has an existing depth of -6 to -7 feet MLW.

Proposed dredging for the attenuators is to a minimum depth of -9 feet MLW with a 1 foot overdredge. The proposed footprint for this deepening will be for a width of 25 feet on each side of the attenuator to allow for potential sloughing of the side slope or shoaling due to sand migration.

The total area of dredging associated with deepening for the attenuators is 30,870 ft², of which 17,770 ft² is within the marina basin maintenance dredging footprint. The improvement dredge footprint is 13,100 ft².

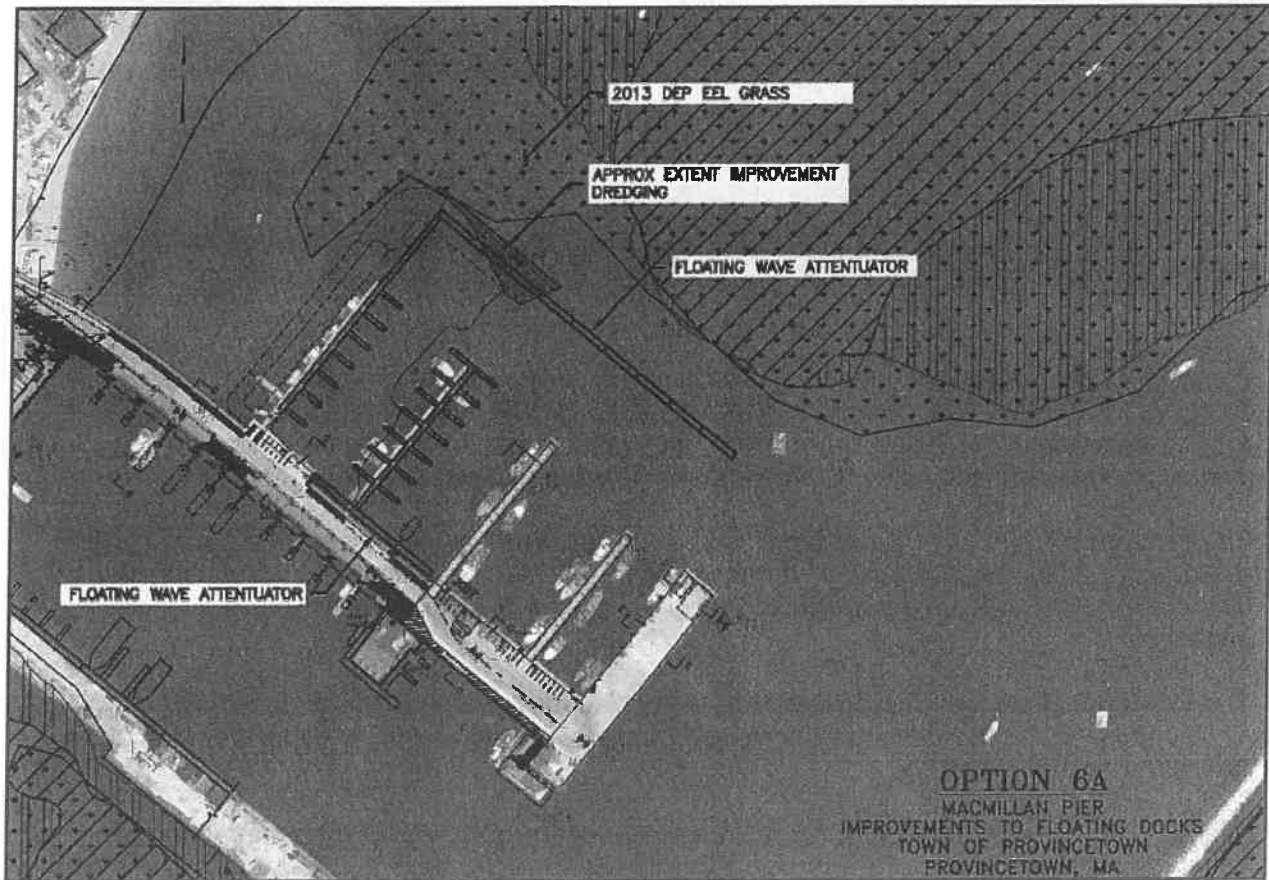
Dredging for the marina is anticipated to be performed using a hydraulic dredger which will directly pump the sand to the proposed beach nourishment location. The outflow from the hydraulic dredging will be confined within a sand berm to allow the material to dewater prior to spreading and shaping to the required grades. Spreading and shaping will be by conventional construction earthworks equipment operating on the beach. The dewatering area will be located above high tide elevation and all spreading and shaping of material will take place a low tide. No construction equipment will be stored on the beach.

Dredging of the fairway is proposed by use of conventional construction equipment such as an excavator affixed on a barge. Sediment will be removed and placed in a contained area on a barge. Some initial dewatering will take place through geotextiles on the barge and then the material will be placed within the upland dewatering area prior to offsite disposal at an approved location.

Dredge location	Type	Dredge Volume (yd ³)
Fairway	Maintenance	3,754
Marina	Maintenance	298
	Improvement	3,052
Total		7,104

Figure 2

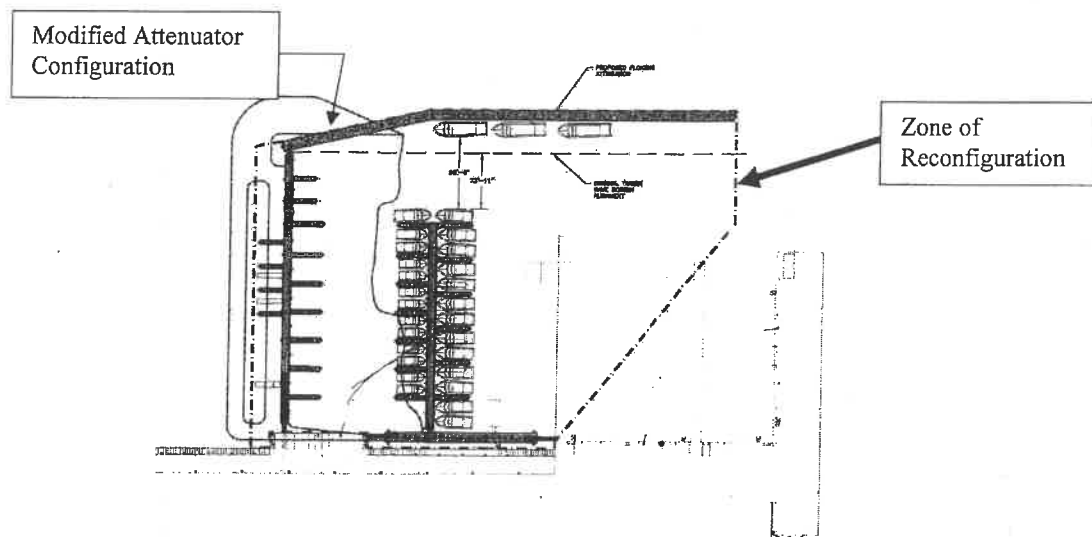
Proposed configuration of MacMillan Pier and 2013 DEP Mapped eelgrass



Mapped eelgrass is shown to be 160 feet to the north of the existing marina limits. An eel grass survey was performed in July 2014 and confirmed its presence. Eelgrass was typically found in depths shallower than -5' MLW, with most eelgrass found between approximately -1 and -5 MLW. No continuous eelgrass meadows were observed within the survey area, however

several patches of 50-79% coverage were observed 100-200 ft inshore (northwest) of the innermost floating dock. As a result of the eelgrass survey, the layout of the marina was modified to angle the north attenuator away from the eelgrass to avoid any direct impacts as shown on Figure 3.

Figure 3
Modified Marina Configuration



Dredged Material Dewatering: Dredging from the marina basin is to be done hydraulically and the sediment slurry will be pumped directly to the nourishment location above the mean high tide line where the slurry will be dewatered by gravity.

Dredging from the fairway will be done using mechanical equipment and transferred ashore at the bulkhead and placed within the dewatering area within the municipal parking lot adjacent to MacMillan Pier. Very little information was provided on the dewatering process in the application. The applicant or its contractor will be required to submit a dredged material dewatering plan to the Department for review and approval (see Special Condition No. 15).

Sediment sampling data: Twelve core samples were collected within the dredge footprint of marina basin and the fairway for gradation analysis. Results of the gradation analysis showed the sediment from the marina basin contains less than 10 percent of particles passing the No. 200 U.S. Standard Series Testing Sieve and the sediment from the fairway contains more than 10 percent of particles passing the No. 200 U.S. Standard Series Testing Sieve.

Chemical analysis was not conducted on samples with more than 10 percent of sediment particles passing the No. 200 U.S. Standard Series Testing Sieve. The applicant proposed to conduct additional sediment sampling and analysis to determine the appropriate facility and or location of the final placement.

The 401 application included chemical analytical data of a composite sediment sample collected from a stockpile in 2011. Chemical results confirmed the presence of metals and Polynuclear Aromatic Hydrocarbons (PAHs) in low concentrations below the Reportable Concentration (RC) S1 criteria of the Massachusetts Contingency Plan (MCP). Arsenic was reported as Non-Detected. However, the detection limit was 26 mg/kg, which is above the RC S-1 criteria of 20 mg/kg. As such, the arsenic concentrations in the sediment could exceed the RC S-1 criteria.

In accordance with 314 CMR 9.07(2)(a), no chemical testing is required if the sediment to be dredged contains less than ten percent of particles passing the No. 200 U.S. Standard Series Testing Sieve, and if the required "due diligence review" demonstrates to the Department's satisfaction that the area is unlikely to contain anthropogenic concentrations of oil or hazardous materials. As such, Condition no. 8 requires a due diligence review be conducted and its findings to be submitted to the Department to make a final determination about the arsenic concentration and reuse or disposal.

Beneficial Reuse of sediments: Dredged material from the marina basin will be beneficially reused as nourishment material on the beach close to Court Street. Dredged material from the fairway is not suitable for beach nourishment and will be stockpiled in the dewatering area. The applicant proposes to perform additional testing of the dredged material to confirm its suitability for unrestricted reuse. In the event that any of the material does not meet this standard, it will be disposed of at an approved licensed landfill (see Condition No. 12).

Rare Species and Rare Wildlife Habitat: The proposed marina basin dredge footprint may encroach into an area of Priority Habitats of Rare Species, Estimated Habitats of Rare Wildlife in accordance with the Massachusetts Natural Heritage Atlas, 13th Edition. The applicant will submit a filing with the Natural Heritage & Endanger Species Program (NHESP) for the Massachusetts Endangered Species Act (MESA) review.

Public Notice: The public notice of the 401 WQC application was published in the Provincetown Banner on February 4, 2016. The Department received comments during the 21-day public comment period under 314 CMR 9.05(3)(e), which ended on February 25, 2016. Written comments received by the Department were in support of the project.

Section 61 Findings: Pursuant to M.G.L. Chapter 30, Sections 61 to 62H (M.E.P.A.) this project was reviewed as EOE No. 15391 and the Secretary's Certificate, issued on August 7, 2015 found that an Environmental Impact Report (EIR) was not required.

Therefore, based on information currently in the record, the Department grants a 401 Water Quality Certification for this project subject to the following conditions to maintain water quality, to minimize impact on waters and wetlands, and to ensure compliance with appropriate state law. The Department further certifies in accordance with 314 CMR 9.00 that there is reasonable assurance the project or activity will be conducted in a manner which will not violate applicable water quality standards (314 CMR 4.00) and other applicable requirements of state law. Finally, the Department has determined that upon satisfying the conditions and mitigation requirements of this approval, the project provides a level of water quality necessary to protect existing uses and accordingly finds that the project to be implemented satisfies the Surface Water Quality Standards at 314 CMR 4.00

1. The Contractor shall take all steps necessary to assure that the proposed activities will be conducted in a manner that will avoid violations of the anti-degradation provisions of the Massachusetts Surface Water Quality Standards that protect all waters, including wetlands.
2. Prior to the start of work, or any other portion of the work thereafter, the Department shall be notified of any change(s) in the proposed project or plans that may affect waters or wetlands. The Department will determine whether the change(s) require a revision to this Certification.
3. Dredging in accordance with this Certification may begin following the 21-day appeal period and once all other Permits have been received.
4. Work in waters and wetlands shall conform to Part E – Proposed Scope of Project and Use Activity Description and plans/figures submitted in this application to the Department, six sheets prepared by Bourne Consulting Engineering (BSC), dated December 23, 2015, and are signed and stamped by Russell Titmuss. The Department shall be notified if there are modifications and or deletions of work as specified in the plans. Depending on the nature and the scope of any change, approval by the Department may be required.
5. The applicant and its contractor shall allow agents of the Department to enter the project sites to verify compliance with the conditions of this Certification.
6. The Department shall be notified, attention Ken Chin 617-292-5893, one week prior to the start of in-water work so that Department staff may inspect the work for compliance with the terms and conditions of this Certification.
7. The term of the 401 WQC dredging of the Certification remains in effect for the same duration as the federal permit that requires it or five years from the date of issuance of this Certification whichever comes first.
8. Within 21 days of issuance of the Certification, the applicant shall perform a due-diligence review in accordance with 314 CMR 9.07(2)(a) to determine that no known spills of oil or other toxic substances have occurred which could have contaminated the sediment in the proposed dredge area(s). The findings of the due-diligence review shall be submitted to the Department for review at least 60 days prior to commencement of the dredging activity.
9. Future maintenance dredging of the Marina Basin may be conducted as necessary for the duration of this Certification, provided that:
 - a. the initial project and any subsequent dredging has been conducted satisfactorily with no violations of the terms and conditions of this Certification or any violations which did occur have been resolved to the satisfaction of the Department;
 - b. information has been submitted to the Department regarding chemical characteristics and final end use/disposal of the unsuitable dredged material for beach nourishment for review and approval and no future maintenance dredging has commenced without obtaining end use/disposal approval from the Department;
 - c. **Documentation** showing the grain-size distribution of the sediment to be dredged is compatible with the grain-size distribution of the beach of close to Court Street and

- other approved receiving beach(es) in Provincetown in accordance with the document entitled Beach Nourishment, Mass DEP's Guide to Best Management Practices for Projects in Massachusetts, March 2007 and is submitted to the Department;
- d. coordinates of the maintenance dredge footprint are the same authorized under this Certification;
 - e. a current due-diligence evaluation is done to determine that no known spills of oil or other toxic substances have occurred which could have contaminated the sediment in the dredge area and submitted to the Department prior to maintenance dredging;
 - f. a bathymetric survey has been submitted to the Department in compliance with Special Condition no. 21;
 - g. volume of future maintenance dredging at Marina Basin does not exceed 3,350 yd³ and the Department is notified prior to commencement of maintenance dredging.
10. Future maintenance dredging of the fairways is not authorized under this Certification.
11. Best Management Practices (BMPs) such as a silt curtain shall be deployed surrounding the dredge area to minimize turbidity. At a minimum, the silt curtain shall be bottom-weighted to minimize the degree of lifting/flailing or billowing and shall be of suitable material/grade appropriate based on the velocity of the current at the site. Intermediate vertical floats or other means shall be placed on the silt curtain to lift the bottom of the silt curtain at low tide so that the bottom edges of the curtain remain close to the mudline at low tide but do not rake the sediment in areas subject to tidal influence. Dredging shall be carried out using a closed, environmental bucket if the sediment does not consist solely of densely compacted silt/clay.
12. The applicant shall submit a sampling and analysis plan of the dredged material from the fairway stockpiled in the upland dewatering area to confirm its suitability for beneficial reuse including unrestricted reuse to the Wetlands and Waterways Program in the Boston Office, attention: Ken Chin, for review and approval.
13. A pre-and post-dredge eelgrass survey shall be conducted. The eelgrass survey protocol shall be submitted electronically to the Wetlands and Waterway Division in the Boston Office, attn.: Ken Chin, and to the Division of Marine Fisheries (DMF) (DMF.EnvReview-South@state.ma.us) for review and approval prior to implementation at the MacMillan Pier site.
14. The approved pre-dredge eelgrass survey should be performed during the eelgrass growing season in May or September. Of these two potential survey months, whichever most closely precedes the planned dredge activity shall be selected. Post-dredge surveys shall follow the same protocol applied to the pre-dredge survey, and shall occur annually for five years post-dredge during the same month selected for the pre-dredge survey. Survey results shall be submitted to the Department and DMF for review. Any eelgrass loss documented through the survey will require mitigation according to a mitigation plan developed in coordination with DEP and DMF.
15. Prior to construction, all contractors will be made aware of eelgrass in the project vicinity and be instructed to avoid eelgrass at all times during construction activities. Any eelgrass beds within 500 feet of the construction footprint should be marked with buoys prior to construction to facilitate avoidance.

16. No later than 21 days prior to commencement of dredging activity, a dredged material dewatering plan shall be submitted to the Department for review and approval. At a minimum, the dewatering plan shall include but not be limited to the type of containment, method of dewatering (i.e. mechanical or by gravity), method of collecting the dewatered effluent and method of disposal.
17. A Beneficial Use Determination (BUD) will be required if the dredged material from the fairway is to be mixed with compost for reuse at an upland location.
18. The Department shall be notified in writing of the name and location of the upland licensed facility accepting the dredged material for disposal or reuse. If the licensed facility is located out of state, documentation shall be provided to the Department that the dredged material disposal/reuse has been approved and will be accepted by the receiving state in accordance with 314 CMR 9.07(13)(b). The dredged material shall not be transported to the facility without concurrence of the Department.
19. A Dredged Material Tracking Form (DMTF) or Material Shipping Record (MSR) shall be used to track the dredged material to the approved licensed upland facility. A fully executed copy of the DMTF or MSR shall be provided to the Department within 30 days of final shipment to the reused location or facility.
20. Best Management Practices (BMPs) shall be implemented during transportation of the dredged material to the licensed receiving facility. At a minimum, when transported upon public roadways, all dredged material shall have no free liquid as determined by the Paint Filter Test or other suitably analogous methodology acceptable to the Department, and a tarpaulin or other means shall be used to cover the dredged material during transport.
21. Disposal of any volume of dredged material at any location in tidal waters is subject to approval by this Department and the Massachusetts Coastal Zone Management (CZM) office.
22. Within 90 days of the completion of the initial dredging and any future maintenance dredging to be conducted authorized under this Certification, a bathymetric survey of the dredged area within Provincetown Harbor depicting post-dredge conditions shall be conducted. At a minimum, the survey shall include an overlay of the dredge footprint (i.e. top of slope) with sufficient coordinates in the Massachusetts State Plane (e.g. longitude and latitude) to clearly delineate the dredge footprint. The survey shall be submitted within five working days after its completion to the Department and a copy shall be sent to the Massachusetts CZM office, attention: Robert Boeri. This submittal shall also include a cross section or profile showing the water depths at mean low water within the dredge footprint.
23. The applicant shall comply with the condition(s) set forth by the Natural Heritage & Endanger Species Program.
24. In order to protect spawning, larval and juvenile development of winter flounder, no dredging shall occur between February 1st and June 30th.

25. The applicant, or its contractor, shall make every feasible effort to complete the project within the permitted timeframe. Should the applicant, or their contractor, fail to complete the project and wish to request an amendment to the Certification for incursion into the no-dredge period, the written request shall be received by the Department by January 2nd. The following information shall be included in the request:
- a. project location and transmittal number,
 - b. the date on which dredging started,
 - c. the number of days and hours per day the dredge operated,
 - d. expected daily average production rate and the actual daily average production rate,
 - e. an explanation of why the project failed to remain on schedule,
 - f. an account of efforts made to get the project back on schedule,
 - g. a plan depicting the areas that remain to be dredged,
 - h. the number of cubic yards that remain to be dredged,
 - i. an accurate estimate of the number of days required to complete the project,
 - j. an evaluation of the impact of continued dredging on the species of concern,
 - k. a description of any efforts that will be made to minimize the impacts of the project on the species of concern, and a realistic assessment of any societal/financial effects of a denial of permission to continue dredging.

The Department will share the information with other resource agencies and a decision to grant or deny the amendment shall be made by February 1st January 15th. Requests for amendment received after January 2nd will be considered at the Department's discretion.

26. No later than four weeks after issuance of the Certification, the applicant shall submit a notification procedure outlining the reporting process to the Department for incidents, relating to the dredging activities, impacting surrounding resource areas and habitats such as, but not limited to, observed dead or distressed fish, or other aquatic organisms, observed oily sheen on surface water, sediment spill, turbidity plume beyond the deployed BMP's, and barging or equipment accident/spill. If at any time during implementation of the project any incident environment impacts such as those listed above, all site related activities impacting the water shall cease until the source of the problem is identified and adequate mitigating measures employed to the satisfaction of the Department.

Failure to comply with this Certification is grounds for enforcement, including civil and criminal penalties, under MGL c.21 §42, 314 CMR 9.00, MGL c. 21A §16, 310 CMR 5.00, MGL c.91, 310 CMR 9.00 or other possible actions/penalties as authorized by the General Laws of the Commonwealth.

This Certification does not relieve the applicant of the obligation to comply with other applicable state or federal statutes or regulations. Any changes made to the project as described in the previously submitted Notice of Intent, Certification application, or supplemental documents will require further notification to the Department.

NOTICE OF APPEAL RIGHTS

Certain persons shall have a right to request an adjudicatory hearing concerning Certifications by the Department when an application is required:

- a. the applicant or property owner;
- b. any person aggrieved by the decision who has submitted written comments during the public comment period;
- c. any ten (10) persons of the Commonwealth pursuant to M.G.L. c.30A where a group member has submitted written comments during the public comment period; or
- d. any governmental body or private organization with a mandate to protect the environment, which has submitted written comments during the public comment period.

Any person aggrieved, any ten (10) persons of the Commonwealth, or a governmental body or private organization with a mandate to protect the environment may appeal without having submitted written comments during the public comment period only when the claim is based on new substantive issues arising from material changes to the scope or impact of the activity and not apparent at the time of public notice. To request an adjudicatory hearing pursuant to M.G.L. c.30A, § 10, a Notice of Claim must be made in writing, provided that the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee specified within 310 CMR 4.10 along with a DEP Fee Transmittal Form within twenty-one (21) days from the date of issuance of this Certificate.

Case Administrator
Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108.

A copy of the request shall at the same time be sent by certified mail or hand delivery to the issuing office of the Wetlands and Waterways Program at:

Department of Environmental Protection
One Winter Street, 5th Floor
Boston, MA 02108.

A Notice of Claim for Adjudicatory Hearing shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information pursuant to 314 CMR 9.10(3):

- a. the 401 Combined Permit Transmittal Number and DEP Wetlands Protection Act File Number;
- b. the complete name of the applicant and address of the project;
- c. the complete name, address, and fax and telephone numbers of the party filing the request, and, if represented by counsel or other representative, the name, fax and telephone numbers, and address of the attorney;
- d. if claiming to be a party aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found at 314 CMR 9.02;
- e. a clear and concise statement that an adjudicatory hearing is being requested;
- f. a clear and concise statement of (1) the facts which are grounds for the proceedings, (2) the objections to this Certificate, including specifically the manner in which it is alleged to be inconsistent with the Department's Water Quality Regulations, 314 CMR 9.00, and (3)

- the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written Certification; and
- g. a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant, the owner (if different from the applicant), the conservation commission of the city or town where the activity will occur, the Department of Environmental Management (when the certificate concerns projects in Areas of Critical Environmental Concern), the public or private water supplier where the project is located (when the certificate concerns projects in Outstanding Resource Waters), and any other entity with responsibility for the resource where the project is located.

The hearing request along with a DEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 4062
Boston, MA 02211

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

Failure to comply with this Certification is grounds for enforcement, including civil and criminal penalties, under MGL c.21 §42, 314 CMR 9.00, MGL c. 21A §16, 310 CMR 5.00, or other possible actions/penalties as authorized by the General Laws of the Commonwealth.

If you have questions about this decision, please contact Ken Chin at 617-292-5893.

Sincerely,



Lealdon Langley
Director
Wetlands and Waterways Program

enclosure: Departmental Action Fee Transmittal Form
Material Shipment Record (MSR)

ecc:

Barbara Newman, Regulatory/Enforcement Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751

Robert Boeri, CZM, 251 Causeway Street, Suite 800, Boston, MA 02114

John Logan, DMF, 1213 Purchase St., 3rd floor, New Bedford, MA 02740-6694

David Hill, Jim Mahala, DEP SERO

Russell Titmus, Bourn Consulting Engineering,

cc: Provincetown Conservation Commission, 260 Commercial Street, Provincetown, MA 02657



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)):

ឯកសារនេះគឺមានសារៈសំខាន់និងគួរត្រូវបានបកប្រែភ្លាម។ ប្រសិនបើអ្នកត្រូវបានបកប្រែឯកសារនេះសូមទំនាក់ទំនងឆ្នោតជាមួយក MassDEP នៅលេខទូរស័ព្ទដែលបានរាយខាងក្រោម។



**US Army Corps
of Engineers®**
New England District

WORK-START NOTIFICATION FORM
(Minimum Notice: Two weeks before work begins)

 * EMAIL TO: cenae-r@usace.army.mil; or *
 * * * * *
 * MAIL TO: (ENTER PM NAME) *
 * U.S. Army Corps of Engineers, New England District *
 * Permits and Enforcement Branch *
 * Regulatory Division *
 * 696 Virginia Road *
 * Concord, Massachusetts 01742-2751 *

Corps of Engineers Permit No. NAE-199802651 was issued to the Town of Provincetown. This work authorized the construction and maintenance of one 14' x 600' dock that will serve also as a wave attenuator on the North Dock, one 14' x 20' foot dock that will also serve as a wave attenuator on the South Dock, three 5' x 30' finger floats and four 5' x 30' floats and a 12' x 42 float, a 3' x 8' gangway leading to a 14' x 40' float and the dredging and maintenance of 3754 cubic yards of material from a 39,605 square foot area in the fairway to a depth of -6 feet below mean low water (MLW) and to dredge 3,350 cubic yards of material from a 30,870 square foot area in the marina basin to a depth of -9 feet below MLW. This work is located of MacMillan Wharf in Provincetown, Massachusetts.

The people (e.g., contractor) listed below will do the work, and they understand the permit's conditions and limitations.

PLEASE PRINT OR TYPE

Name of Person/Firm: Town of Provincetown

Business Address: _____

Telephone Numbers: () _____ () _____

Proposed Work Dates: Start: _____ Finish: _____

Permittee/Agent Signature: David B. Panagore Date: _____

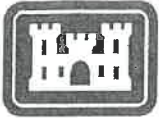
Printed Name: David B. Panagore Title: _____

Date Permit Issued: _____ Date Permit Expires: _____

FOR USE BY THE CORPS OF ENGINEERS

PM: Gardner Submittals Required: _____

Inspection Recommendation: _____



**US Army Corps
of Engineers** ®
New England District

(Minimum Notice: Permittee must sign and return notification
within one month of the completion of work.)

COMPLIANCE CERTIFICATION FORM

Permit Number: NAE-1998-02651

Project Manager Gardner

Name of Permittee: Town of Provincetown

Permit Issuance Date: July 2017

Please sign this certification and return it to the following address upon completion of the activity and any mitigation required by the permit. You must submit this after the mitigation is complete, but not the mitigation monitoring, which requires separate submittals.

 * MAIL TO: U.S. Army Corps of Engineers, New England District *
 * Policy Analysis/Technical Support Branch *
 * Regulatory Division *
 * 696 Virginia Road *
 * Concord, Massachusetts 01742-2751 *

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit was completed in accordance with the terms and conditions of the above referenced permit, and any required mitigation was completed in accordance with the permit conditions.

David B. Panagore

Signature of Permittee

Date

David B. Panagore

Printed Name

Date of Work Completion

(508) 487-7002

Telephone Number

()

Telephone Number

Marshall, Carrie

From: Marshall, Carrie
Sent: Friday, August 9, 2024 10:04 AM
To: david.s.robinson@mass.gov; Bettina Washington; 106review@mwtribe-nsn.gov; tashtesook
Cc: Bryan, Mack; David.weeden@mwtribe-nsn.gov
Subject: USACE SVN Application for MacMillan Pier Rehabilitation, Provincetown, MA
Attachments: MacMillan Pier Appendices.pdf; MacMillan Pier Rehabilitation - SVN Plans.pdf; MacMillan Pier_SVN Form.pdf

Good Morning,

Please see the attached Self Verification Notification for your review for the proposed MacMillan Pier Rehabilitation project located in Provincetown Harbor in Provincetown, Massachusetts.

The proposed project consists of the replacement of 53 12-inch diameter timber fender piles within their existing footprint, the replacement of 430 linear feet of fendering wales and chocks, the installation of three (3) new emergency access ladders, and the installation of a new crane to improve offloading efficiency.

The proposed project is necessary to maintain the structural integrity of MacMillan Pier. The MacMillan pier is an active waterfront area, including both public and commercial interests. The Pier has direct access to the Provincetown Harbormaster's Office, commercial fishing, ferry terminal, charter tour boats, artist trap sheds, public fishing area, and recreational boating slips. MacMillan Pier is vital to Provincetown's social and economic sustainability.

Please send responses to this notification directly to the USACE via email: cenae-rma@usace.army.mil or address regular mail responses to: Regulatory Division, U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, Massachusetts 01742-2751.

Please let me know if you have any questions or require any additional information.

Thank you,
Carrie Marshall
Civil Engineer, EIT



Foth Infrastructure & Environment, LLC

114 Touro St.
Newport, RI 02840
Cell: (239) 247-3997
foth.com

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

Dorchester, MA 02125

OFFICIAL USE

Certified Mail Fee	\$4.85
Extra Services & Fees (check box, add fee as appropriate)	\$6.10
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$4.31

Total Postage and Fees \$13.26



08/09/2024

Sent To
Mass. Historic Commission - SHPO
Street and Apt. No., or PO Box No.
220 Morrissey Blvd.
City, State, ZIP+4®
Boston, MA 02125

7022 3330 0000 5155 5948

Drawings

MACMILLAN PIER SAFETY UPGRADES & PIER REPAIRS TOWN OF PROVINCETOWN

MACMILLAN PIER, PROVINCETOWN, MA 02657
FEBRUARY 2026

Prepared for:
Town of Provincetown

Prepared by:
Foth Infrastructure & Environment, LLC



DRAWING INDEX

SHEET NUMBER	TITLE
G-001	COVER SHEET
G-002	NOTES
G-101	LOCATION KEY PLAN
C-101	PIER SITE PLAN
C-102	COURTESY FLOAT REPOSITIONING SITE PLAN
C-301	SECTIONS, DETAILS & PROFILES 1 OF 4
C-302	SECTIONS, DETAILS & PROFILES 2 OF 4
C-303	SECTIONS, DETAILS & PROFILES 3 OF 4
C-304	SECTIONS, DETAILS & PROFILES 4 OF 4



VICINITY MAP



LOCATION MAP

SHEET TITLE	COVER SHEET
SHEET NUMBER	G-001

DESIGN CRITERIA:

- THE COMPLETED STRUCTURES HAVE BEEN DESIGNED IN ACCORDANCE WITH THE BUILDING CODE OF THE COMMONWEALTH OF MASSACHUSETTS, AS APPLICABLE.
- TIDAL DATUM INFORMATION IS TAKEN FROM V-DATUM SOFTWARE, LAT 42.051166, LONG -70.182654, PROVINCETOWN HARBOR, MA, DATED 10/31/2023, PUBLISHED BY THE U.S. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA).

TIDAL STAGE	MLLW DATUM	NAVD88 DATUM
HTL	11.77	6.31
MHHW	10.08	4.62
MHW	9.62	4.16
NAVD88	5.46	0.00
MLW	0.33	-5.13
MLLW	0.00	-5.46

- TIDAL DATA IS PER NOAA AVERAGES BASED ON THE 1983-2001 TIDAL EPOCH AND NOT GUARANTEED TO REPRESENT CONDITIONS WHICH MAY OCCUR DURING CONSTRUCTION. ACTUAL WATER LEVELS WILL VARY FROM LEVELS INDICATED. THE CONTRACTOR IS RESPONSIBLE FOR MAKING HIS OWN ESTIMATES OF WATER LEVELS WHICH MAY OCCUR DURING CONSTRUCTION.
- THE FOLLOWING REFERENCE DOCUMENT WAS USED IN CONJUNCTION WITH THE SITE INFORMATION:

MACMILLAN PIER INSPECTION AND ASSESSMENT, DATED AUGUST 31, 2023, BY FOTH INFRASTRUCTURE & ENVIRONMENT, LLC.
- THE STRUCTURES HAVE BEEN DESIGNED TO BE SELF-SUPPORTING AND STABLE AFTER CONSTRUCTION IS COMPLETE. THE STABILITY OF THE STRUCTURES PRIOR TO COMPLETION IS SOLELY THE RESPONSIBILITY OF THE CONTRACTOR. THIS RESPONSIBILITY EXTENDS TO RELATED ASPECTS OF THE CONSTRUCTION ACTIVITY INCLUDING, BUT NOT LIMITED TO, ERECTION METHODS, ERECTION SEQUENCE, CONNECTIONS, TEMPORARY BRACING, FORMS, SHORING, USE OF EQUIPMENT, AND SIMILAR CONSTRUCTION PROCEDURES. REVIEW OF CONSTRUCTION BY THE OWNER AND ENGINEER OF RECORD IS FOR GENERAL CONFORMANCE WITH THE CONTRACT DOCUMENTS ONLY. LACK OF COMMENT BY THE OWNER AND ENGINEER OF RECORD WITH REGARD TO CONSTRUCTION PROCEDURES SHALL NOT BE INTERPRETED AS APPROVAL OR ACCEPTANCE OF SUCH PROCEDURES.

BATHYMETRIC SURVEY NOTES:

- PROJECT NAME: MACMILLAN PIER EXITING CONDITIONS
- PROJECT NUMBER: 0023P167
- SURVEY DATE: JULY 12, 2023
- SURVEYOR: M.CAMPAGNONE, J. HILL, M. HARBAUGH
- VESSEL: OLAF, 200KHZ, ODOM CVM
- TRANS./FATH.: RTK KEYNET CORRECTIONS
- WEATHER COND: SUNNY, 85 DEGREES, LIGHT, CALM
- PROJECT DATUM: MLLW AS NOTED IN DATUM CONVERSION CHART
- COOR. SYSTEM: NAD-83, MASSACHUSETTS MAINLAND
- DATA REDUCTION: DATA SORTED 20' MINIMUM
- BENCHMARK: NOAA TIDAL BM 6121C DISK IN TOP OF SEAWALL AT MACMILLAN PIER

SITE PLAN NOTES:

- ELEVATIONS ARE REFERENCED TO MEAN LOWER LOW WATER (MLLW) VERTICAL DATUM AND COORDINATES ARE BASED ON NAD 83 STATE PLANE MASSACHUSETTS MAINLAND COORDINATE GRID.
- ORTHO-IMAGERY AND SCALED DATA IS APPROXIMATE UNLESS OTHERWISE NOTED AND SHOULD BE USED AS A GENERAL REFERENCE ONLY.
- THE INFORMATION DEPICTED ON THIS PLAN REPRESENTS THE RESULTS OF SURVEYS MADE ON THE DATES SHOWN, AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITIONS AT THAT TIME. INTERPOLATED INFORMATION FROM BETWEEN SOUNDING RUNS IS NOT GUARANTEED. SHOALS, OBSTRUCTIONS OR OTHER DIFFERING CONDITIONS MAY EX. BETWEEN THESE RUNS. CONSULT WITH FOTH FOR MORE DETAILED INFORMATION.
- POSSESSION AND USE OF THE MATERIAL CONTAINED ON THESE DRAWINGS IS GRANTED ONLY IN CONNECTION WITH ITS USE AS IT RELATES TO THE TITLED PROJECT, ANY OTHER USE, REPRODUCTION OR DISCLOSURE OF THE INFORMATION CONTAINED HEREON IS EXPRESSLY PROHIBITED WITHOUT THE WRITTEN CONSENT OF FOTH.

GENERAL CONDITIONS:

- NO GUARANTEE TO THE ACCURACY OF THE REFERENCE DOCUMENTS IS PROVIDED HEREIN AND THE CONTRACTOR SHALL RELY ON HIS OWN FIELD VERIFICATION FOR ITEMS SO REQUIRED.
- SECTIONS, DETAILS, NOTES, DIMENSIONS AND CONDITIONS ARE APPLICABLE AT ANY OTHER LOCATION WHERE CONDITIONS AND DETAIL ARE SIMILAR BUT ARE NOT SPECIFICALLY NOTED AS SUCH OR ARE NOT SHOWN.
- THE CONTRACTOR SHALL PERFORM THE WORK IN A MANNER THAT DOES NOT IMPEDE THE OWNER'S OPERATIONS ON SITE OR THE OWNER'S ON SITE OPERATING EQUIPMENT.
- THE CONTRACTOR PRIOR TO CONSTRUCTION AND FABRICATION OF CONSTRUCTION MATERIALS SHALL VERIFY EX.ING CONDITIONS AND DIMENSIONS.
- IF, DURING THE PERFORMANCE OF THE WORK, THE CONTRACTOR FINDS A CONFLICT, ERROR, OR DISCREPANCY IN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL SO REPORT TO THE ENGINEER OF RECORD IN WRITING AT ONCE. BEFORE PROCEEDING WITH THE WORK AFFECTED THEREBY, THE CONTRACTOR SHALL OBTAIN A WRITTEN INTERPRETATION OR CLARIFICATION FROM THE ENGINEER OF RECORD. WORK DONE BEFORE THE ENGINEER OF RECORD RENDERS HIS DECISION IS AT THE CONTRACTOR'S SOLE RISK.
- THE WORK SHALL BE PERFORMED IN A GENERAL SEQUENCE DEVELOPED BY THE CONTRACTOR AND SUBMITTED TO THE ENGINEER OF RECORD FOR REVIEW, IN ACCORDANCE WITH THE REQUIREMENTS OF THE CONTRACT. THE CONTRACTOR IS

SOLELY RESPONSIBLE FOR THE MEANS AND METHODS OF CONSTRUCTION AND FOR THE SEQUENCES AND PROCEDURES TO BE USED.

- THE CONTRACTOR SHALL FURNISH AND COORDINATE PLANT, LABOR, SUPERVISION, MATERIALS, EQUIPMENT AND APPLIANCES FOR DEMOLITION AND/OR CONSTRUCTION WORK IN CONNECTION WITH THE DEMOLITION AND/OR CONSTRUCTION OF THE MARINE FACILITIES.
- THE OWNER HAS SECURED CERTAIN PERMITS REQUIRED BY FEDERAL, AND STATE AUTHORITIES FOR THE PROPOSED ACTIVITIES. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO PERFORM THE WORK IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE PERMITS. THE CONTRACTOR SHALL POST COPIES OF THE PERMITS AT THE SITE THROUGHOUT THE COURSE OF THE WORK. THE CONTRACTOR IS RESPONSIBLE TO OBTAIN PERMITS ASSOCIATED WITH THE LEGAL DISPOSAL OF CONSTRUCTION DEBRIS. THE CONTRACTOR SHALL SECURE REQUIRED LOCAL AUTHORIZATIONS AND PERMITS.
- SPECIAL INSPECTION REQUIREMENTS PER LOCAL AND/OR STATE BUILDING CODES SHALL BE FULFILLED AND SHALL BE COORDINATED BY THE OWNER. THE CONTRACTOR SHALL INFORM THE OWNER OF THE PROGRESS OF WORK AND PROVIDE ADEQUATE NOTICE AS TO WHEN SPECIAL INSPECTIONS ARE TO OCCUR SUCH AS TO NOT DELAY THE SCHEDULE.
- THE CONTRACTOR SHALL FURNISH MATERIALS FOR INSTALLATION IN THE COMPLETED WORK AS SPECIFIED HEREINAFTER. THE CONTRACTOR SHALL HANDLE THESE MATERIALS AS THEY ARE DELIVERED TO THE SITE OR OFF-SITE WORK AREAS, AND SHALL STORE THEM IN A DESIGNATED STORAGE AREA.
- THE CONTRACTOR WILL INDEMNIFY AND SAVE HARMLESS THE OWNER AND ENGINEER OF RECORD FROM AND AGAINST ALL LOSSES AND ALL CLAIMS, DEMANDS, PAYMENTS, SUITS, ACTIONS, RECOVERIES, AND JUDGMENTS OF EVERY NATURE AND DESCRIPTION BROUGHT OR RECOVERED AGAINST THE OWNER AND ENGINEER OF RECORD BY REASON OF ANY ACT OR OMISSION OF THE CONTRACTOR, OR OF ANY SUBCONTRACTOR TO THE CONTRACTOR, OR OF ANY PERSON DIRECTLY OR INDIRECTLY EMPLOYED BY THE CONTRACTOR OR ANY SUCH SUBCONTRACTOR, IN THE PERFORMANCE OF ANY WORK FOR, OR THE RENDERING OF ANY SERVICES TO, THE OWNER.
- THE CONTRACTOR AGREES THAT, AT ITS OWN COST AND EXPENSE, IT SHALL PROCURE AND CONTINUE IN FORCE; INSURANCE COVERAGE AS REQUIRED BY THE OWNER. SUCH INSURANCE SHALL BE WRITTEN BY A COMPANY OR COMPANIES AUTHORIZED TO ENGAGE IN THE BUSINESS OF GENERAL LIABILITY INSURANCE IN THE STATE IN WHICH THE DEMISED PREMISES ARE LOCATED, AND THERE SHALL BE DELIVERED TO THE OWNER WITH THE BID CUSTOMARY CERTIFICATES EVIDENCING SUCH PAID-UP INSURANCE, WHICH CERTIFICATES ARE TO BE ISSUED BY THE INSURANCE COMPANIES. GOOD AND RESPONSIBLE COMPANIES, REASONABLY ACCEPTABLE TO THE OWNER, SHALL WRITE SUCH INSURANCE.
- THE OWNER, ENGINEER AND ITS SUB CONSULTANTS SHALL BE ADDED TO THE CONTRACTOR'S GENERAL LIABILITY INSURANCE POLICY AS ADDITIONAL INSURED ON PRIMARY AND NON-CONTRIBUTORY BASIS. SUBMIT CERTIFICATES OF INSURANCE TO THE ENGINEER AS EVIDENCE OF THIS COVERAGE, PRIOR TO THE START OF WORK.
- THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE ACCURACY OF LOCATIONS, DIMENSIONS, AND LEVELS AND NO PLEA AS TO INSTRUCTIONS OR ORDER RECEIVED FROM OTHER SOURCES OTHER THAN INFORMATION CONTAINED ON CONTRACT DRAWINGS, SPECIFICATIONS OR IN WRITTEN ORDERS OF THE OWNER OR ENGINEER OF RECORD SHALL JUSTIFY DEPARTURE FROM THE DIMENSIONS AND ELEVATIONS REQUIRED BY THE CONTRACT DRAWINGS.
- THE CONTRACTOR SHALL TAKE HIS OWN MEASUREMENTS AT THE SITE, VERIFYING THE SAME WITH THE CONTRACT DRAWINGS AND EX.ING FACILITIES, AND WILL BE HELD RESPONSIBLE FOR THE PROPER FIT AND ALIGNMENT OF COMPLETED WORK IN POSITION.
- THE CONTRACTOR SHALL GUARANTEE TO THE OWNER MATERIALS AND WORKMANSHIP AGAINST ORIGINAL DEFECTS, OR AGAINST INJURY FROM PROPER AND USUAL WEAR WHEN USED FOR THE PURPOSE INTENDED, FOR TWELVE (12) MONTHS AFTER DATE OF FINAL PAYMENT CERTIFICATIONS, AND SHALL MAINTAIN ITEMS IN PERFECT CONDITION DURING THE PERIOD OF GUARANTEE. DEFECTS APPEARING DURING THE PERIOD OF GUARANTEE SHALL BE MADE GOOD BY THE CONTRACTOR AT HIS EXPENSE UPON DEMAND OF THE OWNER, IT BEING REQUIRED THAT WORK SHALL BE IN PERFECT CONDITION WHEN THE PERIOD OF GUARANTEE SHALL HAVE ELAPSED. IN THE EVENT OF DEFAULT BY THE CONTRACTOR, THE OWNER SHALL HAVE THE RIGHT TO MAKE GOOD DEFECTS AND BILL THE CONTRACTOR COST PLUS 15% FOR ADMINISTRATION FEES.
- AT THE CONTRACTOR'S EXPENSE, THE CONTRACTOR'S WORKING AREAS SHALL BE CLEANED BY HIM ON A DAY-TO-DAY BASIS, WITH RUBBISH REMOVED FROM THE SITE AND WORK AREAS CLEANED AT THE END OF EACH DAY. AT FINAL COMPLETION OF WORK THE CONTRACTOR SHALL LEAVE THE ENTIRE PREMISES, WITHIN THE SITE OF HIS OPERATIONS, CLEAN AND FREE FROM THE RUBBISH RESULTING FROM HIS CONSTRUCTION OPERATIONS.
- THE CONTRACTOR IS RESPONSIBLE TO PROVIDE AND MAINTAIN UTILITIES AS DEEMED NECESSARY TO AFFECT THE WORK.
- THE CONTRACTOR SHALL PROVIDE FIELD ENGINEERING SERVICES REQUIRED FOR PROPER COMPLETION OF THE WORK INCLUDING, BUT NOT NECESSARILY LIMITED TO: ESTABLISHING AND MAINTAINING LINES AND LEVELS; STRUCTURAL DESIGN OF SHORES, FORMS, AND SIMILAR ITEMS PROVIDED BY THE CONTRACTOR AS PART OF HIS MEANS AND METHODS OF CONSTRUCTION.
- THE CONTRACTOR SHALL PROVIDE AND MAINTAIN AT HIS EXPENSE REQUIRED FIRE PROTECTION SYSTEMS AND DEVICES AS NECESSARY TO SAFELY PERFORM THE WORK IN ACCORD WITH THE APPLICABLE REGULATIONS. IT SHALL BE OPERATIONAL THROUGHOUT THE PERIOD OF CONSTRUCTION.
- THE OWNER SHALL HAVE THE RIGHT TO WITHHOLD WITHOUT PENALTY PAYMENT DESCRIBED ABOVE, OR SECTIONS REFERENCED HEREIN, FOR COMPLETED WORK SHOULD THE CONTRACTOR FAIL TO MEET OBLIGATIONS OR REQUIREMENTS OF THE CONTRACT. WITHHELD PAYMENT SHALL BE PROMPTLY MADE UPON THE CONTRACTOR'S FULL COMPLIANCE WITH THE CONTRACT.
- COMPLY WITH LOCAL, STATE, AND FEDERAL REQUIREMENTS FOR PROTECTION OF THE ENVIRONMENT DURING THE WORK. ENSURE THAT PERSONNEL ARE PROPERLY TRAINED AND THAT SUFFICIENT EQUIPMENT AND MATERIALS ARE READILY AVAILABLE FOR USE IF REQUIRED. ABIDE BY STATE AND FEDERAL SPILL REPORTING REQUIREMENTS.
- THE OWNER RESERVES THE RIGHT TO CHARGE THE CONTRACTOR FOR ADDITIONAL

ENGINEERING SERVICES IF REQUIRED DUE TO THE CONTRACTOR'S ACTIONS OR INACTIONS.

- THE CONTRACTOR IS SOLELY RESPONSIBLE FOR THE SAFETY OF HIS OPERATIONS. THE CONTRACTOR SHALL TAKE REASONABLE PRECAUTIONS FOR THE SAFETY OF, AND SHALL PROVIDE REASONABLE PROTECTION TO PREVENT DAMAGE, INJURY, OR LOSS TO PERSONS EMPLOYED BY THE CONTRACTOR IN PERFORMANCE OF THE WORK, AND PERSONS NEARBY THAT MAY BE AFFECTED BY THE CONTRACTOR'S OPERATIONS OR THE WORK, INCLUDING EQUIPMENT AND MATERIALS WHICH WILL BE INCORPORATED IN THE WORK, AND OTHER PROPERTIES AND STRUCTURES AT THE SITE, OR ON ADJACENT PROPERTIES.
- OBSTRUCTIONS ARE DEFINED AS UNFORESEEN OBJECTS, WHICH IMPEDE PROGRESS. OBJECTS, WHICH ARE MADE KNOWN TO THE CONTRACTOR, WILL NOT BE CONSIDERED TO BE OBSTRUCTIONS. NOTIFY THE ENGINEER OF RECORD IMMEDIATELY UPON ENCOUNTERING OBSTRUCTIONS. NO CONSIDERATION WILL BE GIVEN FOR ADDITIONAL COMPENSATION ON THIS ACCOUNT WITHOUT THIS TIMELY NOTIFICATION.
- SUBSTITUTIONS MAY BE FURNISHED FOR MATERIALS SPECIFIED HEREIN PROVIDED THE CONTRACTOR SECURES ACCEPTANCE FROM THE ENGINEER OF RECORD.

SELECTIVE DEMOLITION & DISPOSAL:

- SELECTIVE DEMOLITION AND DISPOSAL SHALL BE PERFORMED IN ACCORDANCE WITH FEDERAL, STATE, AND LOCAL PERMIT AND BUILDING CODE REQUIREMENTS.
- THE CONTRACTOR SHALL REMOVE AND DISPOSE OF THOSE STRUCTURES AND DERELICT COMPONENTS AS INDICATED ON THE DRAWINGS.
- SELECTIVE DEMOLITION INCLUDES BUT IS NOT LIMITED TO REMOVAL AND REUSE (WHERE POSSIBLE) OF EX.ING MATERIALS, UTILITIES, AND OTHER COMPONENTS ESSENTIAL FOR A COMPLETE PROJECT.
- THE CONTRACTOR SHALL TAKE REASONABLE CARE IN REMOVING ELEMENTS SELECTED TO BE DEMOLISHED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. DAMAGE OR DESTRUCTION BY THE CONTRACTOR TO EX.ING ELEMENTS DESIGNATED TO REMAIN SHALL BE REPAIRED OR REPLACED IN-KIND AT THE DISCRETION OF THE OWNER AT NO ADDITIONAL COST.
- ITEMS TO BE REMOVED AND REUSED SHALL BE PLACED IN A STAGING AREA ACCESSIBLE FOR INSPECTION BY THE OWNER AND/OR ENGINEER.
- PRIOR TO COMMENCEMENT OF SELECTIVE DEMOLITION, THE CONTRACTOR SHALL SUBMIT A DISPOSAL PLAN FOR ITEMS TO BE DEMOLISHED. DEMOLITION MATERIAL DESIGNATED BY THE OWNER TO BE REMOVED FROM THE SITE SHALL BECOME THE PROPERTY OF THE CONTRACTOR. THE DEBRIS DISPOSAL PLAN SHALL ACKNOWLEDGE THIS OWNERSHIP AND SHALL IDENTIFY THE MEANS AND METHODS AND FINAL DISPOSITION FOR DISPOSAL MATERIALS.
- PRIOR TO COMMENCEMENT OF DEMOLITION, THE CONTRACTOR SHALL CLEARLY MARK THE LIMITS OF THE DEMOLITION FOR REVIEW AND APPROVAL BY THE OWNER AND ENGINEER.
- COMPLETELY REMOVE ITEMS DESIGNATED LEAVING SURFACES CLEAN, SOUND, AND READY TO RECEIVE MATERIALS AS SPECIFIED IN THE CONTRACT DOCUMENTS.
- THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE STABILITY OF THE STRUCTURE DURING THE COURSE OF DEMOLITION.
- THE CONTRACTOR SHALL SUBMIT A DISPOSAL CERTIFICATE TO THE OWNER'S REPRESENTATIVE CERTIFYING LEGAL AND PROPER DISPOSAL.

TEMPORARY WORK:

- LABOR, EQUIPMENT, AND MATERIALS REQUIRED TO PERFORM THE WORK THAT, UPON COMPLETION, ARE NOT A PART OF THE WORK, SHALL BE FURNISHED, INSTALLED, AND SUBSEQUENTLY REMOVED FROM THE SITE BY THE CONTRACTOR.
- TEMPORARY WORK SHALL BE SUBJECT TO THE REQUIREMENTS OF THE STATE AND APPLICABLE LOCAL BUILDING CODES.
- DURING EXECUTION OF THE WORK, THE CONTRACTOR IS REQUIRED TO INSTALL AND MAINTAIN REQUIRED SEDIMENTATION AND EROSION CONTROL MEASURES TO PROTECT ADJACENT WATERWAYS, STREETS, AND PROPERTIES. MEASURES WHICH MAY INCLUDE BUT NOT BE LIMITED TO TEMPORARY BERMS, HAY BALES, SILT FENCES, CONTAINMENT BOOMS, AND TURBIDITY CURTAINS. THE CONTRACTOR SHALL FURNISH, INSTALL, MAINTAIN TEMPORARY CONTROLS DURING CONSTRUCTION. TEMPORARY MATERIALS AND EQUIPMENT SHALL CONFORM TO REQUIREMENTS FOR TEMPORARY WORK.
- LOAD RATING FOR EQUIPMENT AND/OR VEHICLES SHALL NOT EXCEED PIER LOAD LIMIT OF HS20.

STRUCTURAL STEEL:

- STRUCTURAL STEEL SHALL COMPLY WITH THE "STEEL CONSTRUCTION MANUAL", FIFTEENTH EDITION, PUBLISHED BY THE AMERICAN INSTITUTE OF STEEL CONSTRUCTION.
- WELDING SHALL CONFORM TO THE "STRUCTURAL WELDING CODE - STEEL", AS ADOPTED BY THE AMERICAN WELDING SOCIETY (AWS D1.1). A WELDER CERTIFIED IN ACCORDANCE WITH AWS STANDARDS SHALL PERFORM WELDING.
- WELDING ELECTRODES SHALL BE E70XX AND COMPLY WITH AWS A5.1 AND AWS A5.5.
- STRUCTURAL STEEL SHAPES SHALL CONFORM TO ASTM A 572, GRADE 50. STEEL TUBES SHALL CONFORM TO ASTM A500, GRADE C. STEEL PLATES SHALL CONFORM TO ASTM A572 Fy = 50 KSI.
- STRUCTURAL STEEL MEMBERS FOR THE LADDERS SHALL BE STAINLESS STEEL AND CONFORM TO TYPE 316, MIN 30 KSI.
- WELDING ELECTRODES SHALL BE BE SELECTED SPECIFICALLY FOR WELDING STAINLESS STEEL ELEMENTS AND SHALL COMPLY WITH A.W.S. A5.1 AND A5.5. CONTRACTOR TO SUBMIT A WELDING PROCEDURE SPECIFICATION (WPS) AND PROPOSED ELECTRODE FOR ENGINEER REVIEW AND APPROVAL WITHIN 48 HOUR PRIOR TO COMMENCEMENT OF WELDING OPERATIONS.
- STEEL HARDWARE:

ANCHOR BOLTS: ASTM F 1554 Gr. 36
 TIMBER BOLTS: A307 HDG
 NUTS: ASTM A563
 WASHERS: ASTM F436

- GALVANIZING SHALL CONFORM TO ASTM A 123 OR ASTM A 153, AS APPLICABLE.

TIMBER:

- VISUALLY GRADED STRUCTURAL LUMBER AND WOOD CONSTRUCTION SHALL CONFORM TO ASTM D245-06 STANDARD PRACTICE FOR ESTABLISHING STRUCTURAL GRADES AND RELATED ALLOWABLE PROPERTIES FOR VISUALLY GRADED LUMBER.
- MECHANICAL STRENGTH OF TIMBER SHALL BE DETERMINED IN ACCORDANCE WITH ASTM D4761-16.
- TIMBER BLOCKS, WALES, BRACING AND ALL OTHER TIMBER FRAMING SHALL BE PRESERVATIVE PRESSURE TREATED WITH A MINIMUM CCA CONTENT OF 2.5 PCF.
- HARDWARE USED TO CONNECT CCA TREATED TIMBER, INCLUDING BOLTS, NUTS AND WASHERS, ETC., SHALL BE HOT DIP GALVANIZED STEEL CONFORMING TO ASTM A307 GRADE A. GALVANIZING SHALL CONFORM TO THE REQUIREMENTS OF ASTM A153.
- HARDWARE AND FASTENERS USED TO CONNECT ACQ TREATED TIMBER INCLUDING BOLTS, NUTS AND WASHERS, ETC., SHALL BE GRADE 316 STAINLESS STEEL AND CONFORM TO THE REQUIREMENTS OF THE RESPECTIVE ASTM STANDARD. HARDWARE SHALL PROVIDE A FLUSH FINISH WHERE APPLICABLE.

PILES - TIMBER:

- TIMBER PILES SHALL HAVE A MINIMUM BUTT DIAMETER OF 12 INCHES, MINIMUM TIP DIAMETER OF 8 INCHES (12-3-8), CLASS B PILE. MATERIAL, TAPER, STRAIGHTNESS, AND ALLOWABLE DEFECTS SHALL CONFORM TO THE REQUIREMENTS OF ASTM D-25.
- TIMBER PILES SHALL BE FREE FROM DEFECTS THAT MAY IMPAIR STRENGTH, DURABILITY OR DERIVABILITY; UT FROM SOLID, SOUND LINE, CLOSED GRAINED TREES, FREE FORM INJURIOUS RINGS AND LARGE UNSOUND KNOTS OR DECAY. USE TREES THAT HAVE A UNIFORM STRAIGHT TAPER FORM BUTT TO TIP.
- HANDLE TIMBER PIELS CAREFULLY, WITHOUT SUDDEN DROPPING, BREAKING OF OUTER FIBERS, BRUISING OR PENETRATING THE SURFACE WITH TOOLS.

PILE DRIVING:

- DRIVE PILES WITH AN AIR OR DIESEL OPERATED HAMMER WITH SUFFICIENT ENERGY AND ENERGY TRANSFER CHARACTERISTICS TO DRIVE THE PILES TO THE REQUIRED CAPACITY AND TOE ELEVATIONS WITHOUT DAMAGING THE PILE HEAD. USE CAUTION NOT TO DAMAGE THE PILES BY OVER DRIVING AS WOULD BE INDICATED BY REBOUND OF HAMMER OR STAGGERING OF PILE. CUT OFF HEADS OF PILES ACCURATELY IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AFTER COMPLETION OF DRIVING.
- DRIVE THE PILES STRAIGHT AND TRUE AT INDICATED LOCATIONS, WITH DEVIATION FROM THE LONGITUDINAL AXIS OF NOT MORE THAN 1/4 INCH PER FOOT.
- LOCATE THE PILES WITHIN 3 INCHES OF THE POSITIONS INDICATED ON THE DRAWINGS.
- CONTINUOUSLY DRIVE EACH PILE TO REACH THE CAPACITY AND/OR FULL EMBEDDED LENGTH CALLED FOR ON THE DRAWINGS.
- WITHDRAW PILES THAT ENCOUNTER UNDERGROUND OBSTRUCTIONS SUFFICIENT TO IMPEDE PILE DRIVING. REDRIVE AS CLOSE AS POSSIBLE TO ORIGINAL POSITION, SUBJECT TO REVIEW BY THE ENGINEER AND OWNER. REMOVE PILES WHICH SPLIT, BROOM, BREAK OR DRIVE OUT OF LINE. DRIVE ANOTHER PILE IN ITS PLACE. PROVIDE AND MAINTAIN NECESSARY LIGHTING AND BARRIERS TO ADEQUATELY ASSURE PUBLIC SAFETY. PROVIDE ADEQUATE SAFEGUARDS TO PROTECT FROM DAMAGE IMPROVEMENTS ON THE WORK SITE AND ON ADJACENT PROPERTIES.
- LENGTHS SHOWN ON THE DRAWINGS ARE CONSIDERED AVERAGE VALUES, AND THE ACTUAL LENGTHS MAY VARY WHEN SO ACCEPTED BY THE ENGINEER OF RECORD.
- PROVIDE DRIVING RESISTANCE PENETRATION AND REFUSAL VALUES AS ACCEPTED BY THE ENGINEER OF RECORD.
- USE SUITABLE CUSHIONS OR DRIVING HEADS TO AVOID DAMAGE TO THE PILES, DEVELOPING PROPER TOTAL DRIVING ENERGY, AND DIRECTING THE ENERGY ALONG THE LONGITUDINAL CENTER OF GRAVITY OF THE PILE.
- DRIVE PILES TO THEIR FULL PENETRATION WITHOUT BENDING, RUPTURING, OR SEVERELY DAMAGING THE PILES. IF FAILURE IN THE ABOVE RESPECTS IS ENCOUNTERED, PULL THE PILE AND DRIVE A NEW PILE AT NO ADDITIONAL COST TO THE OWNER. IF A REPLACEMENT PILE FAILS TO DEVELOP FULL DRIVING RESISTANCE, PULL THE REPLACEMENT PILE AND DRIVE A NEW PILE WITH LARGER DIAMETER AT NO ADDITIONAL COST TO THE OWNER.
- JETTING TO ASSIST PENETRATION WILL NOT BE PERMITTED UNLESS ACCEPTED BY THE ENGINEER OF RECORD. PRE-DRILLING WILL NOT BE PERMITTED UNLESS ACCEPTED BY THE ENGINEER OF RECORD, WHEREBY ACCEPTED PRE-DRILLING TO ASSIST PENETRATION MAY BE USED WHERE EXTREME DRIVING RESISTANCE IS ENCOUNTERED, OR WHERE VIBRATIONS FROM DRIVING MAY BE DETRIMENTAL TO ADJACENT STRUCTURES.
- WHERE PILES ARE PUSHED UP BY PRESSURE FROM DRIVING OF ADJACENT PILES, RE-DRIVE AS REQUIRED AND AT NO ADDITIONAL COST TO THE OWNER.
- THE CONTRACTOR SHALL PROVIDE THE OWNER WITH A COMPLETE DRIVING RECORD WITH THE DATE OF FINAL INSTALLATION AND TIP ELEVATIONS. THIS RECORD SHALL BE SUBMITTED WEEKLY AND SIGNED BY A REPRESENTATIVE OF THE CONTRACTOR. THE CONTRACTOR SHALL KEEP AN ACCURATE SET OF PILE RECORDS INDICATING PILE NUMBER, PILE TYPE AND INSTALLED LENGTH, TYPE OF HAMMER AND RATED ENERGY, DATE OF INSTALLATION, FINAL TIP ELEVATION, AND CONTRACTOR'S REPRESENTATIVE NAME AND SIGNATURE.

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TOWN OF PROVINCETOWN
 MACMILLAN PIER, PROVINCETOWN, MA
 SAFETY UPGRADES & PIER REPAIRS

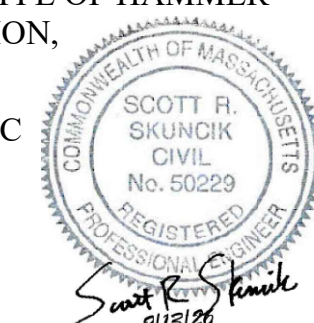
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DATE OF PREPARATION		
BY	DATE	
SURVEYED	AS NOTED	AS NOTED
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DESIGNED	MGB/JSG	10/30/25
CHECKED	JSG	2/10/26

SHEET TITLE:

NOTES

ISSUANCE:	ISSUED FOR BID
PROJECT NO:	24P125
SHEET NUMBER	G-002



**TOWN OF PROVINCETOWN
MACMILLAN PIER, PROVINCETOWN, MA
SAFETY UPGRADES & PIER REPAIRS**



REVISIONS		DATE	DESCRIPTION
NO.	BY	DATE	DESCRIPTION
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DATE OF PREPARATION		
SURVEYED	BY	DATE
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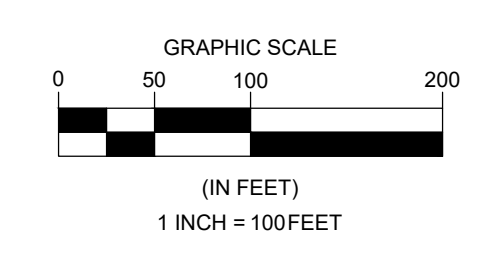
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LOCATION KEY PLAN

ISSUANCE:
ISSUED FOR BID

PROJECT NO: 24P125

SHEET NUMBER
G-101





**TOWN OF PROVINCETOWN
MACMILLAN PIER, PROVINCETOWN, MA
SAFETY UPGRADES & PIER REPAIRS**

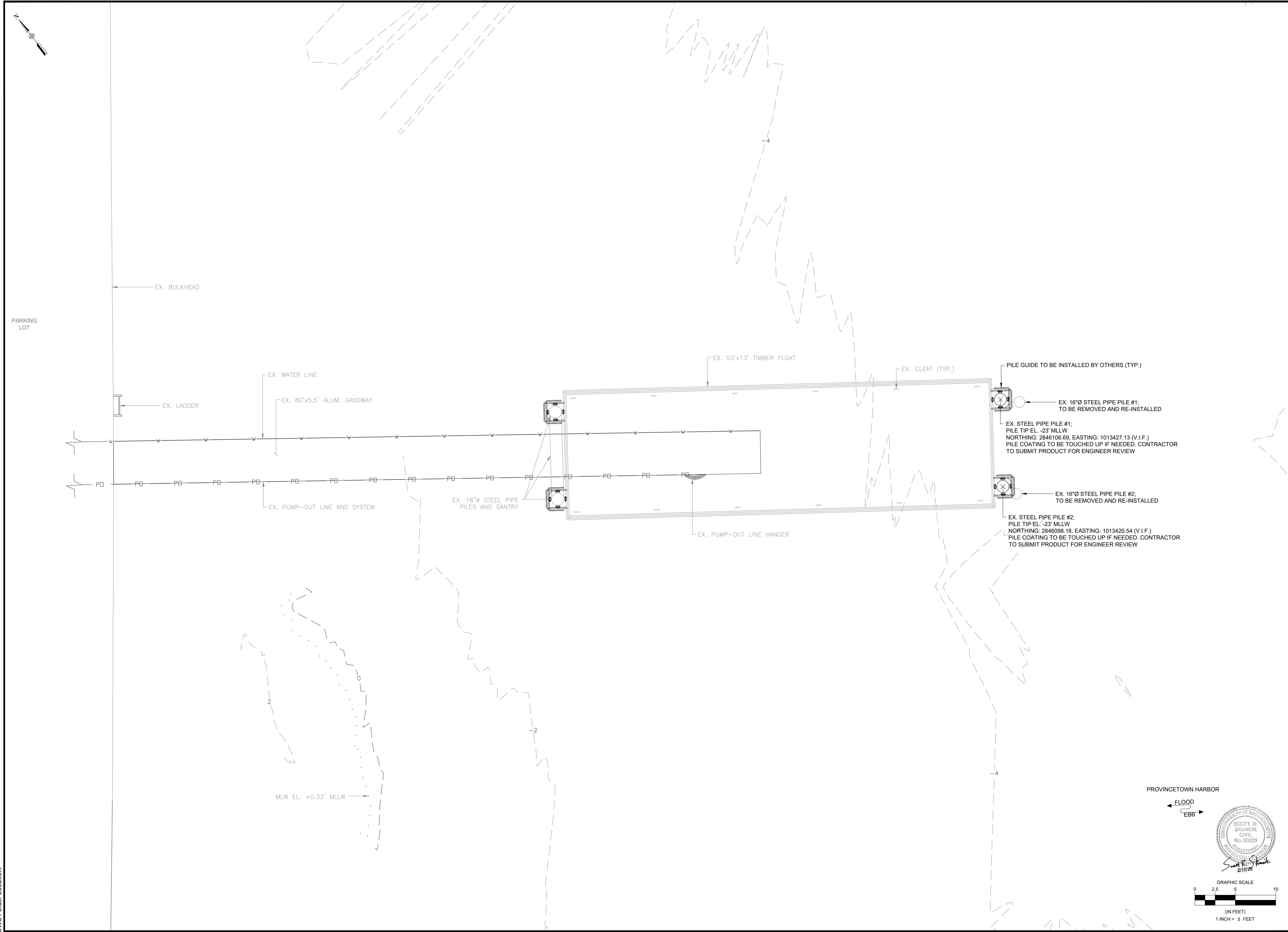
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DATE OF PREPARATION		
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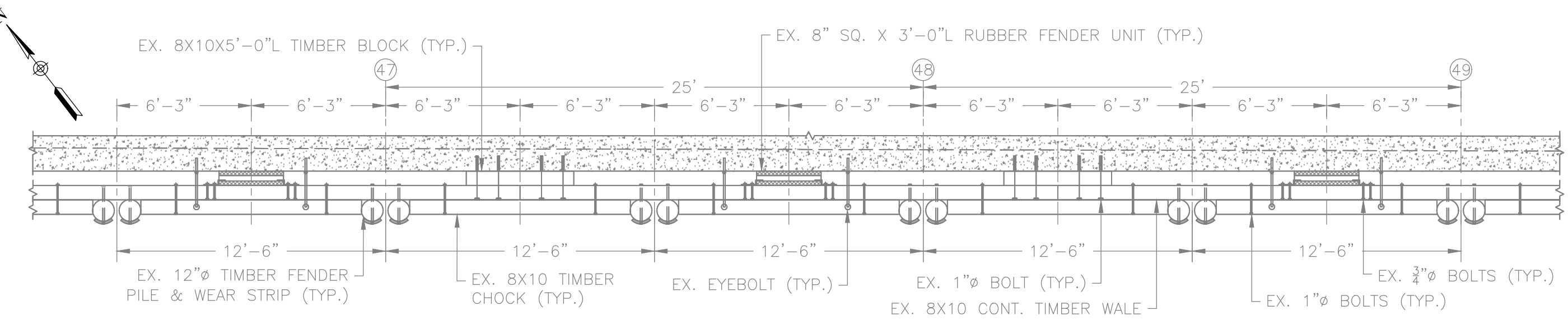
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**COURTESY
FLOAT
REPOSITIONING
SITE PLAN**

ISSUANCE:
ISSUED FOR BID

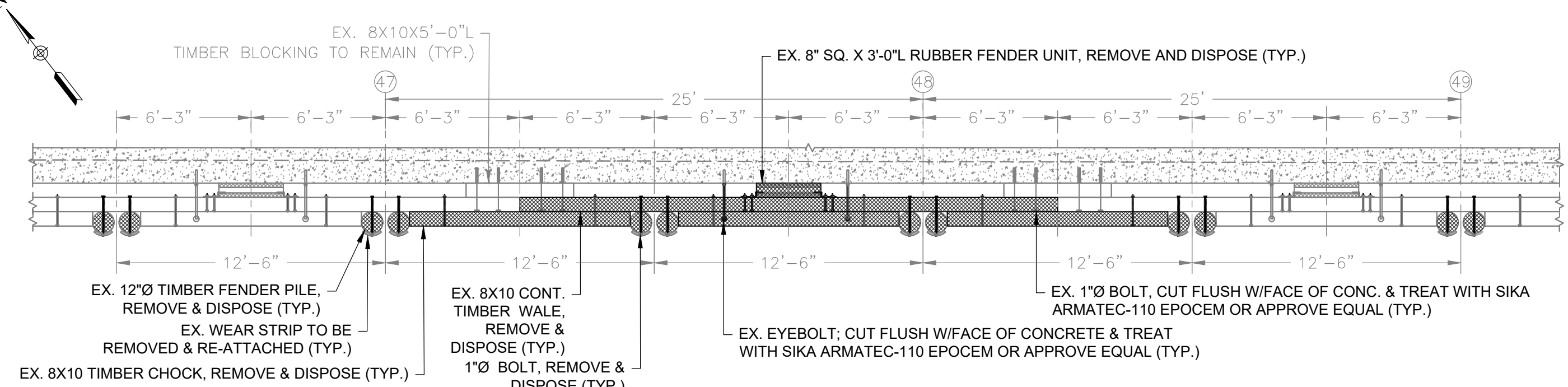
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C-102



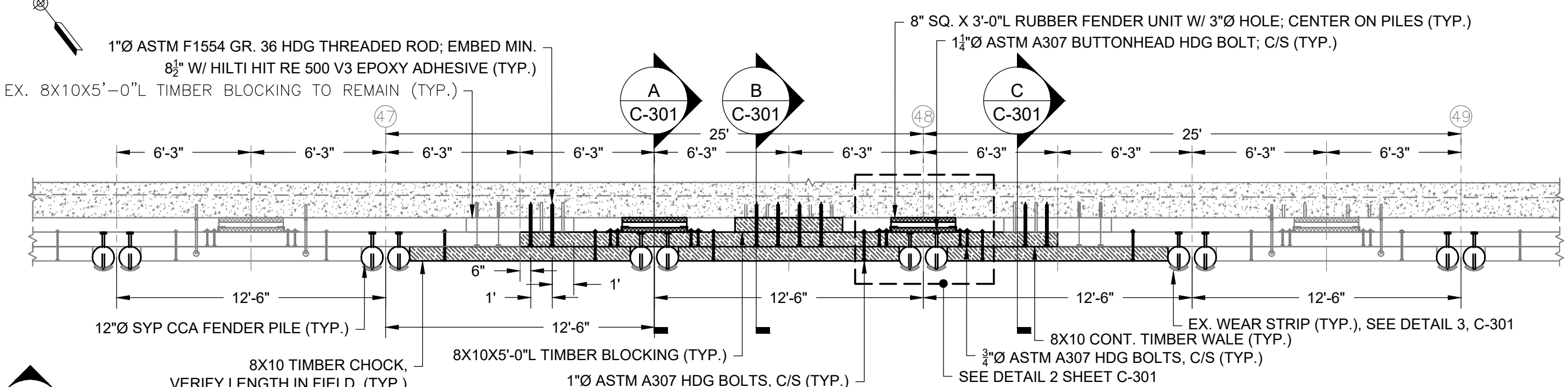
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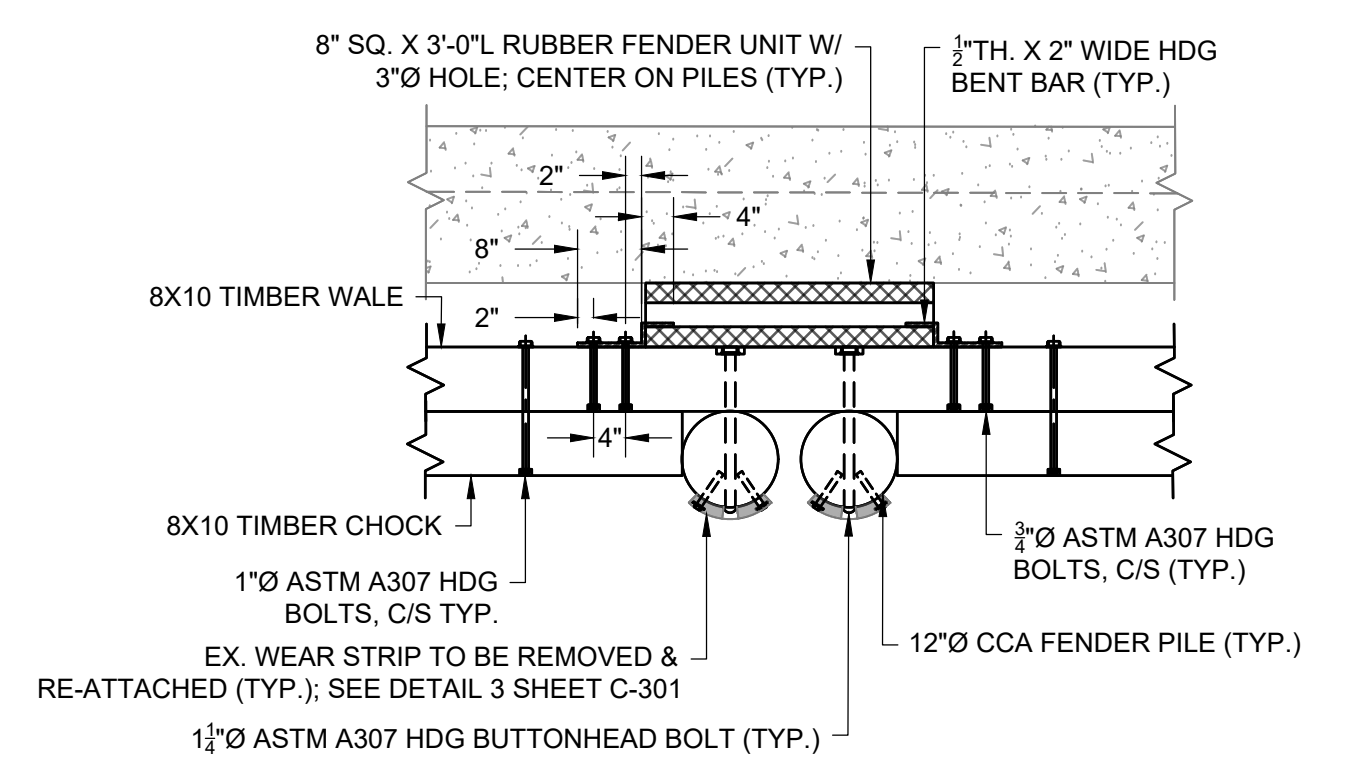


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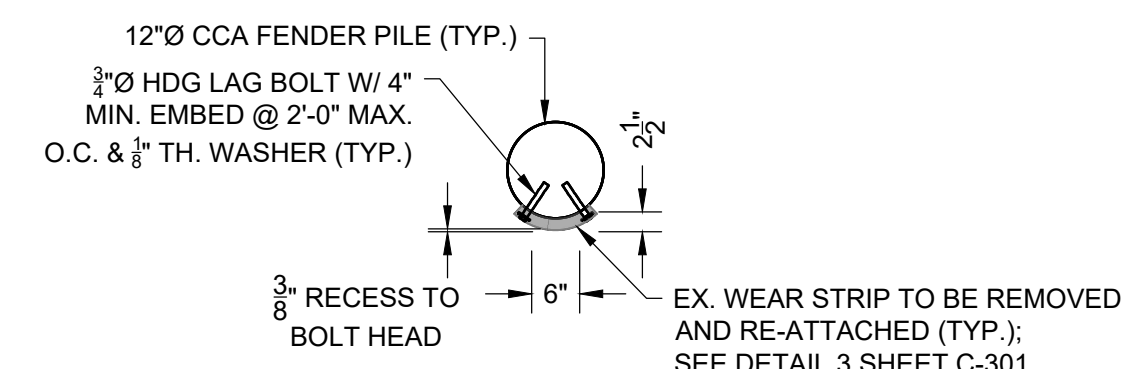


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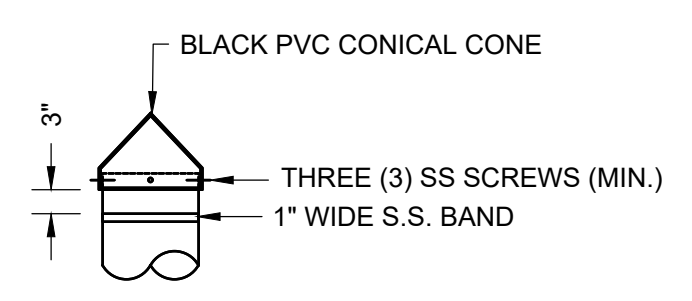
1 TIMBER FENDER SYSTEM DETAILS
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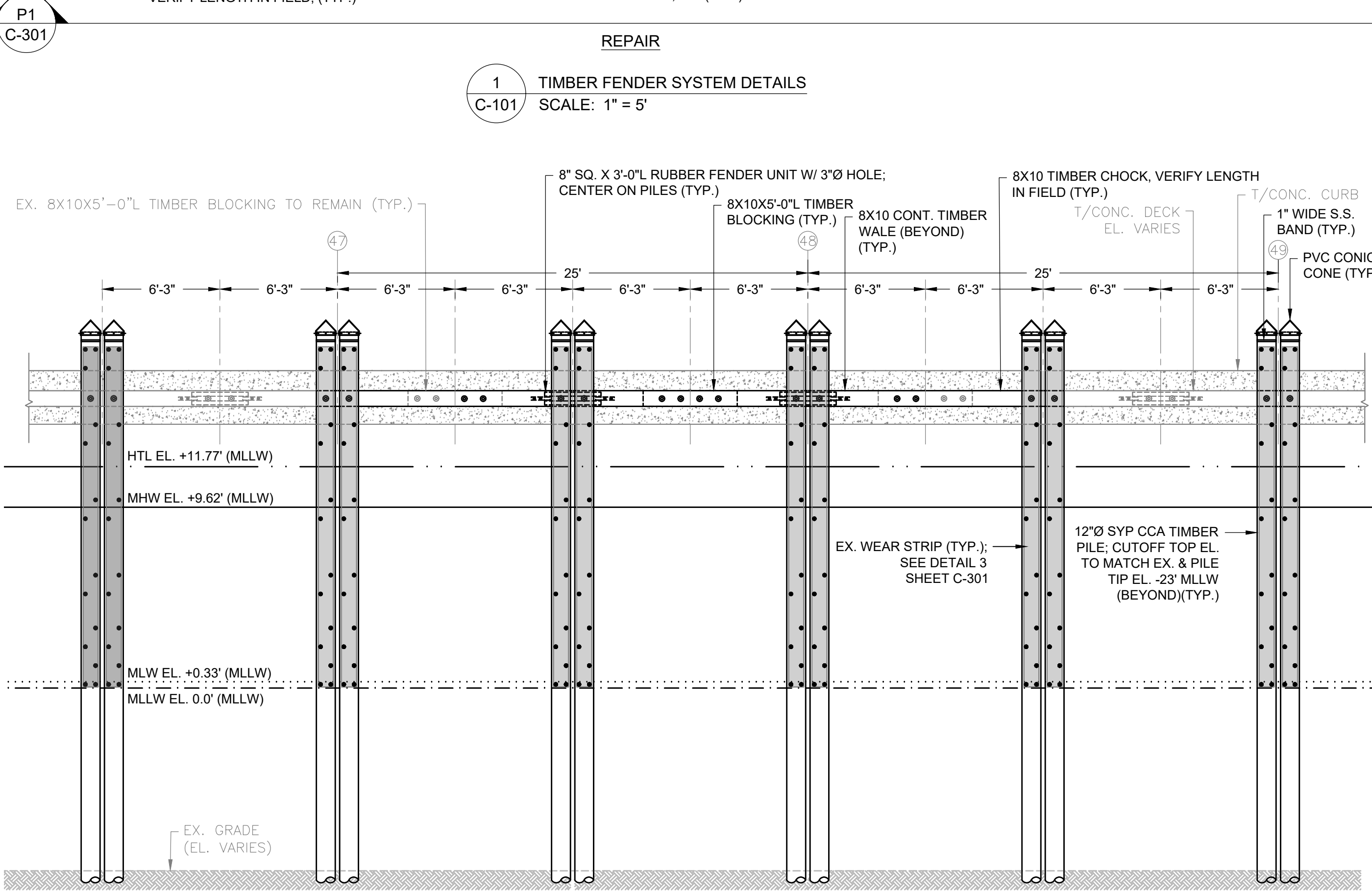
2 TYPICAL RUBBER FENDER UNIT INSTALLATION DETAIL
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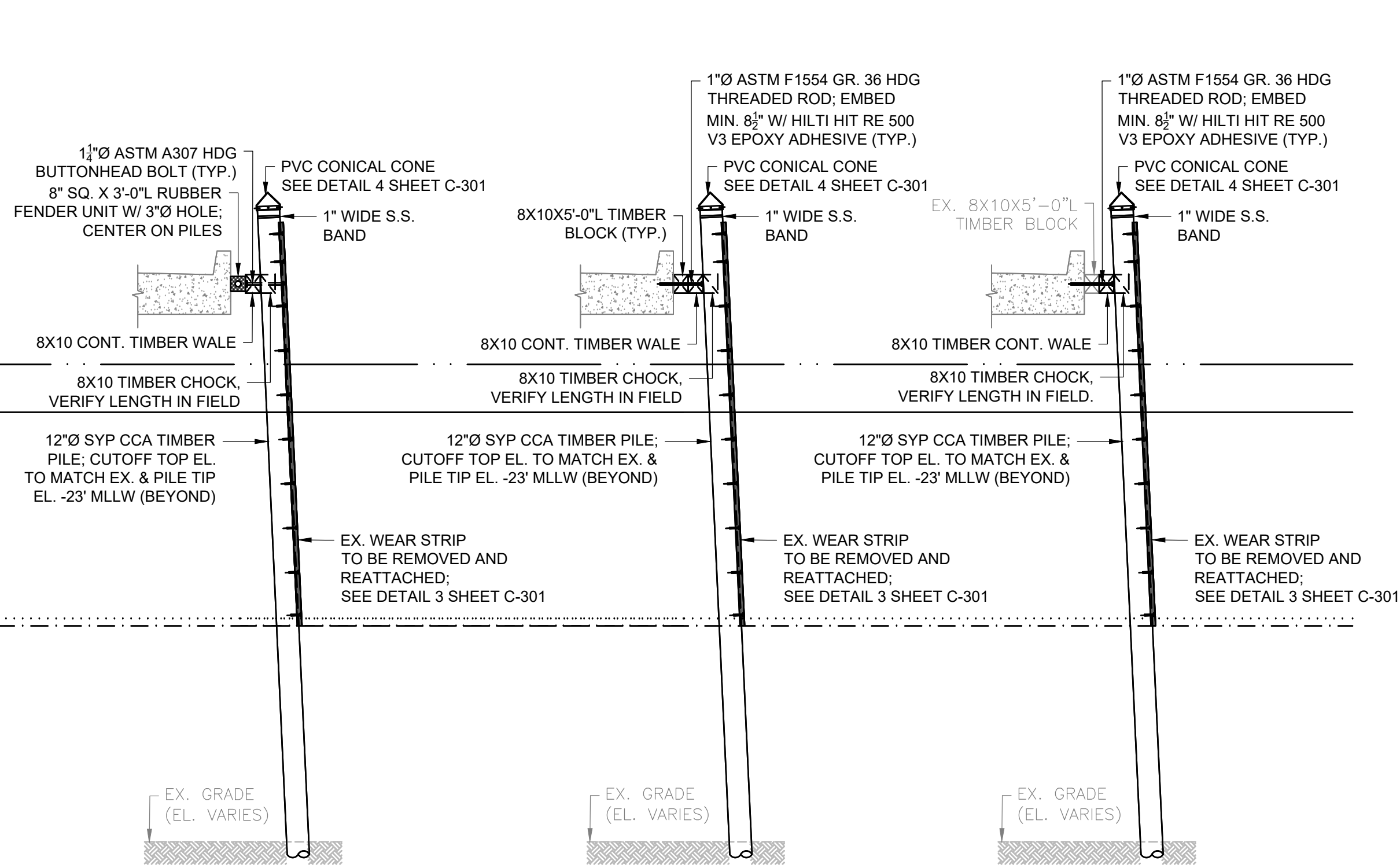
3 TYPICAL UHMW WEAR STRIP ATTACHMENT DETAIL
SCALE: 1" = 2'



4 TYPICAL PILE CONE DETAIL
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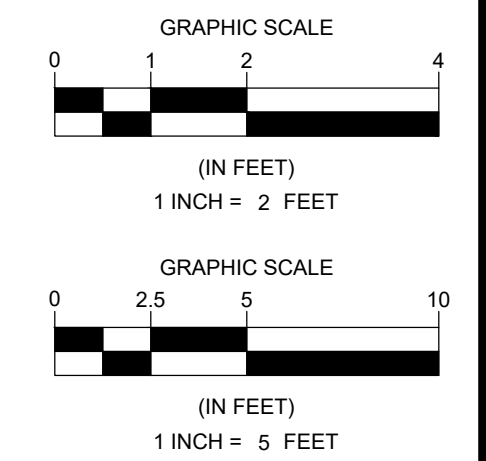
P1 TIMBER FENDER SYSTEM REPAIR PROFILE
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A FENDER SYSTEM REPAIR SECTION
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B FENDER SYSTEM REPAIR SECTION
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C FENDER SYSTEM REPAIR SECTION
SCALE: 1" = 5'



NOTE:
1. UTILITIES NOT SHOWN FOR CLARITY.

NO.	DATE	DESCRIPTION

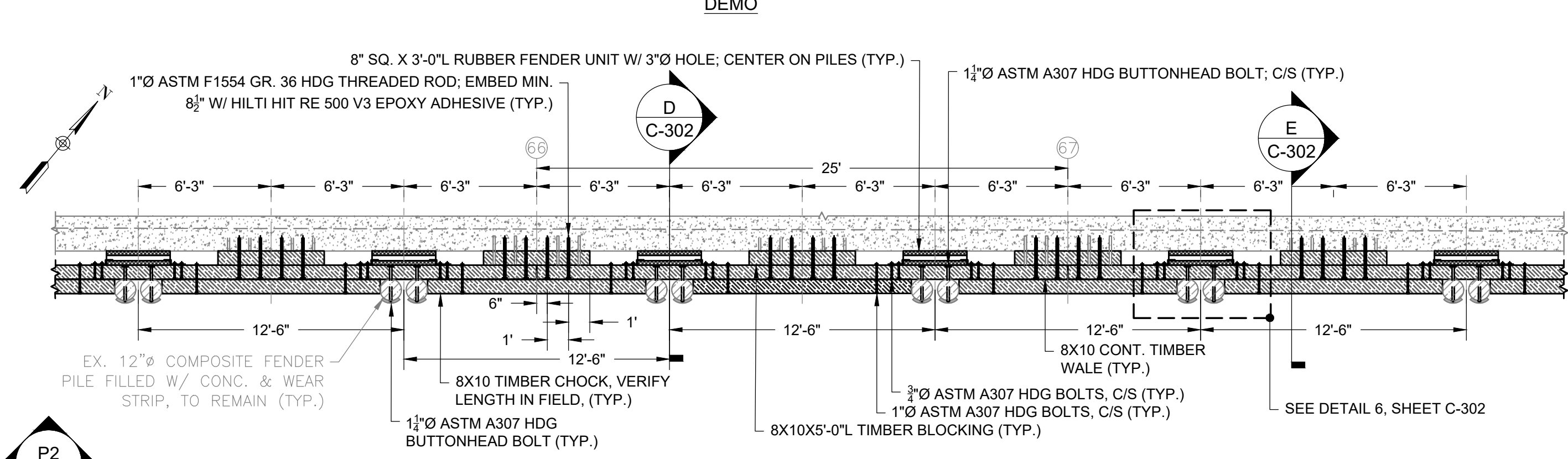
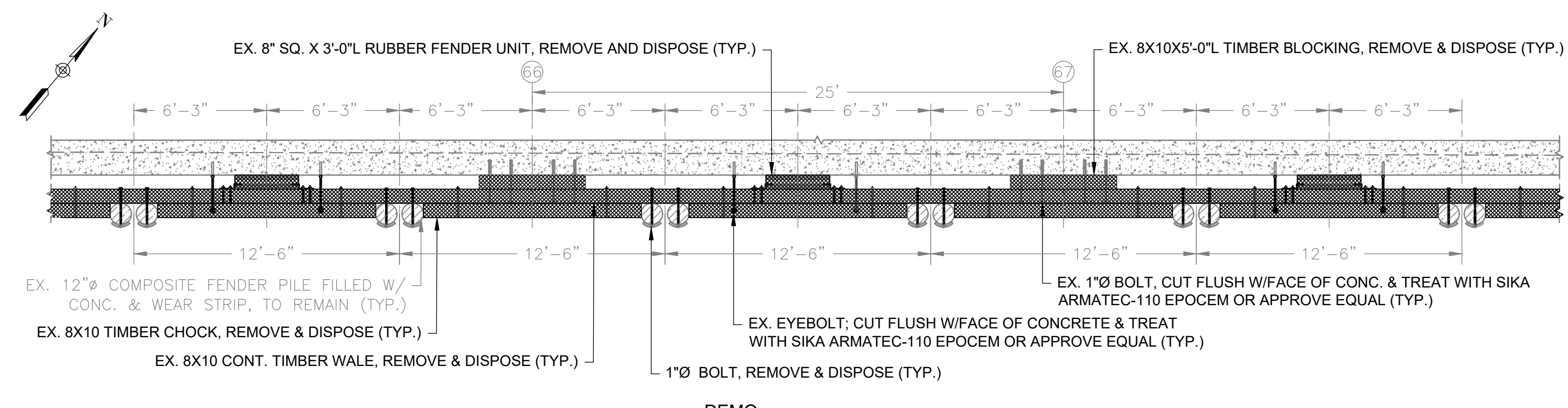
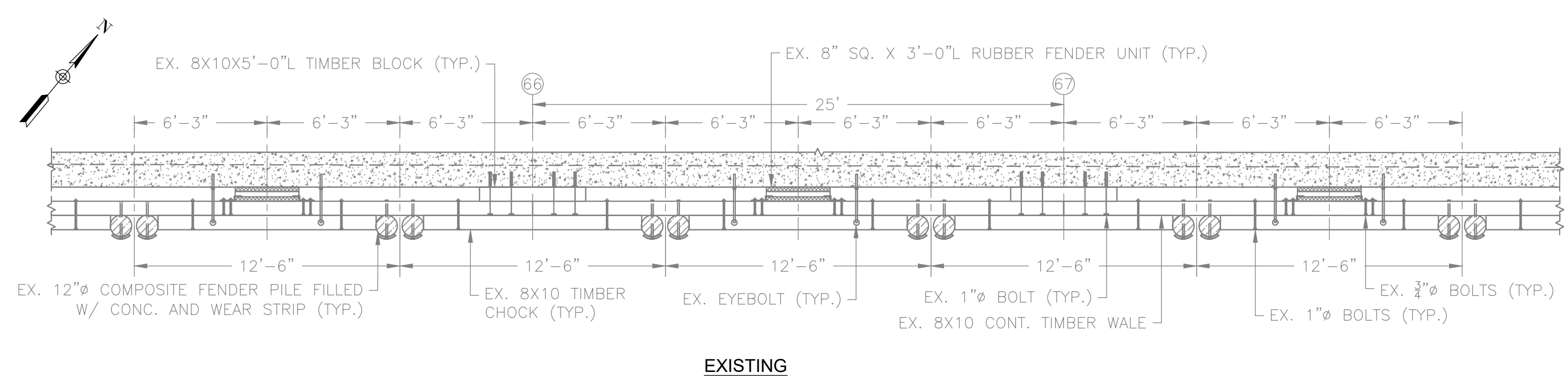
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BY	DATE	

SECTION, DETAILS, & PROFILES
1 OF 4

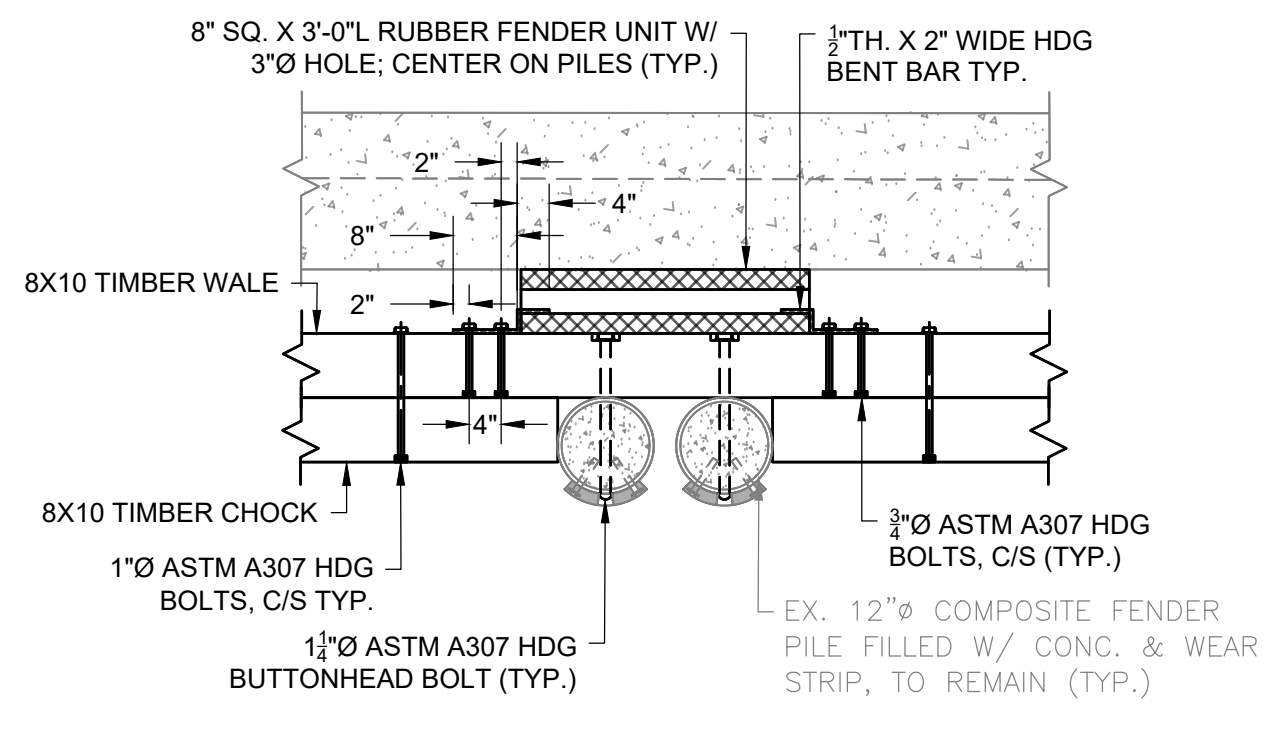
ISSUANCE:
ISSUED FOR BID

PROJECT NO: 24P125
SHEET NUMBER
C-301

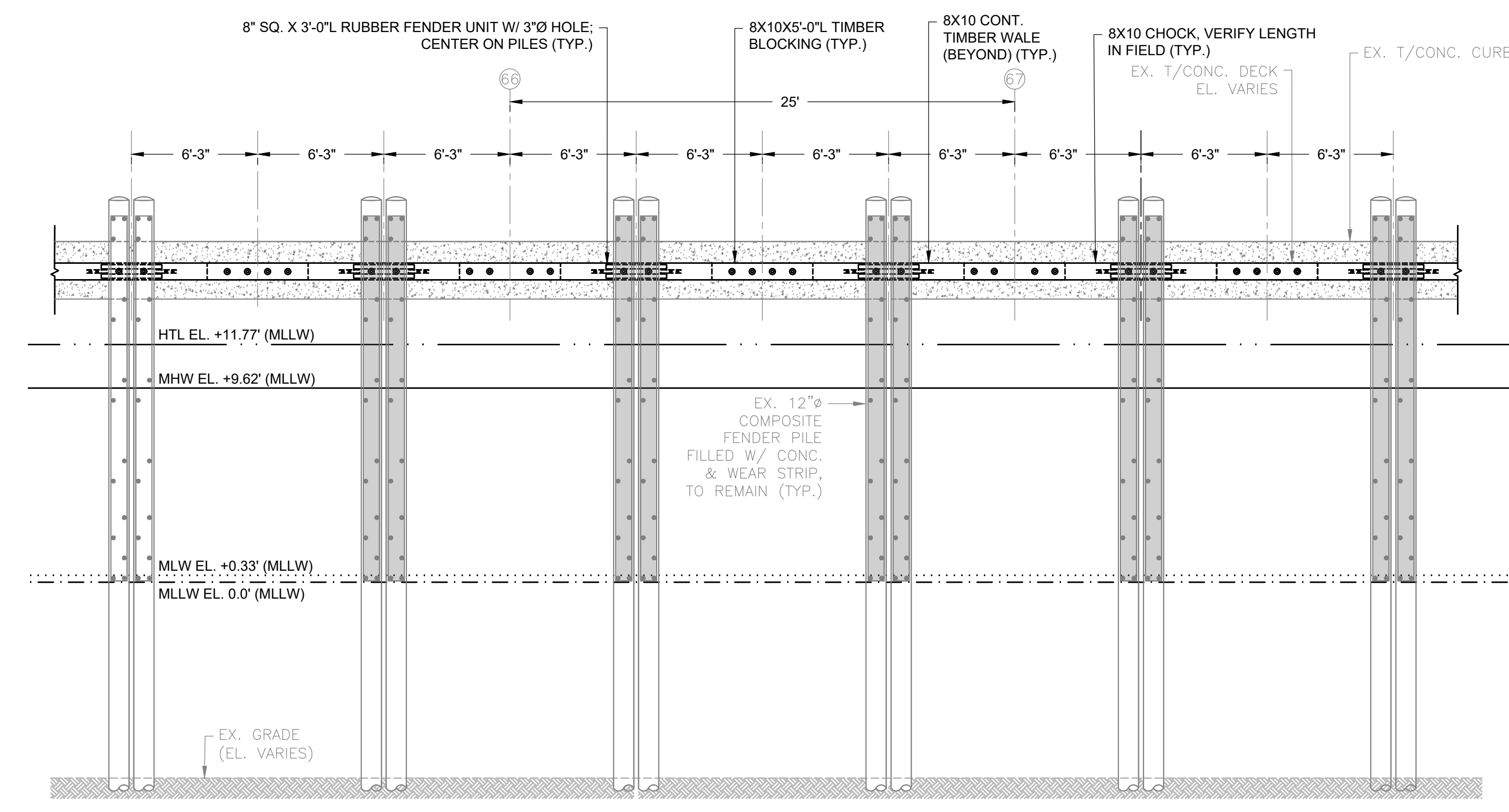




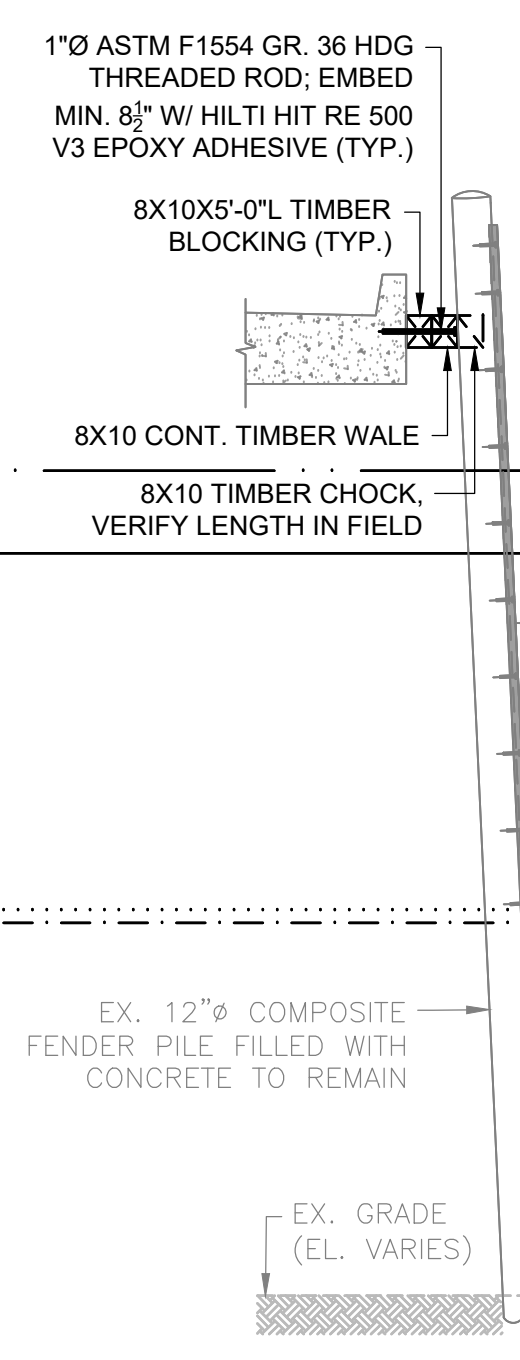
5 COMPOSITE FENDER SYSTEM DETAILS
C-101 SCALE: 1" = 5'



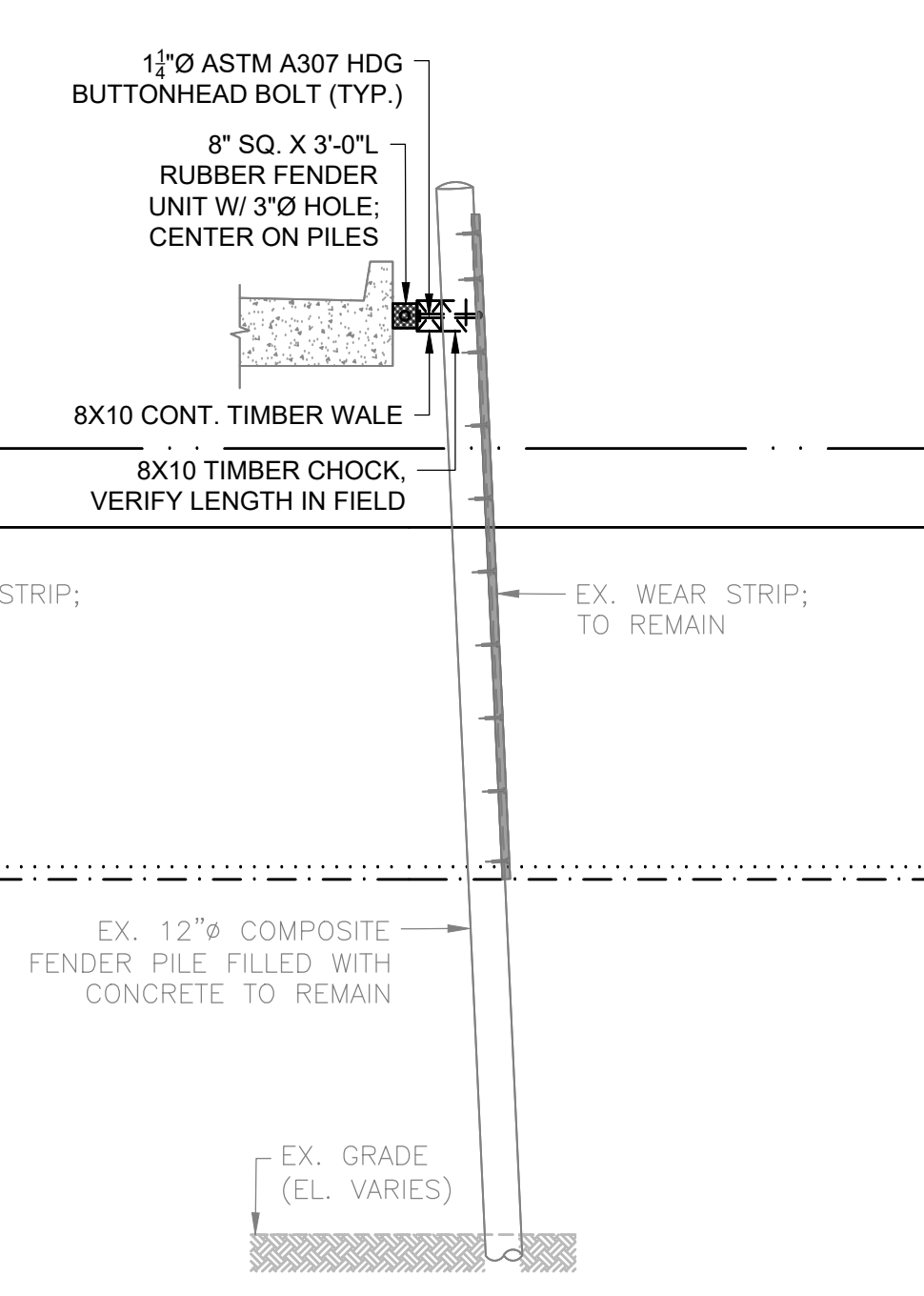
6 TYPICAL RUBBER FENDER UNIT INSTALLATION DETAIL
C-302 SCALE: 1" = 2'



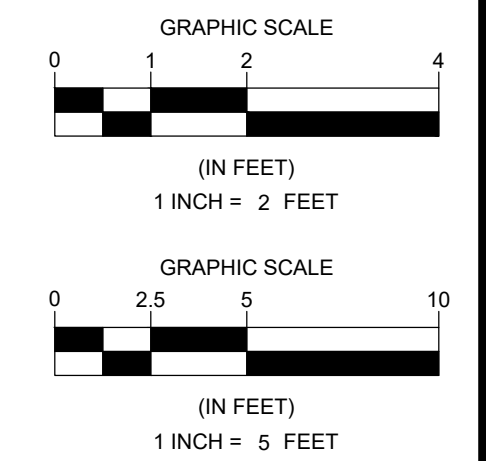
P2 COMPOSITE FENDER SYSTEM REPAIR PROFILE
C-302 SCALE: 1" = 5'



D FENDER SYSTEM REPAIR SECTION
C-302 SCALE: 1" = 5'



E FENDER SYSTEM REPAIR SECTION
C-302 SCALE: 1" = 5'

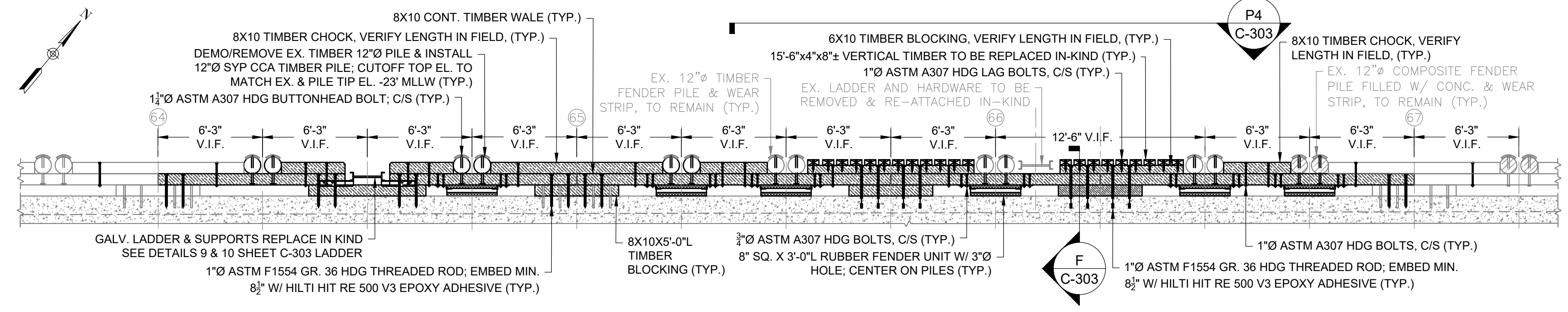
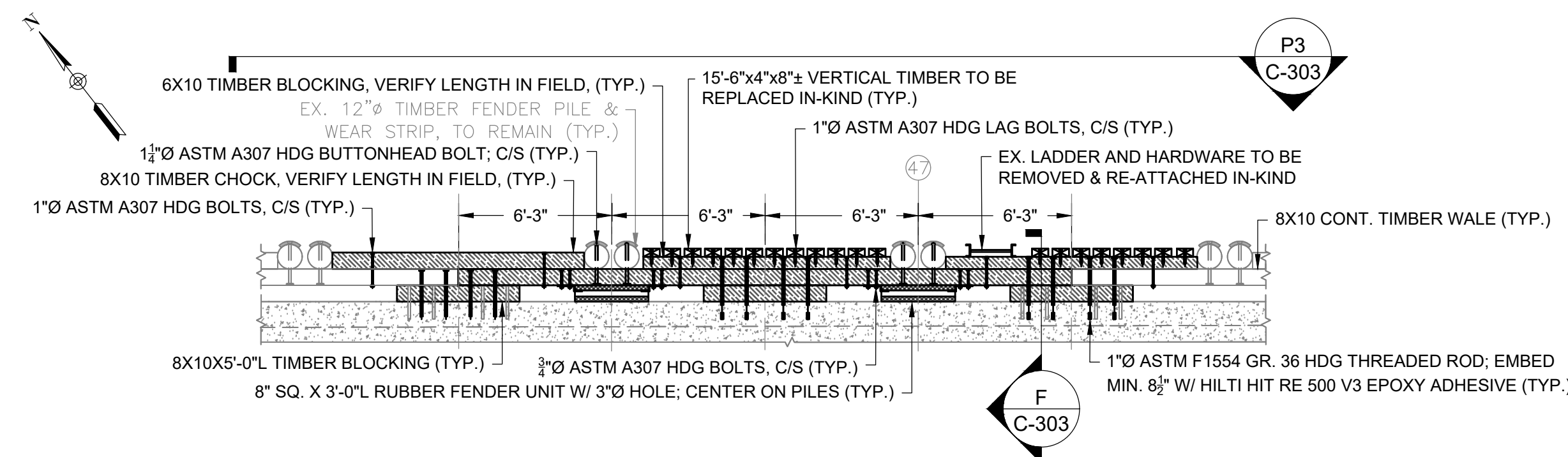


REVISIONS	
NO.	DESCRIPTION

DATE OF PREPARATION		
BY	DATE	

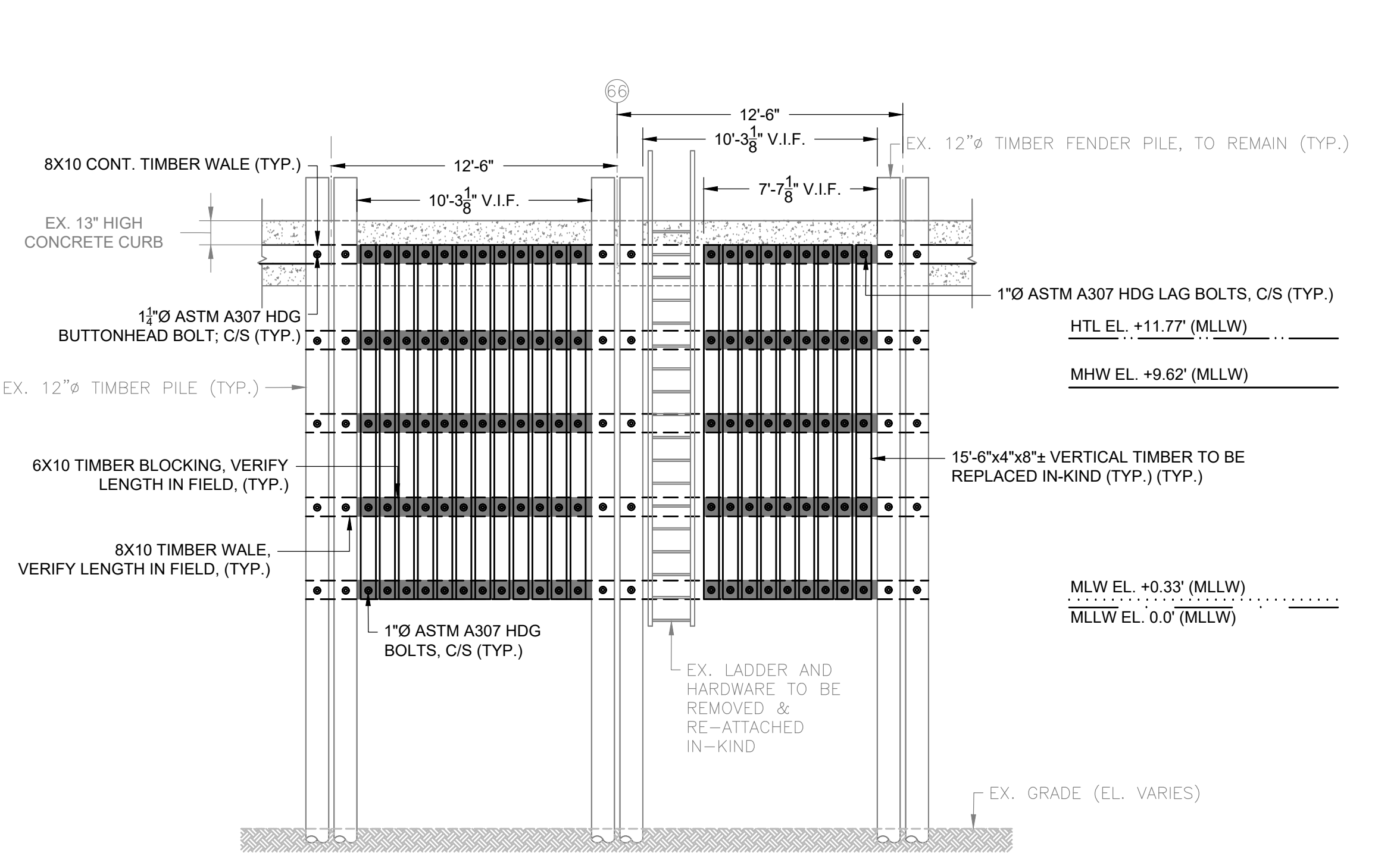
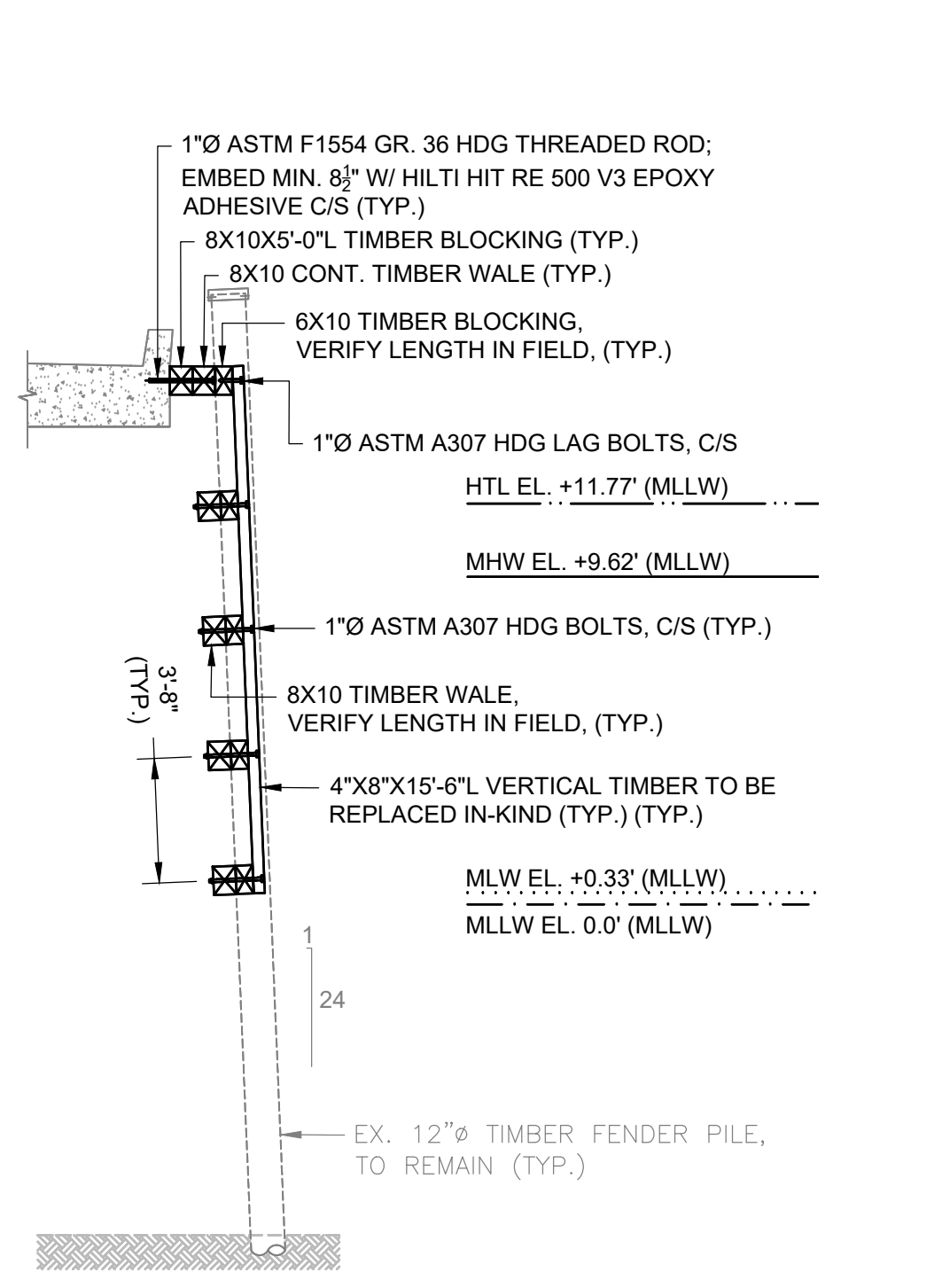
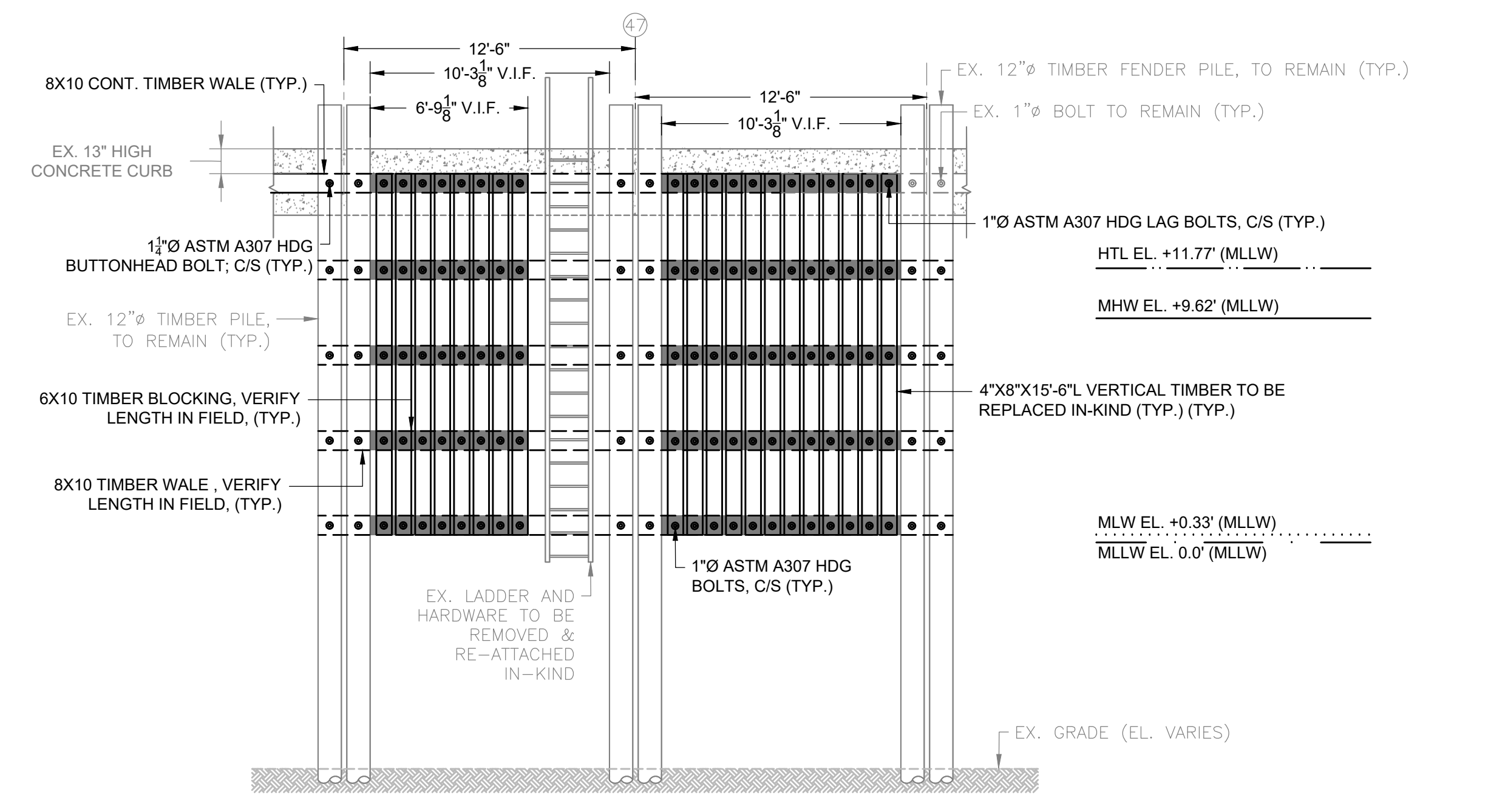
SHEET TITLE:
SECTIONS, DETAILS, & PROFILES 2 OF 4

ISSUED FOR BID		
PROJECT NO:	SHEET NUMBER	
24P125	C-302	



7 VERTICAL TIMBER "PUSH PILE" WALL REPAIR DETAIL - BENTS 46-48
C-101 SCALE: 1" = 5'

8 VERTICAL TIMBER "PUSH PILE" WALL REPAIR DETAIL - BENTS 64-67
C-101 SCALE: 1" = 5'



F TYPICAL VERTICAL TIMBER "PUSH PILE" WALL REPAIR SECTION
C-303 SCALE: 1" = 5'

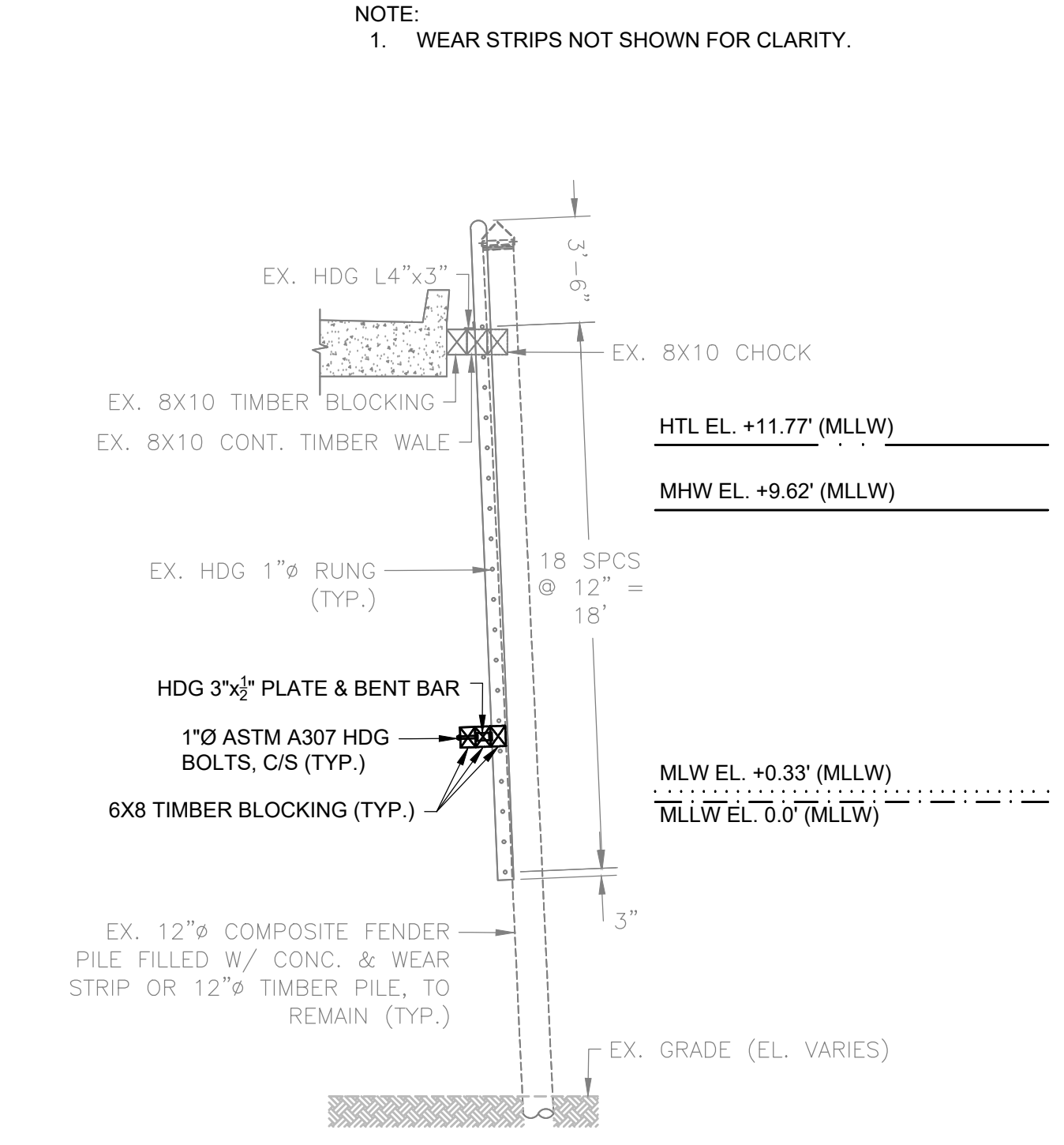
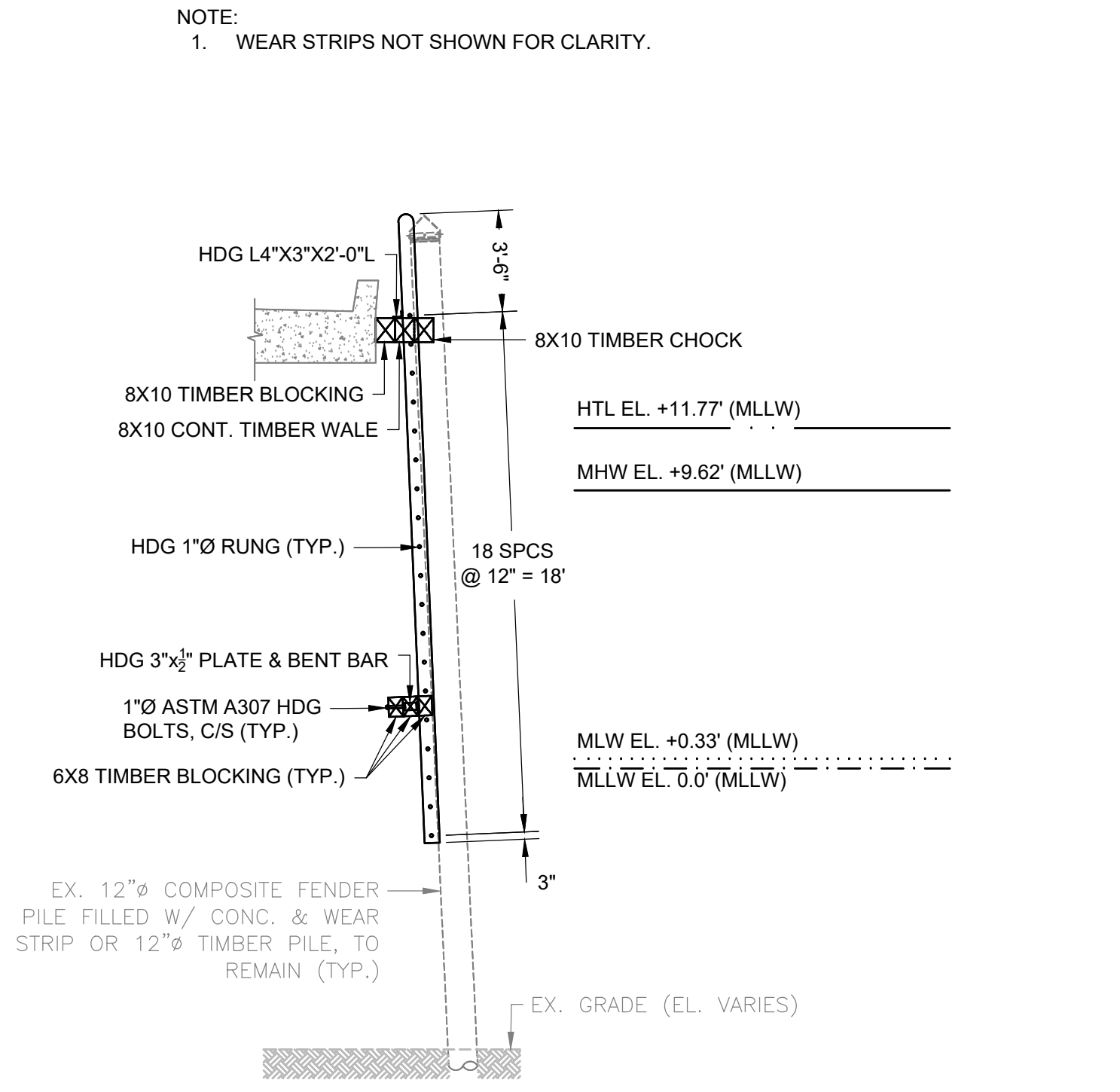
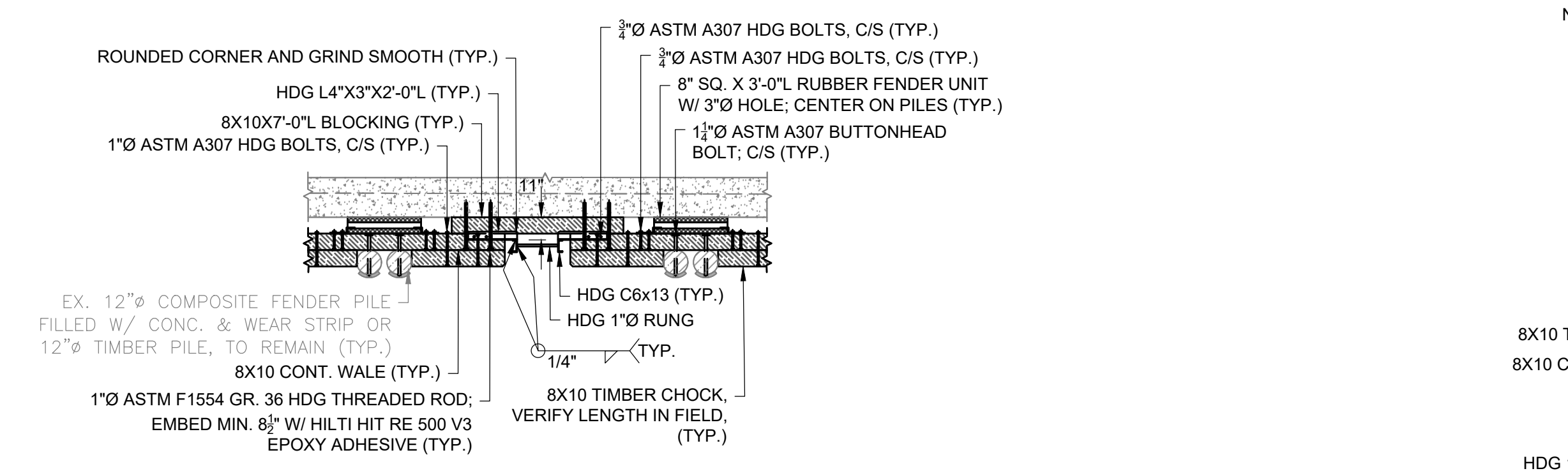
P4 VERTICAL TIMBER "PUSH PILE" WALL REPAIR PROFILE - BENTS 64-67
C-303 SCALE: 1" = 5'

P3 VERTICAL TIMBER "PUSH PILE" WALL EXISTING AND DEMO PROFILE - BENTS 46-48
C-303 SCALE: 1" = 5'

NOTE:
1. WEAR STRIPS NOT SHOWN FOR CLARITY.

NOTE:
1. WEAR STRIPS NOT SHOWN FOR CLARITY.

NOTE:
1. WEAR STRIPS NOT SHOWN FOR CLARITY.



G FULL LADDER REPLACEMENT SECTION
C-101 SCALE: 1" = 5'

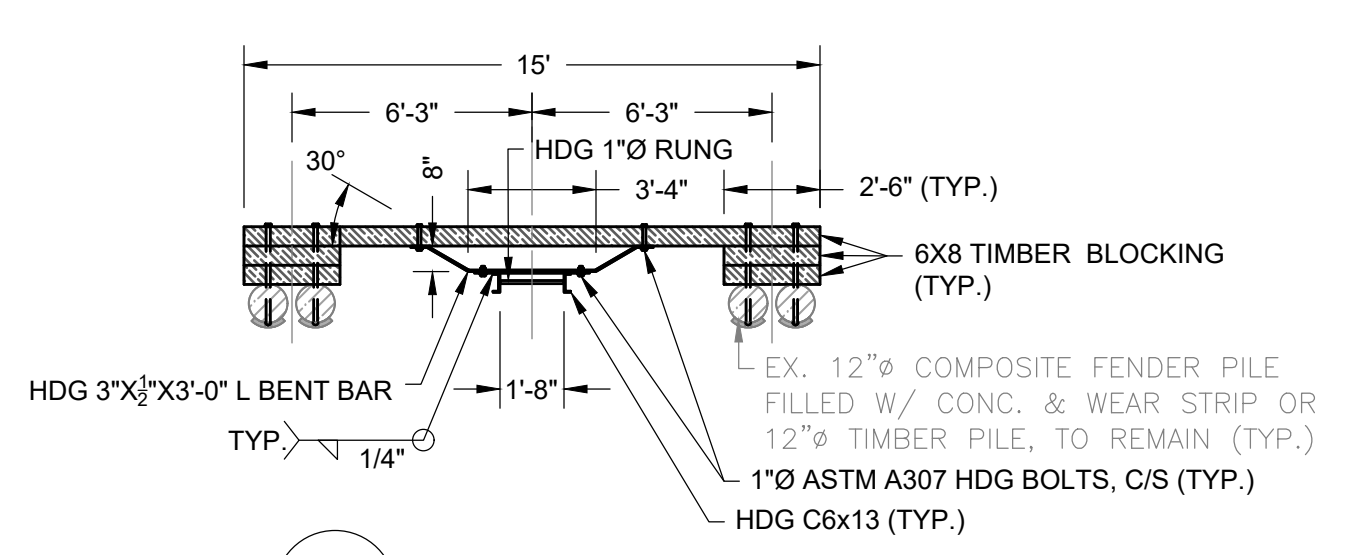
H LOWER LADDER SUPPORTS REPLACEMENT SECTION
C-101 SCALE: 1" = 5'

9 LADDER REPLACEMENT DETAIL - UPPER
C-303 SCALE: 1" = 5'

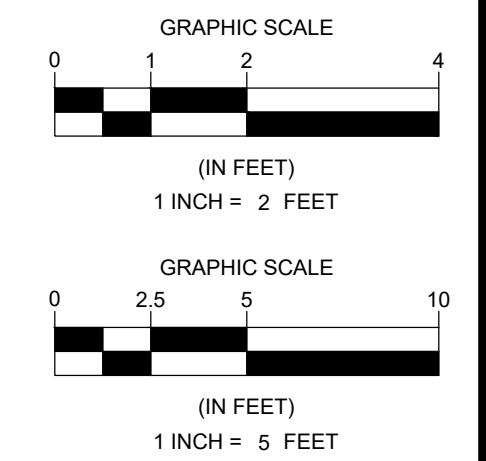
NOTE:
1. WEAR STRIPS NOT SHOWN FOR CLARITY.

NOTE:
1. WEAR STRIPS NOT SHOWN FOR CLARITY.

NOTE:
1. UTILITIES NOT SHOWN FOR CLARITY.



10 LADDER REPLACEMENT DETAIL - LOWER
C-303 SCALE: 1" = 5'



REVISIONS		DESCRIPTION	
NO.	DATE	BY	DATE

DATE OF PREPARATION		
SURVEYED	BY	DATE
AS NOTED	AS NOTED	AS NOTED
DRAWN	MGB/SCC	12/2/25
DESIGNED	MGB/JSG	10/30/25
CHECKED	JSG	2/10/26



SECTIONS,
DETAILS, &
PROFILES
3 OF 4

ISSUED FOR BID

PROJECT NO: 24P125
SHEET NUMBER
C-303

