



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

100 Cambridge Street Suite 900 Boston, MA 02114 • 617-292-5500

Maura T. Healey  
Governor

Kimberley Driscoll  
Lieutenant Governor

Rebecca L. Tepper  
Secretary

Bonnie Heiple  
Commissioner

May 23, 2025

City of Haverhill, c/o John H. Pettis III, City Engineer  
c/o Charles Caron, Caron Environmental Consulting, LLC.  
247 Bragg Hill Road  
Westminster, MA 01473

**Re: Jurisdictional Determination No. WW04-0000039**  
**Request for Determination of Applicability Application No. 25-WW04-0007-APP**  
0 Hale Street, Waters of the Little River, Haverhill, Essex County

Dear Mr. Pettis:

Enclosed please find the Jurisdictional Determination for the above referenced Request for a Determination of Applicability issued by the Department of Environmental Protection Waterways Regulation Program (the "Department") pursuant to M.G.L. Chapter 91 and 310 CMR 9.06. This Determination may be recorded at the Southern Essex County Registry of Deeds and a copy will be maintained in the Department files.

Please contact the Waterways Regulation Program at [dep.waterways@mass.gov](mailto:dep.waterways@mass.gov) if there are any questions.

Sincerely,

Daniel J. Padien  
Program Chief  
Waterways Regulation Program

cc: Haverhill Conservation Commission  
City of Haverhill, c/o John H. Pettis, City Engineer



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Jurisdictional Determination No: WW04-0000039

Municipality: Haverhill, Essex County

### DETERMINATION OF APPLICABILITY- 310 CMR 9.00

To: John H. Pettis III  
City of Haverhill  
4 Summer Street  
Haverhill, MA 01830

Location: MBTA Property  
0 Hale Street  
Haverhill, MA 01830  
Parcel ID No.: 601-453-1<sup>1</sup>

Pursuant to 310 CMR 9.06, the Department of Environmental Protection Waterways Regulation Program (the “Department”) has reviewed this request for a Determination of Applicability (RDA) application and has made the determination:

**The Determination is Negative.** The work proposed in the submitted Request for Determination of Applicability does not require a new or amended Waterways License or Permit under M.G.L. Chapter 91 or its regulations at 310 CMR 9.00.

The subject application was filed on behalf of City of Haverhill (the “Applicant”) regarding whether a proposed outfall is subject to Chapter 91 jurisdiction and its regulation at 310 CMR 9.00. The subject property is located at 0 Hale Street, within waters of the Little River, Haverhill, Essex County (the “project site”).

Documentation in support of this request included:

- 1) A memo titled *“Locke Street Phase 1 – Proposed Outfall Modeling at Hale Street”*, prepared by Wright-Pierce Engineering, not dated;
- 2) A Map titled *“Locus Map: Combined Sewer Separation Locke Street Area; Hale Street, Haverhill, MA 01830”*, prepared by Caron Environmental Consulting, LLC, not dated.
- 3) Notice of Intent submitted to the Haverhill Conservation Commission for this project, prepared by Caron Environmental Consulting.
- 4) A plan set titled *“Locke Street Area Phase 1 Combined Sewer Separation and Water Main Improvement, City of Haverhill, Massachusetts”*, prepared by Wright-Pierce Engineering, dated April 2025.
- 5) Notification list of persons identified in 310 CMR 9.13(1)(a).

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<sup>1</sup> Plan titled *“Land Acquisition Plan, City of Haverhill, Essex County, Massachusetts”*, Book 40742 Plan No. 425, prepared by J2M Consulting Associates, LLC, dated February 22<sup>nd</sup>, 2022.

The proposed project consists of the construction of a new storm drain outfall at a parcel of land owned by Massachusetts Bay Transportation Authority (MBTA). The proposed structures involve the installation of two 48" high density polyethylene pipes within a dual 60" casing pipe, with associated pipe jacking pits, headwall with rip rap, street connections, repaving, and site grading, as depicted on the referenced plan set. For erosion and sedimentation control, the Applicant anticipates the installation of a temporary sheet piling cofferdam and appurtenances as in-water work takes place. The Applicant asserts that the only work within jurisdictional areas is one pipe jacking pit, the headwall, rip rap, a temporary coffer dam and associated grading.

Based on the submitted documentation and plans, the Department finds that the portions of the proposed riprap and the sheet piling cofferdam structures located below the ordinary high water (OHW, El. 19 ft NAVD88), are subject to Chapter 91 jurisdiction, pursuant to 310 CMR 9.04(1).

Accordingly, the Department hereby determines that:

- 1) The Little River, at the project site, is a non-tidal navigable river or stream on which public funds have been expended for embankment improvements and flood control, pursuant to 310 CMR 9.04 (1)(e), and is therefore subject to jurisdiction pursuant to M.G.L. Chapter 91 and its regulations at 310 CMR 9.00;
- 2) The portion of the project site above Ordinary High Water is not a geographic area subject to Chapter 91 jurisdiction and its regulations.
- 3) The proposed riprap does not reduce the space for navigation of the Little River, as depicted on the plan set listed above.
- 4) The proposed riprap installation and sheet piling cofferdam, are considered activities not requiring a Chapter 91 License or Permit, pursuant to 310 CMR 9.05(3)(g)(4), provided that a final Order of Conditions has been issued under M.G.L. c.131, § 40 and 310 CMR 10.00, the Wetlands Protection Act.

Please be advised that the temporary sheet piling cofferdam shall be removed from below Ordinary High Water within 30 days following completion of in-water work, or as otherwise confirmed by the Department in writing. The Applicant shall ensure that these permanent and temporary construction-related structures are installed in a manner that does not interfere with the public rights of navigation and free passage over and through water, pursuant to 310 9.35(2) (a) and (b).

This Determination does not relieve the Applicant from complying with all other applicable Federal, State, or local statutes, ordinances, by-laws, or regulations.

Issued by the Department of Environmental Protection Waterways Regulation Program.

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this 23<sup>rd</sup> day of May in the year 2025.



Daniel J. Padien  
Program Chief  
Waterways Regulation Program

Encl: Notice of Appeal Rights  
Project Plans

## NOTICE OF APPEAL RIGHTS

### **Who has the right to appeal?**

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

### **How can I request an adjudicatory hearing?**

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

MassDEP  
Office of Appeals and Dispute Resolution  
Case Administrator  
100 Cambridge Street, Suite 900  
Boston, MA 02114

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

MassDEP  
Waterways Regulation Program  
100 Cambridge Street, Suite 900  
Boston, MA 02114

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

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

### **What information must be included in the hearing request?**

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

- (a) the MassDEP Waterways Application File Number;
- (b) the complete name, address, fax number and telephone number of the Applicant;
- (c) the address of the project;
- (d) the complete name, address, fax number, and telephone number of the party filing the request and, if represented by counsel, the name, address, fax number, and phone number of the attorney;
- (e) if claiming to be a person aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found in 310 CMR 9.02;
- (f) a clear statement that a formal adjudicatory hearing is being requested;

- (g) a clear statement of the facts which are the grounds for the proceedings, the specific objections to the MassDEP's written decision, and the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written decision; and
- (h) a statement that a copy of the request has been sent to: the Applicant and the municipal official of the city or town where the project is located.

**Dismissal of request**

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

**Exemptions**

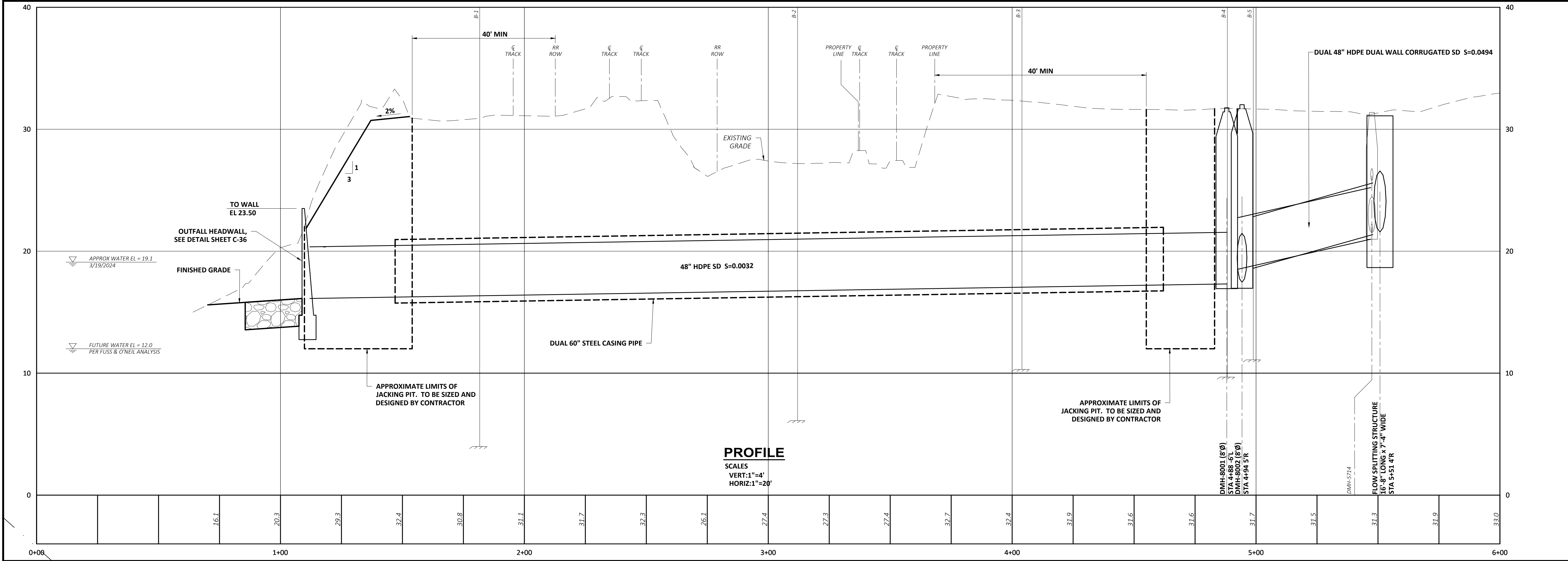
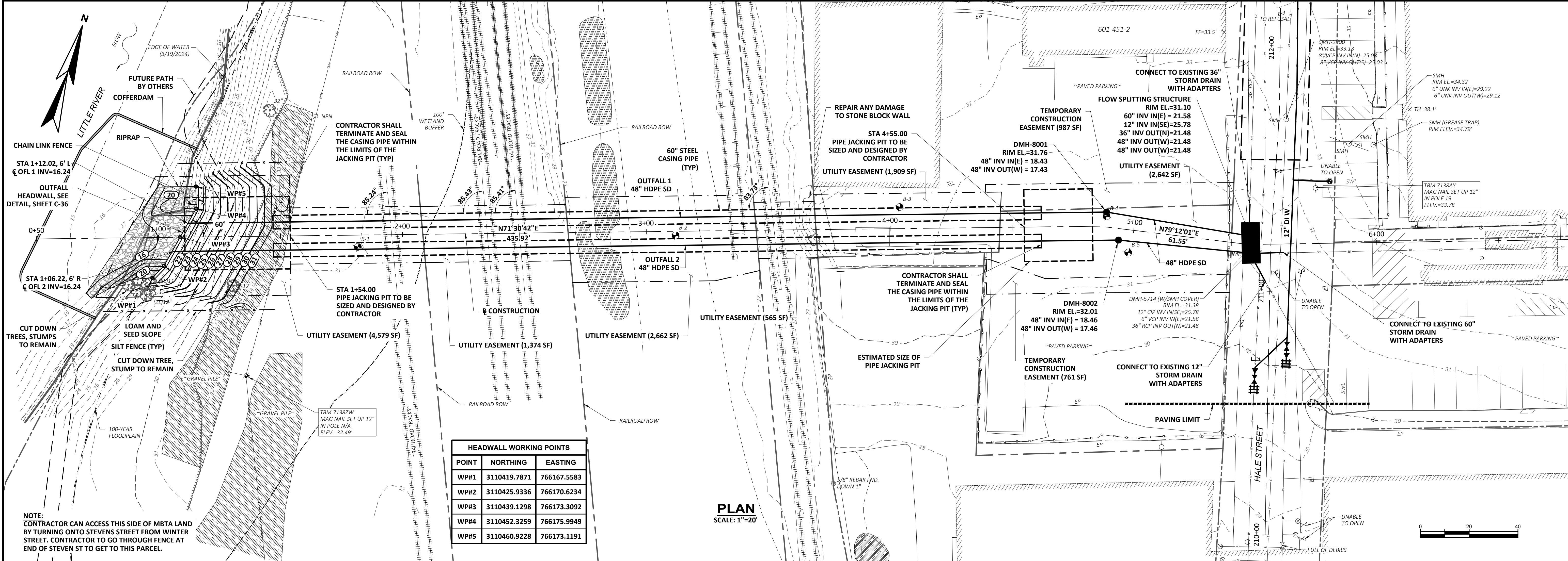
The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority.

**Waiver**

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



LAST SAVED BY: CHRISTOPHER HINKLEY 5/14/2025 3:04 PM  
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REVISIONS		APPROVED	DATE
NO			

PROJECT NO.	20010F
DESIGNED BY:	J. LOCKE
CAD COORD:	D. METZ
CAD:	D. METZ
CHECKED:	M. STEIN
DATE:	
APPROVED:	M. CORBIN
DATE:	
SUBMISSION:	90% DESIGN

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**CITY OF HAVERHILL, MASSACHUSETTS**

**LOCKE STREET AREA PHASE 1**

**COMBINED SEWER SEPARATION**

**AND WATER MAIN IMPROVEMENTS**

**OUTFALL**

**PLAN AND PROFILE STA 1+00 TO STA 6+00**

**DRAWING**

**C-16**