City of Quincy
City Hall
1305 Hancock Street
Quincy, Massachusetts 02169
Purchasing Department

ADDENDUM NUMBER 1

RE: **Town Brook Open Space Improvements – Addendum No. 1**

BID DATE: 5/16/2013

BID TITLE: Town Brook Open Space Improvements

PLEASE NOTE THE FOLLOWING REVISIONS:

1. LIQUIDATED DAMAGES

A. Section 004100 Form of General Bid, the last sentence of Paragraph 2 shall be modified as follows:

"The Bidder further agrees to pay as liquidated damages: **$1,200.00** for each day thereafter, charged against the Contractor, as provided for in Article 12 of the General Conditions."

B. Section 011000 Summary of Work, Part 1.03 F, the last sentence of Paragraph 2 shall be modified as follows:

"Accordingly, in accordance with Article 7 of the Agreement, instead of requiring any such proof, the City and the Contractor agree that as liquidated damages for delay (but not as a penalty) the Contractor shall pay the City one thousand two hundred dollars **($ 1,200.00)** per day for each calendar day beyond the completion date that work included as shown on the Plans and described in these Contract Documents remains uncompleted."

C. Section 005000 Agreement, the last sentence of Article 7, Part 7.1 shall be modified as follows:

"Accordingly, instead of requiring any such proof, the City and the Contractor agree that as liquidated damages or delay (but not as penalty) the Contractor shall pay the City **$ 1,200.00** per day for each calendar day of delay until the Work is complete."

2. REMOVE GRANITE BLOCK INSTALLATION FROM CONTRACT

A. Section 004100 Form of General Bid, Item #323219-02 shall be removed from the contract.

B. Sheet L-1 of the Site Plans, "(14) Granite Blocks spaced approximately 7 FT. O.C., 2 FT. behind back of walk; Set into grade to allow 12" reveal" shall be removed from the contract.

3. APPENDICES TO THE CONTRACT DOCUMENTS

Attachments 1 and 2 to this Addendum shall be added to the contract documents as Appendix A and B, respectively.

Thank you. PLEASE SIGN AND ATTACH IT TO YOUR BID, AS IT IS NOW PART OF THE BID.

_____

Kathryn R. Hobin, Purchasing Agent

Date: _____

Bidder's Signature: _____

Attachments:

Attachment 1 – Appendix A to the Contract Documents: City of Quincy Conservation Commission Order of Conditions DEP File No. 59-1261

Attachment 2 - Appendix B to the Contract Documents: Massachusetts Department of Environmental Protection Water Quality Certification – Town Brook Realignment DEP Transmittal #X239696

ATTACHMENT 1

Appendix A

City of Quincy Conservation Commission

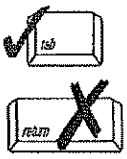
Order of Conditions DEP File No. 59-1261

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Final Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number:
59-1261

A. General Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. From: Northeast Regional Office
Regional Office of the Department of Environmental Protection (MassDEP)

2. This issuance is for (check one): a. ☒ Final Order of Conditions b. ☐ Superseding Amended Order of Conditions

3. To: Applicant:

Dennis	Harrington
a. First Name	b. Last Name

City of Quincy
c. Organization

1305 Hancock Street
d. Mailing Address

Quincy	MA	02169
e. City/Town	f. State	g. Zip Code

4. Property Owner (if different from applicant):

Various – see Appendix A from Order of Conditions	
	b. Last Name

c. Organization

d. Mailing Address

e. City/Town	f. State	g. Zip Code

5. Project Location:

Town Brook through Quincy Center	Quincy
a. Street Address	b. City/Town
See Appendix A from Order of Conditions	
c. Assessors Map/Plat Number	d. Parcel/Lot Number

Latitude and Longitude, if known:

42d14m50s	71d00m05s
e. Latitude	f. Longitude

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Norfolk	
a. County	b. Certificate Number (if registered land)
See Appendix A from Order of Conditions	
c. Book	d. Page

7. Dates:

May 27, 2011	August 3, 2011	August 9, 2011
a. Date Notice of Intent Filed	b. Date Public Hearing Closed	c. Date of OOC Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
See Special Condition #19

b. Prepared By | c. Signed and Stamped by

d. Final Revision Date | e. Scale

f. Additional Plan or Document Title | g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of 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. ☐ Public Water Supply
b. ☐ Land Containing Shellfish
c. ☒ Prevention of Pollution
d. ☐ Private Water Supply
e. ☒ Fisheries
f. ☒ Protection of Wildlife Habitat
g. ☐ Groundwater Supply
h. ☒ Storm Damage Prevention
i. ☒ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

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 these interests, 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 Act's interests, 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).**

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available) — a. linear feet

Massachusetts Department of Environmental Protection
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Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. ☒ Bank	3,425 a. linear feet	3,425 b. linear feet	2,525 c. linear feet	2,525 d. linear feet
5. ☒ Bordering Vegetated Wetland	0 a. square feet	0 b. square feet	500 c. square feet	500 d. square feet
6. ☒ Land Under Waterbodies and Waterways	17,040 a. square feet	17,040 b. square feet	14,960 c. square feet	14,960 d. square feet
	e. c/y dredged	f. c/y dredged		

B. Findings (cont.)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
7. ☐ 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. ☐ 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. ☐ Riverfront area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

10. ☐ Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. ☐ Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. ☐ Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. ☐ Coastal Beaches	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
14. ☐ Coastal Dunes	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
15. ☐ Coastal Banks	a. linear feet	b. linear feet		
16. ☐ Rocky Intertidal Shores	a. square feet	b. square feet		
17. ☐ Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet

18. ☐ Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. ☐ Land Containing Shellfish	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			
	a. c/y dredged	b. c/y dredged		
21. ☐ Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		

C. General Conditions Under Massachusetts Wetlands Protection Act

(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. 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.

7. 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 MassDEP have been completed.

8. 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 MassDEP 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.

9. 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" [or, "MassDEP"]

"File Number 59-1261 "

C. General Conditions Under Massachusetts Wetlands Protection Act

10. Where the MassDEP is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.

11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to MassDEP.

12. The work shall conform to the plans and special conditions referenced in this order.

13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of MassDEP in writing whether the change is significant enough to require the filing of a new Notice of Intent.

14. The Agent or members of the Conservation Commission and MassDEP 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 MassDEP for that evaluation.

15. 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.

16. 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 MassDEP.

17. 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 MassDEP, 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

18. **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 the 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 Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

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 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 18(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 BMPs 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 Pollution 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, and 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 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(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.

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

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 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.

☒ **FOC** Special Conditions (see the attached sheet(s) for additional conditions numbered 19 thru 68.

Brief Description of Project:

The proposed project is for the realignment of 1700 linear feet of Town Brook in Quincy Center to a new 1200-linear-foot alignment adjacent along the south side of the Concourse Roadway.

FINAL ORDER OF CONDITIONS
DEP File Number 59-1261

Special Conditions

19. All work shall conform with the following plans, reports and special conditions:

Plans titled: "Town Brook Enhancement Project, Notice of Intent, Quincy, MA." 26 sheets. Prepared by Stephenson Design Group, LLC and stamped by Karlis Skulte, P.E. #47765. Final revision date: July 27, 2011. Scale: as shown.

Document entitled: "Preliminary Design of Flow Restoration in Town Brook, Quincy MA." Prepared by Gomez & Sullivan Engineers, P.C. Final Report dated March, 2011.

Document entitled: "MassDEP 401 Water Quality Certification, USACOE 404 Category 2 Permit. Prepared by Stephenson Design Group, LLC, and Lucas Environmental, LLC. Dated September 23, 2011.

Document entitled: "Request for Information, Town Brook Enhancement Project, DEP File #059-1261, Quincy, Massachusetts." 80 pages including attachments. Prepared by Stephenson Design Group, LLC. Dated November 21, 2011.

Pre-Construction:

20. A copy of this Superseding Order shall be included in all construction contracts and shall supersede any conflicting requirements.

21. No work shall commence on-site until all appeal periods have elapsed and this Superseding Order of Conditions has been recorded with the Registry of Deeds and the MassDEP has been formally notified via the form provided at the end of this Order.

22. Any proposed or executed change in the plans approved under this Superseding Order shall require the applicant to file a new Notice of Intent with the Quincy Conservation Commission or to inquire of the MassDEP in writing whether the change is substantial enough to require a new filing. A copy shall be sent at the same time to the Quincy Conservation Commission.

23. Erosion controls shall be placed on site between areas of proposed work and resource areas. Haybales and/or silt fence must be staked. Silt fencing must be entrenched. Alternative types of barriers (such as straw, coir, or Filter mitt) may be used with prior approval from MassDEP.

24. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair or replace silt fences, hay bales, stone riprap filter berms, or any other devices planned for use during construction.

25. The applicant shall employ an Environmental Monitor certified in Massachusetts as a Professional Engineer and with experience in stream construction techniques. This monitor will ensure that all work relating to placement of the geo-textile materials and construction of the low-flow channel, modified channel, resting areas, riffles, and bordering vegetated wetland island are constructed as designed and shall be given the authority to stop work in the event of non-compliance with this Final Order. This monitor shall report directly to Mass DEP and the Division of Marine Fisheries (DMF) on a bi-weekly basis. The name and address of this Monitor shall be provided to MassDEP and DMF prior to the start of work.

26. **Prior to construction on this site,** there shall be a pre-construction meeting between the project supervisor, the contractor responsible for the work, a member of the Quincy Conservation Commission or its Administrator, the Environmental Monitor and representatives of MassDEP and DMF to ensure that the requirements of this Superseding Order of Conditions are understood. Arrangements shall be made two weeks prior to any activity to arrange for the pre-construction meeting.

27. **Prior to construction on this site,** a plan with narrative shall be prepared describing the method for placing stone within both the cast-in-place and pre-cast sections of culvert. There shall be approval from DEP in writing prior to construction.

28. **Prior to the commencement of construction,** a dewatering plan shall be prepared and submitted to MassDEP for review and approval. There shall be approval from DEP in writing prior to construction.

29. All plans, reports, and information referenced in this Superseding Order of Conditions shall be provided to MassDEP and the Quincy Conservation Commission simultaneously.

Project Specific:

30. Unless otherwise allowed by DMF, there shall be no construction that results in a discharge of waters to the existing Town Brook smelt run between March 1st and May 31st.

31. The downstream connection point shall be constructed prior to the upstream tie-in point becoming functional. The upstream connection point shall be constructed after the approximately 1200 linear feet of new culvert and low-flow channel are completed.

32. The embedded material proposed within the culvert shall be set flush to the existing grade of the stream channel bottom at both the culvert outlet, such that there will be no physical barrier to fish passage.

33. Construction of the proposed project incorporating the elevated wall along Parcel 90 (Sheet C-4.3), and the "Alternate Work Plan" dated October 27, 2011, both prepared by Stephenson Design Group, may be implemented upon the written consent of the property owner of Parcel D90, upon an eminent domain taking, or as otherwise may be authorized in accordance with the laws of the Commonwealth. When property considerations are finalized, notice shall be provided to MassDEP and DMF.

34. A gravity-flow hydraulic connection, described in the Gomez and Sullivan Report as the Tunnel Intake Area Gravity Option, that will augment flow into Town Brook shall be constructed within the Tunnel Intake Area of the Burgin Conduit and the Town Brook channel by means of a concrete channel or the installation of a buried pipe connection. Flow to this new channel or pipe shall be controlled by water-tight stop logs in accordance with an operating plan approved by the United States Army Corps of Engineers (USACE), provided that the applicant may propose to incorporate automatic sluice gates in the design in lieu of one or more stop logs. Construction of the gravity flow connection may only occur upon receipt of all necessary approvals, including, but not limited to, approval of a request to modify the existing structure from the USACE. All permit and approval applications necessary to construct and operate the flow augmentation structure shall be filed prior to the completion of the construction of the realigned Town Brook channel.

35. The gravity flow connection described in Condition #34 shall be constructed and operational prior to the diversion of Town Brook into the realigned channel, provided that, if despite the good faith effort of the applicant, the final permits and approvals necessary to construct the flow augmentation structure described in Condition #34 are not obtained prior to the date that the new alignment is ready to receive flow from the Brook, then the gravity flow option

shall be constructed no later than six months from the date such final permits and approvals are obtained. Pending obtaining such final permits and approvals, Town Brook may be diverted into the new alignment channel upon completion of its construction in accordance with final approved plans.

36. In the event that the results of the Monitoring Program set forth in Special Condition #52 indicate that additional flow augmentation is required to improve habitat functions, and upon the written request of DMF, modification of the diversion weir, as described in the Gomez & Sullivan Report as the Centre Street Junction Gravity Option, shall be constructed no later than 6 months from the date that all necessary approvals are obtained, including, but not limited to, approval of a request to modify this structure from the USACE.

37. In order to facilitate compliance with the provisions of Special Conditions #34 and #36, the applicant, in conjunction with DMF and other necessary state agencies, shall be obligated to enter into a Memorandum of Agreement within 60 days of the issuance of a Final Order of Conditions that will address the permitting, design, construction, operational, and financial responsibilities of the parties to complete the improvements described in Special Conditions #34 and #36.

38. In the event that the applicant is not able to obtain the permits or approvals necessary to implement the gravity flow retrieval option, or modification of the diversion weir, if required, then the applicant shall notify MassDEP and DMF of its inability to secure said permits or approvals. MassDEP, in coordination with DMF, shall notify the applicant that a proposal for an alternative method of flow augmentation is required and shall establish timelines for submittal and implementation of this proposal to be submitted to MassDEP and DMF for review and approval.

39. A submittal of a Letter of Map Revision (LOMR) application shall be made to the Federal Emergency Management Agency (FEMA) by the City of Quincy with a copy to MassDEP, notifying FEMA of the proposed change in the location of Town Brook culvert and channel and, if applicable, any change in the extent of flooding during the 100-year flood event, or any change to the floodway. Application shall be made within four months of the discharge of flows within the new alignment.

40. If oil and/or hazardous materials (OHM) are identified during implementation of the project (including excavation, removal and/or disposal of contaminated soil, pumping/dewatering of contaminated groundwater, or working in contaminated media), notification pursuant to the MA Contingency Plan (310 CMR 40.0000) must be made to MassDEP. A Licensed Site Professional (LSP) may be retained to determine if notification is required and, if need be, render appropriate opinions. Construction of protocols and procedures should reflect the potential for discovery of OHM during the construction period and appropriate tests should be conducted, prior and during construction, for known or suspected contamination.

41. Illicit channel connections, including, but not limited to, those between Station17+00 and 18+00, shall be eliminated in accordance with 314 CMR 9.06(6)(a)(10).

42. Prior to the start of construction, final plans shall be provided to MassDEP and DMF for review and approval, including detail of the vertical transition point in proximity to the downstream limits of work at approximately Station 21+00 showing how a smoother vertical transition at the channel bottom may be implemented in this area to improve the conditions resulting from the existing channel failure in this location, to the extent practicable, and provided it can be demonstrated that no adverse channel design performance issues can be shown to result from this repair.

43. To further improve the exclusion of fish from the decommissioned channel, DMF may recommend modifications to the weir/baffle design, which shall be incorporated within the final plans to be submitted to MassDEP and DMF for review and approval.

44. Final plans regarding the bordering vegetated wetland plantings and enhanced shade tree plantings to the maximum extent practicable accounting for growth criteria and other relevant considerations shall be submitted to MassDEP for review and approval prior to construction. There shall be no work until approval is received in writing from DEP.

45. As stated in the 401 Water Quality Certification Application, the applicant shall prepare a Town Brook Watershed Master Plan addressing Quincy Center and surrounding neighborhoods adjacent to Town Brook and will coordinate this Master Plan with the developer of the Urban Revitalization District.

Stormwater:

46. The 12 existing point-source discharges shall be retrofitted with catch basin inserts as described in Attachment 1 of the November 21, 2011 Response to Request for Information cited in Special Condition #19 of this document.

47. Maintenance of these inserts shall be in accordance with the "Sample Maintenance Agreement" included in Attachment 1 of the November 21, 2011 Response to Request for Information cited in Special Condition #19 of this document. This shall be an on-going condition and shall be included in any Certificate of Compliance and shall not expire with the issuance of a Certificate of Compliance.

48. As part of the comprehensive stormwater management program currently under development in connection with the Quincy Center Redevelopment Project, any Best Management Practices (BMPs) implemented within the Concourse Roadway and/or project area as approved as part of this SOC may be upgraded or replaced by new BMPs provided that there are similar or equivalent TSS removal rates.

49. The Comprehensive Stormwater Management Plan for the Quincy Center Redevelopment Project must comply with the MA Stormwater Standards for all discharges to the existing or proposed Town Brook channel. This includes discharges through existing pipe outlets and new pipe outlets installed as part to the Town Brook Enhancement Project and the Concourse Roadway Improvement Project.

50. Stormwater from the Quincy Center Redevelopment Project shall be in compliance with the MA Stormwater Standards and shall be directed to Town Brook.

Monitoring:

51. A permanent staff gage shall be installed at the inside of the stream bend to assist in monitoring sediment accumulation. A gage or benchmark shall be placed along the outside of the stream bend to assist in monitoring for scour. The staff gage(s) should be installed so as to be visible from street level.

52. The bordering vegetated wetland (BVW) island shall be monitored by the Environmental Monitor or qualified designee for success of plantings as well as for scour or deposition of materials, including both sediments and debris. Failed plantings shall be replaced with similar species as approved by MassDEP. A monitoring report shall be submitted to DEP at the beginning and end of each growing season for three years and shall include recommendations for replacement, as required.

53. The applicant shall submit a proposal for a smelt monitoring study shall be submitted to DMF for review and approval. The study shall include three years of monitoring and shall incorporate 2-3 site visits per week between March 1st and May 31st of each monitoring year. The proposal shall include: (1) documentation of the spatial and temporal distribution of smelt eggs, (2) sediment accumulation, water depth, and velocity should be measured at each inspection at the daylighted spawning riffles, resting pools, and at the stream bend, and (3) water quality (including dissolved oxygen and temperature) and effectiveness of the fish exclusion barrier shall be monitored.

54. The applicant shall submit a channel monitoring plan in order to identify the development of any scour pools, perched conditions, invert drops or any other obstructions to fish passage, especially at the transition between the new section of channel and the existing channel just south of Revere Road. If any obstructions to fish passage are observed, a remedial action plan shall be submitted within 30 days of the identification of the obstruction that will avoid or reduce impacts to fish movement.

55. The applicant shall submit a remedial action proposal in the event that DMF concludes that the channel's design specifications are not met and, as a result, significant smelt egg mortality results. This remedial action proposal shall be submitted to MassDEP and DMF for review and approval within the time set forth in the notice to the applicant that a remedial action is required.

56. The structural integrity and capacity of the banks, including the wall on Parcel 90, and channel of both the realigned portion of Town Brook and the downstream portion of the brook within the project area, being intergral to protection of flood control, storm damage prevention and protection of fisheries, shall be maintained. This shall include, but is not limited to, maintenance of the channel bottom to address sedimentation, preservation of the spawning substrate, and prevention of any conditions that may serve as an obstruction to fish passage as long as the fish continue to return to Town Brook. In addition, all vegetative plantings shall be maintained. This on-going condition shall be included in any Certificate of Compliance and shall not expire with the issuance of a Certificate of Compliance.

57. Once achieved, flow augmentation shall be on-going to ensure protection of the fish run and spawning habitat. This on-going condition for protection of fisheries shall be included in any Certificate of Compliance and shall not expire with the issuance of a Certificate of Compliance.

Other:

58. An operation-and-maintenance (O&M) program shall be implemented as outlined in Appendix F of the 401 Water Quality Certification application. This shall be an on-going condition and shall be included in any Certificate of Compliance and shall not expire with the issuance of a Certificate of Compliance.

59. This O&M program shall reflect that removal of sediments will require prior consultation with MassDEP and MA DMF and shall specify equipment to be used in for removal of accumulated sediments.

60. At no time during or after construction shall fill or other materials be placed, slump into or fall beyond the limit of grading as shown on the plan. The applicant shall be responsible for inspecting and maintaining all slopes and shall immediately notify the MassDEP and the Quincy Conservation Commission if slumping, erosion or encroachment occurs.

61. During work on this project, there shall be no discharge or spillage of fuel, oil or other pollutants, including sediments, onto any part of the site. The applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident or vandalism.

62. A copy of the final Construction Storm Water Pollution Plan (SWPPP) shall be submitted to MassDEP and the Quincy Conservation Commission prior to construction.

63. The developer or contractor responsible for the project's completion shall be notified of, and understand, the requirements of this Superseding Order of Conditions. A copy of this Order shall be kept on-site while activities regulated by this Order are being performed.

64. If any unforeseen problems occur during construction, upon discovery, the applicant shall immediately notify MassDEP and the Quincy Conservation Commission, and a meeting shall be held to determine the corrective measures to be employed. The applicant shall then act to correct the problem using the corrective measures

agreed upon.

65. Upon stabilization of the site, all erosion controls shall be removed. A Certificate of Compliance will not be issued until all controls are removed.

66. Upon completion of this project, the applicant shall request a Certificate of Compliance from the MassDEP and shall submit the following information with the request:

    a. A written statement by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts certifying compliance with the approved plans referenced above and this Superseding Order of Conditions and setting forth deviations, if any exits;
    b. An as-built site plan prepared by a registered land surveyor or registered professional engineer showing location and grades of the project.
    c. A final wetland replication report.

67. This Order shall apply to all successors or assigns in interest or control and any other party engaging in activity on the property identified in the Notice of Intent.

68. This Order of Conditions supersedes all prior Orders under DEP File #59-1261.

D. Findings Under Municipal Wetlands Bylaw or Ordinance

To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, MassDEP has no jurisdiction to supersede the local bylaw order.

E. Issuance

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

1.) Date of Issuance

The Final 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 Conservation Commission, appellant and the property owner, if different from the applicant.

Issued by the Massachusetts Department of Environmental Protection:

Signature: /Kenneth Kimmell/

Kenneth Kimmell, Commissioner

5/30/12

Date

This Order is issued to the applicant as follows:

☐ by hand delivery on

☒ by certified mail, return receipt requested, on

CERTIFIED MAIL Date May 30, 2012 #7003 3110 0001 6101 6905 Date

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 subject to the Order of Conditions. The recording information on this page shall be submitted to MassDEP listed below.

Regional Office of the Massachusetts Department of Environmental Protection

Detach on dotted line, have stamped by the Registry of Deeds and submit to MassDEP.

To:

Northeast Regional Office
Regional Office of the Department of Environmental Protection

Please be advised that the Order of Conditions for the Project at:

Town Brook, Quincy Center
Project Location

59-1261
MassDEP File Number

Has been recorded at the Registry of Deeds of:

Norfolk
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

ATTACHMENT 2

Appendix B

Massachusetts Department of Environmental Protection

Water Quality Certification – Town Brook Realignment

DEP Transmittal #X239696

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

August 31, 2012

Dennis Harrington, Planning Director
City of Quincy
1305 Hancock Street
Quincy, MA 02169

Re: **Water Quality Certification – Town Brook Realignment**
BRP WW10, Major project certification

At: Town Brook through Quincy Center

DEP File #59-1261
DEP Transmittal #X239696
United States Army Corps of Engineers (USACOE) Permit # NAE-2010-1986

Dear Mr. Harrington:

The Massachusetts Department of Environmental Protection (MassDEP) has completed its review of your application for Water Quality Certification, as referenced above. In accordance with the provisions of MGL c.21, §§ 26-53 and Section 401 of the Federal Clean Water Act as amended (33 U.S.C. §1251 et seq.), it has been determined there is reasonable assurance the project or activity will be conducted in a manner which will not violate applicable water quality standards. A site visit for the project [see: 314 CMR 9.05 (4)] was conducted by MassDEP staff on September 11, 2011 and April 27, 2012 as part of a regulatory agency field inspection of the site.

The proposed project is for the realignment of Town Brook. Extensive historic alteration of Town Brook has resulted in the placement of the majority of the brook in culverts through the City. This project proposes to realign 1700 linear feet of the culverted river from Quincy Center to a new location paralleling a new concourse as part of the Quincy Center Urban Revitalization District Plan. This project is one of three Core Public Improvement projects that the City of Quincy is undertaking to upgrade the aged infrastructure within Quincy Center in order to facilitate redevelopment. The proposed new alignment will consist of 1200 linear feet of channel of which approximately 264 linear feet will be open channel.

This information is available in alternate format. Call Michelle Waters-Ekanem, Diversity Director, at 617-292-5751. TDD# 1-866-539-7622 or 1-617-574-6868
MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

The realignment of the brook will connect the proposed culvert to the existing culvert at a point upstream of Quincy Center. Flows will be conveyed from west to east along the south side of the Concourse Roadway which is currently under construction.

This application for Water Quality Certification proposes the filling of approximately 17,040 square feet of Waters of the United States, and specifically, Land Under Water. The regulations at 314 CMR 9.06(2) require mitigation for the permanent loss of this resource area.

Several features have been incorporated into the proposed project to provide mitigation. The realigned channel will provide approximately 171 linear feet of new open channel section. This open channel section will incorporate a low-flow channel with spawning substrate secured to the channel bottom. Additional linear footage of low-flow channel and spawning substrate is provided under Mechanic Street and both upgradient and downgradient of the open channel section. The low-flow channel is designed to achieve attraction velocities for smelt during low flows and includes resting pools to allow smelt to rest during spawning events. There will also be repairs to the existing channel bottom at the downstream limit of work to address an area of channel failure. This repair requires the replacement of the existing degraded channel walls and bottom with an eight-foot-wide monolithic reinforced concrete channel as an extension of the new channel section.

Wetland plantings are proposed within the open-channel section of Town Brook just upstream of the connection with the existing channel. The width of the channel in this location provides an opportunity to reduce velocities and create an "island" with an elevation just above base flow elevations. Approximately 500 square feet of wetland plantings are intended to mitigate temperatures within adjacent spawning riffles and resting pools.

Town Brook has been subject to significant diversion of flows as a result of local flood control projects, sedimentation and other development. The Deep Rock Tunnel Flood Control Project overflow diversion structure was constructed by the Army Corps of Engineers (ACOE) in 1998 to divert peak storm event flows so as to reduce localized flooding. During construction of this structure, the smelt run suffered acute impacts including egg mortality and spawning habitat loss. Subsequently, it was determined that the brook's base flows have decreased resulting in continuing chronic impacts to the smelt run due to sedimentation, algae accumulation, and reduced water depths and velocity. Maintaining appropriate base flows within Town Brook is a critical factor in sustaining the existing smelt habitat.

Accordingly, this Water Quality Certification, as well as the Final Order of Conditions for this project (DEP File #59-1261) requires that a draft Memorandum of Agreement be prepared between stakeholders and that flows to Town Brook be restored through one or more solutions described further in Conditions #19 through #22.

As mentioned previously, the Town Brook realignment project is one component of the Quincy Center Redevelopment project. Construction of stormwater infrastructure is part of this redevelopment project. The draft Environmental Impact Report (DEIR) for the New Quincy Center Redevelopment project includes a preliminary design that consolidates many of the existing outfalls in the former Town Brook alignment into a single discharge outfall at Revere Road, adjacent to the existing smelt spawning area. Groundwater flow from the existing MBTA Lift Station will also be directed to this discharge outfall. This lift station contributes a significant flow of approximately 1 cubic foot per second several times a day to Town Brook and effectively doubles the brook's base flows during low flow periods.

Though the stormwater improvements for the redevelopment project have not been included in the Water Quality Certification application for the realignment project, they may have an effect on Waters of the United States. Consequently, this Certification requires that plans be evaluated which introduce the MBTA Lift Station flows further upstream into the realigned section of Town Brook. This requirement is compatible with the recommendations of the DEIR Certificate issued by the Secretary of Energy and Environmental Affairs on June 22, 2012.

An alternatives analysis has been done in accordance with 314 CMR 9.00. Seven alternative brook alignments (A through G) were evaluated in the Water Quality Certification application. In addition, a no-build alternative and an alternative to re-build the culvert along its current alignment were also evaluated. In order to determine the preferred alternative, the nine alternatives were evaluated using ten metrics: flood control, cost, underground conflicts, property constraints, enhanced smelt fisheries habitat, construction schedule and phasing, environmental enhancements, code compliance, consistency with the Urban Revitalization District Plan, and open channel/public amenity. The preferred alignment was determined through this evaluation process.

The regulations at 314 CMR 9.06, require that: "No discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts to the bordering or isolated vegetated wetlands or land under water, including a minimum of 1:1 restoration or replication of bordering or isolated vegetated wetlands. Minimization and mitigation of adverse impacts shall be required for the selected alternative and the ability to minimize and mitigate impacts may be a factor in the evaluation of alternatives." Mitigation of adverse impacts for this project will occur via implementation of the mitigation plan and narrative referenced in the special conditions. No comment letters were received during the public comment period.

The Criteria for Evaluating Proposed Discharge to Wetlands of the Regulations for the Water Quality Certification Program (the Regulations) require the submittal of information necessary for MassDEP to determine that the project complies with the Wetland Protection Act, minimizes individual and cumulative impacts, and complies with the Massachusetts Surface Water Quality Standards. This information has been provided and specific mitigating measures required by the Department are itemized below. Therefore, based upon information currently in the record, MassDEP grants a Water Quality Certification subject to the following conditions to maintain water quality, to minimize impact on the waters and wetlands, and to ensure compliance with appropriate state law.

1. This project could result in a violation of MassDEP's Water Quality Standards, 314 CMR 4.00. Therefore, reasonable care and diligence shall be taken to assure that the proposed activity will not violate Class B standards.

2. All activity shall conform to the following plans and documents:

    a. Application for Water Quality Certificate dated September 23, 2011, which includes: (i.) Transmittal Form #X239696, and (ii.) Notice of Intent and accompanying narrative filed with the Quincy Conservation Commission for DEP File #59-1269.

b. Plans entitled: "Town Brook Enhancement Project, Notice of Intent, Quincy, MA." 26 sheets. Prepared by Stephenson Design Group, LLC, and stamped by Karlis Skulte, P.E. #47765. Final revision date: July 27, 2011. Scale: as shown.

c. Plan entitled: "Channel Repair Plan Downstream Connection Point." One sheet. Prepared by Stephenson Design Group, LLC, and stamped by Karlis Skulte, P.E. #47765. Dated July 13, 2012.

d. Plan entitled: "Alternate Work Plan." One Sheet. Prepared by Stephenson Design Group, LLC, and dated October 27, 2011.

c. Document entitled: "Preliminary Design of Flow Restoration in Town Brook, Quincy MA." Prepared by Gomez & Sullivan Engineers, P.C. Final report dated March, 2011.

e. Document entitled: "Request for Information, Town Brook Enhancement Project, DEP File #059-1261, Quincy, Massachusetts." 80 pages including attachments. Prepared by Stephenson Design Group, LLC. Dated November 21, 2011.

f. Document entitled: Memorandum of Agreement by the City of Quincy, Massachusetts Department of Conservation and Recreation, the Division of Marine Fisheries and Street-Works Development, LLC for the Recapture of Base Stream Flows Within Town Brook including Exhibits A, B & C.

Pre-Construction:

3. All activity shall conform to the requirements set forth in the Final Order of Conditions issued by MassDEP on May 30, 2012, for DEP File #59-1269, unless otherwise specified herein.

4. The project proponent shall notify MassDEP and the Quincy Conservation Commission in writing, 48 hours before any activity commences on site.

5. Members and agents of MassDEP and the Quincy Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the conditions stated in this Water Quality Certification. The project proponent shall submit any data MassDEP deems necessary for that evaluation.

6. Erosion controls shall be placed on site between areas of proposed work and resource areas. Haybales and/or silt fence must be staked. Silt fencing must be entrenched. Alternative types of barriers (such as straw, coir, or Filter mitt) may be used with prior approval from MassDEP.

7. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair or replace silt fences, hay bales, stone riprap filter berms, or any other devices planned for use during construction.

8. The applicant shall employ an Environmental Monitor certified in Massachusetts as a Professional Engineer and with experience in stream construction techniques. This monitor will ensure that all work relating to placement of the geo-textile materials and construction of the low-flow channel, modified channel, resting areas, riffles, and bordering vegetated wetland

island are constructed as designed and shall be given the authority to stop work in the event of non-compliance with this Water Quality Certification.

9. The Environmental Monitor shall report directly to MassDEP and the Division of Marine Fisheries (DMF) on a bi-weekly basis. The name and address of this Monitor shall be provided to MassDEP and DMF prior to the start of work.

10. **Prior to the commencement of construction,** there shall be a pre-construction meeting between the project supervisor, the contractor responsible for the work, a member of the Quincy Conservation Commission or its Administrator, the Environmental Monitor and representatives of MassDEP and DMF to ensure that the requirements of this Water Quality Certification are understood. Arrangements for the pre-construction meeting shall be made at least two weeks prior to any activity within jurisdictional areas.

11. **Prior to the commencement of construction,** a plan with narrative shall be prepared describing the method for placing stone within both the cast-in-place and pre-cast sections of culvert. Written approval from MassDEP is required prior to construction.

12. **Prior to the commencement of construction,** a dewatering plan shall be prepared and submitted to MassDEP for review and approval. Written approval from MassDEP is required prior to construction.

13. **Prior to installation of the low-flow channel,** the applicant shall schedule a site inspection with MassDEP and DMF. The purpose of this inspection is to confirm channel elevations and slope with the Environmental Monitor at the transition area between the proposed project and the existing channel to ensure that the slope in this area is suitable for smelt migration and is compatible with the upstream design slope.

14. All plans, reports, and information referenced in this Water Quality Certification shall be provided to MassDEP and the Quincy Conservation Commission simultaneously.

Project Specific:

15. Unless otherwise allowed by DMF, there shall be no construction that results in a discharge of waters to the existing Town Brook smelt run between March 1st and May 31st.

16. The downstream connection point shall be constructed prior to the upstream tie-in point becoming functional. The upstream connection point shall be constructed after the approximately 1200 linear feet of new culvert and low-flow channel are completed.

17. The embedded material proposed within the culvert shall be set flush to the existing grade of the stream channel bottom at both the culvert outlet, such that there will be no physical barrier to fish passage.

18. Construction of the proposed project incorporating the elevated wall along Parcel D90 (Sheet C-4.3), and the "Alternate Work Plan" dated October 27, 2011, both prepared by Stephenson Design Group, may be implemented upon the written consent of the property owner of Parcel D90, upon an eminent domain taking, or as otherwise may be authorized in accordance with the

laws of the Commonwealth. When property considerations are finalized, notice shall be provided to MassDEP and DMF.

19. A preliminary Town Brook Flow Restoration Alternatives report shall be prepared by December 31, 2012, and submitted to MassDEP, the MA Department of Conservation and Recreation (DCR), and DMF for review and approval. Alternatives to be evaluated may include, without limitation, modification of the Crown Colony detention basin outlet structure and/or modifications to the Centre Street Culvert and Junction Structure, removal of sediment impeding flow downstream of this structure, and survey of the channel of Town Brook from the Centre Street diversion structure to the Lowes parking lot. All permit and approval applications necessary to construct and operate the flow restoration alternative(s) shall be filed prior to the completion of the construction of the realigned Town Brook channel.

20. The flow restoration alternative(s) described in the flow restoration report required by Condition #19 shall be constructed and operational prior to the diversion of Town Brook into the realigned channel.

21. If, despite the good faith efforts of the applicant, the flow restoration alternative(s) are not operational prior to the diversion of Town Brook, then interim flow augmentation, as detailed in the final executed Memorandum of Agreement adopted by the parties in accordance with Special Condition #37 of the Final Order of Conditions for DEP File #59-1269 shall be implemented for the 2013 smelt spawning season.

22. In the event that the results of the Monitoring Program set forth in Condition # 44 indicate that additional flow augmentation is required to improve habitat functions, and upon the written request of DMF and approvals by the DCR and ACOE, modification of the diversion weir, as described in the Gomez & Sullivan Report as the Centre Street Junction Gravity Option, shall be designed and constructed no later than 6 months from the date that all necessary approvals are obtained, including, but not limited to, approval of a request to modify this structure from the ACOE.

23. If modification of the diversion weir is required, as described in Condition #22, then, within 30 days from receiving notice from MassDEP, the applicant, in conjunction with the necessary state agencies, shall be obligated to enter into a Memorandum of Agreement that will address the permitting, design construction operational, and financial responsibilities of the parties to complete the improvement described in Condition #22.

24. In the event that the applicant is not able to obtain the permits or approvals necessary to implement the flow restoration alternative(s) recommended by Condition #19 or modification of the diversion weir, if required, then the applicant shall notify MassDEP, DCR and DMF of its inability to secure said permits or approvals. MassDEP, in coordination with DCR and DMF, shall notify the applicant that a proposal for a non-structural alternative method of flow augmentation is required and shall establish timelines for submittal and implementation of this proposal to be submitted to MassDEP, DCR and DMF for review and approval.

25. Prior to the construction of stormwater infrastructure associated with the construction of the New Quincy Center Redevelopment Project, the applicant shall submit a water quality sampling protocol for review and approval by MassDEP and DMF for the purpose of determining whether

introduction of groundwater flow from the MBTA Lift Station can be tied into the realigned Town Brook without causing an adverse effect on the fish run and degradation of the smelt spawning substrate. If it is determined that the introduction of flow is approved, the applicant shall construct the tie-in as far upstream as practicable from the Revere Street outfall.

26. Plans showing the Revere Street discharge shall be submitted to MassDEP for review and approval prior to the construction of stormwater infrastructure associated with the construction of the New Quincy Center Redevelopment Project. Plans shall evaluate incorporation of velocity dissipation at the outfall.

27. Maintenance of sediments from those locations identified in the Site Inspection Report referenced in the Memorandum of Agreement shall be undertaken annually and documented in the Town Brook maintenance logbook, in accordance with the Memorandum of Agreement.

28. A permanent mark shall be placed on the Center Street outlet headwall at the same elevation as the overflow trough wall. This mark indicates that, if water at the outlet is above this mark, then water is bypassing Town Brook and maintenance of sediments shall be performed in accordance with the Memorandum of Agreement.

29. A submittal of a Letter of Map Revision (LOMR) application shall be made to the Federal Emergency Management Agency (FEMA) by the City of Quincy with a copy to MassDEP, notifying FEMA of the proposed change in the location of Town Brook culvert and channel and, if applicable, any change in the extent of flooding during the 100-year flood event, or any change to the floodway. Application shall be made within four months of the discharge of flows within the new alignment.

30. If oil and/or hazardous materials (OHM) are identified during implementation of the project (including excavation, removal and/or disposal of contaminated soil, pumping/dewatering of contaminated groundwater, or working in contaminated media), notification pursuant to the MA Contingency Plan (310 CMR 40.0000) must be made to MassDEP. A Licensed Site Professional (LSP) shall be retained to determine if notification is required and, if need be, render appropriate opinions. Construction protocols and procedures should reflect the potential for discovery of OHM during the construction period and appropriate tests should be conducted, prior and during construction, for known or suspected contamination.

31. Illicit channel connections, including, but not limited to, those between Station17+00 and 18+00, shall be eliminated in accordance with 314 CMR 9.06(6)(a)(10).

32. To further improve the exclusion of fish from the decommissioned channel and following review of monitoring results, DMF may recommend modifications to the weir/baffle design, which shall be incorporated within the final plans to be submitted to MassDEP and DMF for review and approval.

33. Final plans regarding the bordering vegetated wetland plantings and enhanced shade tree plantings to the maximum extent practicable accounting for growth criteria and other relevant considerations shall be submitted to MassDEP for review and approval prior to construction. There shall be no work until approval is received in writing from MassDEP.

34. As stated in the 401 Water Quality Certification Application, the applicant shall prepare a Town Brook Watershed Master Plan addressing Quincy Center and surrounding neighborhoods adjacent to Town Brook and will coordinate this Master Plan with the developer of the Urban Revitalization District.

Stormwater:

35. The 12 existing point-source discharges shall be retrofitted with catch basin inserts as described in Attachment 1 of the November 21, 2011 Response to Request for Information cited in Condition #2 of this document.

36. Maintenance of these inserts shall be in accordance with the "Sample Maintenance Agreement" included in Attachment 1 of the November 21, 2011 Response to Request for Information cited in Condition #2 of this document.

37. As part of the comprehensive stormwater management program currently under development in connection with the Quincy Center Redevelopment Project, any Best Management Practices (BMPs) implemented within the Concourse Roadway and/or project area as approved as part of the FOC may be upgraded or replaced by new BMPs provided that there are similar or equivalent TSS removal rates.

38. The Comprehensive Stormwater Management Plan for the Quincy Center Redevelopment Project must comply with the MA Stormwater Standards for all discharges to the existing or proposed Town Brook channel. This includes discharges through existing pipe outlets and new pipe outlets installed as part to the Town Brook Enhancement Project and the Concourse Roadway Improvement Project.

39. Stormwater generated from the Quincy Center Redevelopment Project shall comply with the MA Stormwater Standards and shall be directed to Town Brook.

Monitoring:

40. A permanent staff gage shall be installed at the inside of the stream bend to assist in monitoring sediment accumulation. A gage or benchmark shall be placed along the outside of the stream bend to assist in monitoring for scour. The staff gage(s) should be installed so as to be visible from street level.

41. The bordering vegetated wetland (BVW) island shall be monitored by the Environmental Monitor or qualified designee for success of plantings as well as for scour or deposition of materials, including both sediments and debris. Failed plantings shall be replaced with similar species as approved by MassDEP. A monitoring report shall be submitted to MassDEP at the beginning and end of each growing season for three years and shall include recommendations for replacement, as required.

42. The applicant shall submit a proposal for a smelt monitoring study to DMF for review and approval. The study shall include three years of monitoring and shall incorporate 2-3 site visits per week between March 1st and May 31st of each monitoring year. The proposal shall include: (1) documentation of the spatial and temporal distribution of smelt eggs, (2)

sediment accumulation, water depth, and velocity shall be measured at each inspection at the daylighted spawning riffles, resting pools, and at the stream bend, and (3) water quality (including dissolved oxygen and temperature) and effectiveness of the fish exclusion barrier shall be monitored.

43. The applicant shall submit a channel monitoring plan in order to identify the development of any scour pools, perched conditions, invert drops or any other obstructions to fish passage, especially at the transition between the new section of channel and the existing channel just south of Revere Road. If any obstructions to fish passage are observed, a remedial action plan shall be submitted to MassDEP and DMF within 30 days of the identification of the obstruction that will avoid or reduce impacts to fish movement.

44. The applicant shall submit a remedial action proposal in the event that DMF concludes that the channel's design specifications are not met and, as a result, significant smelt egg or adult mortality results. This remedial action proposal shall be submitted to MassDEP and DMF for review and approval within the time set forth in the notice to the applicant that a remedial action plan is required.

45. The structural integrity and capacity of the banks, including the wall on Parcel 90, and channel of both the realigned portion of Town Brook and the downstream portion of the brook within the project area, being intergral to protection of flood control, storm damage prevention and protection of fisheries, shall be maintained. This shall include, but is not limited to, maintenance of the channel bottom to address sedimentation, preservation of the spawning substrate, and prevention of any conditions that may serve as an obstruction to fish passage as long as the fish continue to return to Town Brook. In addition, all vegetative plantings shall be maintained. This on-going condition shall be included in any Certificate of Compliance and shall not expire with the issuance of a Certificate of Compliance.

46. The applicant shall have an on-going responsibility to operate and maintain the approved flow augmentation alternatives consistent with their design in order to ensure protection of the fish run and spawning habitat.

Other:

47. An operation-and-maintenance (O&M) program shall be implemented as outlined in Appendix F of the 401 Water Quality Certification application.

48. This O&M program shall reflect that removal of sediments from the channel will require prior consultation with MassDEP and DMF and shall specify equipment to be used for removal of accumulated sediments.

49. At no time during or after construction shall fill or other materials be placed, slump or fall into Waters of the United States. The applicant shall be responsible for inspecting and maintaining all slopes and shall immediately notify the MassDEP if slumping, erosion or encroachment occurs.

50. During work on this project, there shall be no discharge or spillage of fuel, oil or other pollutants, including sediments, onto any part of the site. The applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident or vandalism.

51. A copy of the final Construction Storm Water Pollution Plan (SWPPP) shall be submitted to MassDEP and the Quincy Conservation Commission prior to construction.

52. The developer or contractor responsible for the project's completion shall be notified of, and understand, the requirements of this Water Quality Certification. A copy of this Order shall be kept on-site while activities regulated by this Order are being performed.

53. If any unforeseen problems occur during construction, upon discovery, the applicant shall immediately notify MassDEP and a meeting shall be held to determine the corrective measures to be employed. The applicant shall then act to correct the problem using the corrective measures agreed upon.

54. Upon stabilization of the site, all erosion controls shall be removed.

55. This Certification remains in effect for the same duration of the federal permit .

56. In the event that an appeal is filed, no activity may begin until a final decision is issued by MassDEP.

Failure to comply with this certification is grounds for enforcement, including civil and criminal penalties, under MGL c.21 §42, MGL c.21A §16, 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 appropriate state or federal statutes or regulations. This includes, but is not limited to, conditions of the individual permit from the U.S. Department of the Army.

Should you have any questions regarding this WQC, please contact Ms. Heidi Davis at (978) 694-3255.

Very truly yours,

Eric Worrall, Deputy Regional Director
Bureau of Resource Protection

Cc: Quincy Conservation Commission, 55 Sea Street, Quincy MA 02169

Dennis Harrington, Planning Director, City of Quincy, 1305 Hancock Street, Quincy MA 02169

Peter Tamm, Goulston & Storrs, 400 Atlantic Avenue, Boston MA 02110-3333

Karlis Skulte, Stephenson Design Group, LLC, 51 Sleeper Street, Suite 600, Boston MA 02210

Brad Chase, MA Division of Marine Fisheries, 1213 Purchase Street, 3rd Fl., New Bedford MA 02740

Kevin Kotelly, USACOE, 696 Virginia Road, Concord, MA 01742-2751

Paul DiPietro, MA Department of Conservation & Recreation, 251 Causeway Street, Suite 600 Boston MA 02114

Notice of Appeal rights

A) Appeal Rights and Time Limits

Certain persons shall have a right to request an adjudicatory hearing concerning certifications by the MassDEP 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; 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 (c) 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. chapter 30A section 10, a Notice of Claim must be made in writing provided that the request is made by certified mail or hand delivery to the MassDEP, with the appropriate filing fee specified within 310 CMR 4.10 along with a MassDEP Fee Transmittal Form within twenty-one (21) days from the date of issuance of this Certificate, and addressed to:

Case Administrator
Dept 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:

MassDEP, Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

B) Contents of Hearing Request

A Notice of Claim for Adjudicatory Hearing shall comply with the MassDEP'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 Certification Transmittal Number and MassDEP 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 number 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 the Certificate, including specifically the manner in which it is alleged to be inconsistent with the MassDEP'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 Conservation and Recreation (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.

C) Filing Fee and Address

The hearing request along with a MassDEP 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 applicant 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 MassDEP 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.