



**Arlington Reservoir Phase 2 Site Improvements - Addendum No. 2**

**Bid #21-16**

8 March 2021

**ADDENDUM NO. 2**

**\*All Bidders must Acknowledge Addendum No.2 in their Bid.**

Changes to Bid Form:

- Addition of Item N. Form for Add Alternate prices.

Specifications:

Table of Contents:

- Appendix B – Town of Lexington Conservation Commission Order of Conditions, dated February 9, 2021.

**Attachments:**

- a. Bid Form additional page
- b. Lexington Order of Conditions, dated February 9, 2021

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ARLINGTON RESERVOIR – PHASE 2 SITE IMPROVEMENTS  
 ARLINGTON, MA  
 100% Construction Documents – February 4, 2021

- N. In addition to the Base Bid work, the Bidder proposes the following prices for the Add Alternate items, as described on the plans and in Specification Section 01 23 00, ALTERNATES.

FOR ALTERNATE NO.	ADD
1. Alternate No. 1 – ADD to the Base Bid the following scope: installation of the Overlook – Type 1 in its entirety.	\$ _____ Written: _____ _____ _____
2. Alternate No. 2 – ADD to the Base Bid the following scope: clearing of existing vegetation, removal and disposal of select pavements, re-grading, installation of stabilized crushed granite pavement, installation of boulder retaining walls, installation of drainage, seeding, and planting of trees and shrubs.	\$ _____ Written: _____ _____ _____
3. Alternate No. 3 – ADD to Base Bid the following scope: multi-use porous court surface.	\$ _____ Written: _____ _____ _____
4. Alternate No. 4 – ADD to the Base Bid the following scope: irrigation to be added to the turf area within the beach	\$ _____ Written: _____ _____ _____
5. Alternate No. 5 – SUBSTITUTE from the Base Bid the following scope: in lieu of seeding within the beach area, the turf area will have sod laid.	\$ _____ Written: _____ _____ _____
6. Alternate No. 6 – SUBSTITUTE from the Base Bid the following scope: 4-foot vinyl-coated chain link fence for ornamental steel picket fence, powder-coated in custom color.	\$ _____ Written: _____ _____ _____
7. Alternate No. 7 – SUBSTITUTE to the Base Bid the following scope: stabilized crushed granite pavement for porous rubber pavement system.	\$ _____ Written: _____ _____ _____





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:  
201-1204  
MassDEP File #  
CNOI-20-33  
Lexington Bylaw #  
Lexington  
City/Town

### A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Middlesex South N/A  
a. County b. Certificate Number (if registered land)  
N/A N/A  
c. Book d. Page
7. Dates: 12/15/2020 1/19/2021 2/9/2021  
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
"Arlington Reservoir Phase 2 Plan Set";  
a. Plan Title  
Kyle Zick Landscape Architecture, Inc. Kyle S. Zick, RLA No. 1163  
b. Prepared By c. Signed and Stamped by  
12/30/2020 As noted  
d. Final Revision Date e. Scale  
See attached Final Plans and Documents Section on Page 10-1  
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 (the 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.



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## B. Findings (cont.)

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 the 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 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).**
3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) \_\_\_\_\_ a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u>2,000</u> a. linear feet	<u>2,000</u> b. linear feet	<u>2,000</u> c. linear feet	<u>2,000</u> 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 _____ e. c/y dredged	_____ b. square feet _____ f. c/y dredged	_____ c. square feet	_____ d. square feet
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	_____ 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



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**B. Findings (cont.)**

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

	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 type="checkbox"/> Land Under the Ocean	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> 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> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. nourishment	<u>                    </u> d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. nourishment	<u>                    </u> d. nourishment
15. <input type="checkbox"/> Coastal Banks	<u>                    </u> a. linear feet	<u>                    </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> 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> a. c/y dredged	<u>                    </u> b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
22. <input type="checkbox"/> Riverfront Area	<u>                    </u> a. total sq. feet	<u>                    </u> b. total sq. feet		
Sq ft within 100 ft	<u>                    </u> c. square feet	<u>                    </u> d. square feet	<u>                    </u> e. square feet	<u>                    </u> f. square feet
Sq ft between 100-200 ft	<u>                    </u> g. square feet	<u>                    </u> h. square feet	<u>                    </u> i. square feet	<u>                    </u> j. square feet



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**B. Findings (cont.)**

\* #23. 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 (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23.  Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

24.  Stream Crossing(s):

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.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
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. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on \_\_\_\_\_ unless extended in writing by the Department.
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.







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

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.
19. The work associated with this Order (the "Project")
- (1)  is subject to the Massachusetts Stormwater Standards
  - (2)  is NOT 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.
- 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;



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

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 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 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, 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.



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**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.

Special Conditions (if you need more space for additional conditions, please attach a text document):

**See attached Rationale for Decision and Special Conditions beginning on Page 10-1 of 12**

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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### D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
2. The Lexington hereby finds (check one that applies):  
Conservation Commission
  - a.  that the proposed work 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 of Conditions is issued.	
  - b.  that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:  
Lexington Wetland Protection Code

1. Municipal Ordinance or Bylaw	c. 130
	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 (if you need more space for additional conditions, attach a text document):

See attached Narrative, Findings, Rationale for Decision and Additional Special Conditions beginning on Page 10-11 of 12.

**Section A, No. 8 FINAL PLANS/DOCUMENTS (in addition to Section A, No. 8 on page 2 of 12 of WPA Form 5):** The following documents are hereby incorporated into this Order, except that the following pages shall control where they differ:

Notice of Intent Application and Attachments: "Notice of Intent: Arlington Reservoir Renovation Project Ph. 2"; Applicant/Property Owners: Town of Arlington Parks and Recreation Commission; Prepared by: SWCA Environmental Consultants and Kyle Zick Landscape Architecture, Inc.; Date: December 11, 2020;

Plan Set: Sheet G "Cover", Sheet LO "Key Plan"; Sheets L1.1 - L1.5 "Site Preparation and Demo Plans"; Sheets L2.1 - L2.5 "Layout and Materials Plans"; Sheets L3.1 - L3.5 "Grading Plans"; Sheets L4.1 - L4.5 "Planting Plans"; Sheets LD.1 - LD.9 "Landscape Details"; Sheet C1.0 "Civil Drainage Plan"; Sheet C2.0 "Civil Detail Sheets"; Sheet 1.0 "Proposed Bank Restoration Areas"; Sheet 2.0 "Proposed Areas of Phase I Bank Restoration"; Sheet 3.0 "Bank Restoration Sections"; Sheet 4.0 Bank Restoration Details"; Sheet 5.0 Bank Restoration Details and Notes"; Prepared for Town of Arlington, Arlington Reservoir Phase 2; Prepared by Kyle Zick Landscaping Architecture, Inc. and Woodard & Curran, Inc.; Stamped and signed by: Kyle Zick RLA#1163; Denise L. Cameron, PE Civil #53548; Scale: As noted on each sheet; Date: 11/13/2020; Revised Sheets L2.1, L2.4, and L2.5: 12/19/2020

Report: "Stormwater Management Report"; Appendix E: "Operation and Maintenance Plan"; Prepared for Arlington Reservoir Phase 2; Prepared by Woodard & Curran; Stamped and signed by: Denise L. Cameron, PE Civil #53548; Date: 10/2020; Revised: 12/2020;

Figure 1, "Pre-development Catchment Figure [Red Lined Existing Impervious Surfaces]"; Prepared for Arlington Reservoir Phase 2; Prepared by Woodard & Curran; Scale: As noted; Date: 10/2020;

Memo with attachments: Mickey Marcus, SWCA Environmental Consultants; to Arlington and Lexington Conservation Commission; Re: Arlington Restoration Master Plan Phase 2; Date: 12/31/2020;

Memo: Michael Sprague, Engineering, to Karen Mullins, Conservation, Re: 0 Massachusetts Avenue - Arlington Reservoir; Dates: 1/4/2021 and 1/14/2021;

### **RATIONALE FOR DECISION**

The Arlington Reservoir is located in the Arlington Heights neighborhood with Lowell Street forming its eastern edge. Although all of the reservoir and its shoreline are owned by the Town of Arlington, about half of the area is located in Lexington. It is approximately 65 acres in size, bordered on the north by Lexington Community Farm (Lex Farm), formerly called Busa Farm, Arlington's Hurd/Reservoir Field and the Drake Village Complex to the south, and Lexington's Rindge Park and residential Rindge Avenue to the west. The reservoir offers both passive and active recreational opportunities for both informal and formal use. During the months of June,

July and August, the Town operates a gated, chlorinated and filtered sandy bathing beach for resident and non-resident tag holders. The bathing beach area includes a bathhouse, concession stand, pump house with water filtration systems, picnic tables, benches and playground. Beyond the bathing beach area, there is a packed-dirt parking lot, forested area, a habitat garden, a reinforced dam with two outlets for flood mitigation, and a nearly one-mile trail path that encircles the reservoir.

The following Areas Subject to Protection are present on the site or within 100 feet of the project limit of work: Land Under Waterbodies and Waterways, Bank, Bordering Land Subject to Flooding and the 200-foot Riverfront Area. The regulated 100-foot Buffer Zone from the Bank are present on the site and within the limits of project area.

The Notice of Intent was filed with the Conservation Commission on December 11, 2020 under the Wetlands Protection Act and the Code of the Town of Lexington for Wetlands Protection by the applicant/property owner the Town of Arlington Parks and Recreation Commission for the proposed Arlington Reservoir Phase 2 Renovations within the 100-foot Buffer Zone to Bank at the project site. Legal Notice of the Public Hearing was published in *The Lexington Minuteman* on Thursday, December 24, 2020. The Public Hearing was opened on Monday, January 4, 2021 and continued to Tuesday, January 19, 2021 at the request of the applicant. The Public Hearing closed on January 19, 2021.

The Project consists of the second phase of implementation of the Arlington Reservoir Master Plan and includes the following activities within the 100-foot Buffer Zone from Inland Bank:

- Parking area improvements
- Stormwater upgrades
- improvements to existing pathways to make them accessible under the Americans with Disabilities Act (ADA)
- renovated or new recreational facilities, including renovations of the existing bathhouse and concessions building, lifeguard stands, picnic tables, a playground, a multi-use court, boat launch, check-in shelter, and several other surficial site improvements
- Bank stabilization measures along the reservoir shore
- Upland habitat restoration via invasive species removal and native plant installation

There will be no filling within Bordering Land Subject to Flooding as result of Phase 2 activities, and hence, there is no need to provide for compensatory storage. In addition, the project has demonstrated compliance with the Stormwater Management Standards in the Massachusetts Wetlands Protection Act 310 CMR 10.05(6)(k). This is achieved through re-naturalization of existing impervious and disturbed areas and the use of porous surfaces on trails to be improved to meet ADA standards in Lexington.

Significant ecological restoration and mitigation measures are proposed, including stabilization of approximately 2,000 lf of severely eroded bank and management and enhancement of approximately 68,700 sf of buffer zone and upland area via treatment

and removal of invasive species [multiflora rose (*Rosa multiflora*); common buckthorn (*Rhamnus cathartica*); autumn olive (*Elaeagnus umbellata*); Oriental bittersweet (*Celastrus orbiculatus*); Japanese Barberry; burning bush; Black Swallowwort; Japanese Knotweed and purple loosestrife (*Lythrum salicaria*)] and planting of native species as specified in referenced revised narrative and plan set. Erosion and sedimentation controls, comprised of compost filter tube, will be installed along the down-gradient limits of work zones to prevent sediments from migrating to areas subject to protection.

The proposed project and the proposed mitigation measures listed above conform to the performance standards specified in the Act and implementing Regulations (310 CMR 10.00). Therefore, the proposed work can be conditioned to protect the interests of the Act. The Commission approves the proposed project under the Act subject to the following special conditions:

**Section C. SPECIAL CONDITIONS - M.G.L. c.131, s.40:**

20. All work shall conform to the Notice of Intent, the above-referenced plans and supporting documentation unless otherwise specified in this Order.
21. A copy of this Order, as well as construction plans, shall be on site at the start of and during any site work for contractors to use as reference. The property owner(s) and any successor(s) in title shall inform all contractors and subcontractors of the conditions and provisions of this Order concerning their work. This Order of Conditions shall be included in all construction contracts, subcontracts and construction related documents dealing with the proposed work and shall supersede any conflicting contract requirements.
22. Copies of all obtainable permits, variances, and approvals, as required under the Act and set forth under 10.05 (4) (e), shall be submitted to the Commission prior to commencing any work on the site.
23. In conjunction with the transfer of interest or control of any part of the site, the applicant shall provide a copy of this Order, the approved plan and any approved amendments to the Order to any broker, potential buyer or lessee of the property. If the lot is sold before the Certificate of Compliance is issued, a statement acknowledging an understanding of this Order and agreeing to comply with this Order shall be signed by the buyer and submitted to the Commission.
24. Prior to commencing any construction work on the property, the following conditions shall be in compliance. If the project will be completed in phases, the following conditions shall be in compliance prior to commencing each construction phase of the project:
  - a. Record the Final Order of Conditions in the Middlesex South Registry of Deeds within the chain of title of the affected property pursuant to General Condition 8 and return the Recording Information Form (page 10 of 10 of this Order) to Lexington Conservation

Commission showing the Registry stamp with the Instrument number and date of the recording;

- b. Post the DEP and Bylaw sign (said sign shall not be affixed to a living tree) required by Condition 9 of this Order until a Certificate of Compliance has been issued. The device shall be the type that allows the Order and Plans to be removed and inspected by any person on site;
- c. Survey the erosion and sediment control barrier as well as the limit of work boundary location in the field and install erosion and sedimentation control measures, comprised of at least 12-inch bio-degradable silt sock filled with compost (i.e. Sediment Filtermitt) and catch basin silt sacks with emergency overflow bypass, as shown on the approved plan, as conditioned here in, and/or as directed by the conservation staff to prevent sediments from washing to resource areas;
- d. Install temporary construction fencing, such as orange construction fencing, along the entire surveyed limit of work boundary for the duration of the project;
- e. Demarcate a construction equipment and materials staging and stockpiling area and construction access apron at the entry points to the construction areas;
- f. Submit a copy of the NPDES Construction Period Pollution Prevention and Erosion and Sedimentation Control Plan and Stormwater Pollution Prevention Plan (SWPPP);
- g. Protect trees to remain and be saved within the limit of work area and along the limit of work boundary with strapping and burlap method or other conservation staff approved method that will provide adequate protection from site development and landscaping activities;
- h. Submit the following information in writing to the Conservation Office: 1) a signed statement by the general contractor that they have received, read and understand the Order of Conditions and that they and their sub-contractors agree to fully comply with the Order; 2) the names, addresses, and day and night numbers of the project supervisor/manager, the project engineer, erosion control monitor, and the landscape architect who will be responsible for ensuring on-site compliance with this Order, and 3) a construction schedule, broken down into construction phases if applicable, detailing the sequence of work, specifically timelines when site specific tasks will be implemented and final stabilization and plantings will be completed, and
- i. Schedule a pre-construction meeting with the Lexington and Arlington Conservation Office for the purpose of jointly reviewing with conservation staff the requirements of the Order of Conditions and to inspect the DEP/Bylaw File No. sign, the pollution prevention measures in place, and the limit of work boundary in place and identify restoration monitoring plots. The applicant, owner, the project supervisor/manager, the erosion



control monitor, and the landscape architect who will be responsible for ensuring on-site compliance with this Order shall attend this pre-construction meeting.

25. The following conditions shall be complied with to protect the wetland resource areas:

- a. Any surplus soils not needed to achieve proposed grades shall be removed from the site and properly disposed of in a legal manner.
- b. If any unforeseen problems occur during construction that affects any of the interests of the Act or the Lexington Code for Wetland Protection, upon discovery, the owner(s) shall notify the Commission. An immediate meeting shall be held between the Commission, the applicant, the engineer, the contractor, and other concerned parties to determine the corrective measures to be employed. The applicant shall then act to correct the problems using the corrective measures agreed upon;
- c. As soon as possible, all disturbed upland areas shall be brought to final grade, and shall be permanently stabilized within 30 days after disturbance by loam, native trees, shrubs, herbaceous species and seeding or other vegetative measures acceptable to the Commission. Where necessary, the loam and seeding shall be held in place with jute netting. Bare ground and disturbed areas that can not be permanently vegetated within thirty (30) days, unless the 30 days are in the winter, shall be stabilized by a method approved by the Commission. Temporary stabilization shall include, but not be limited to, hydro-seeding, erosion control blankets, sod, or other Commission approved method;
- d. Any dewatering activities associated with the project where water will be released to a resource area or storm drain shall make use of an accepted industry standard, practice and device to remove sediment before the water is released, such as a stilling basin, dirt bag, or frac tank. The Commission shall approve the dewatering device specifications and placement location prior to commencing any dewatering.
- e. All stockpiled materials shall be located at least 100 feet from the Bank and removed from the site and properly disposed of within 30 days after excavation. To prevent impact from erosion, hay bales or silt fence shall be installed at the base of the stockpile and the stockpile shall be covered at night and during storm events.
- f. The contractor shall designate a qualified professional civil engineer (PE), wetland scientist, landscape architect, or Certified Professional in Erosion and Sediment Control (CPESC), who shall be approved by the Conservation Commission, to act as an erosion control monitor and to oversee compliance with this Order of Conditions at the site. The erosion control monitor shall be responsible for any emergency placement of erosion controls and regular inspection or replacement of erosion and sedimentation control devices. The name and phone number of the erosion control monitor must be provided to the Commission in the event that this person has to be contacted, due to an emergency at the site, during any 24-hour period, including weekends [and holidays]. This person shall

- be given authority to stop construction for noncompliance with this Order of Conditions, especially in regards to erosion control and wetland protection purposes. The erosion control monitor will be required to inspect all such erosion control devices and to oversee the cleaning and the proper disposal of waste products. Cleaning shall include removal of any entrapped silt and sediments;
- g. 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 sock filled with compost, catch basin silt sacks, specified bio-degradable erosion control matting for steep slopes, dewatering silt bags, or any other devices planned for use during construction;
- h. At least once every ten days and after major storm events (events greater than .25 inches within 24 hours) while construction activities occur on site and for as long thereafter that the ground remains un-stabilized, the erosion control monitor shall upload a report (within 48 hours) to the ViewPoint Cloud Permit Record along with representative photos from the erosion control monitor certifying to the best of their knowledge and belief based on site inspections that all work is being performed in accordance with this Order of Conditions and, if not in compliance, stating the activities that are not in compliance and the steps necessary to correct the problem.
26. The construction site shall be maintained in a clean condition at all times. Construction refuse and debris shall be contained within a dumpster greater than 100 feet from the bank and shall be disposed of promptly and properly. Disposal records (bills of lading, manifests, receipts) of all materials removed from the site shall be kept and shall be made available to the Conservation Commission upon request.
27. Equipment, materials, and fuel storage and refueling operations shall be situated in an upland area at a horizontal distance greater than 100 feet from the Bordering Vegetated Wetlands.
28. Silt Saks with overflow bypass shall be secured under any catch basin grates that may receive stormwater runoff from the construction area to prevent sediment and debris from entering the drainage system before the ground is stabilized or the construction is completed.
29. Any sediments tracked to paved surfaces shall be swept, cleaned, and removed on a daily basis to prevent sediments from washing to the municipal drainage system, and ultimately protected resource areas. If necessary, supplemental erosion control measures shall be installed to prevent sediments from washing to any protected resource area and/or drainage system.
30. Dust shall be minimized, controlled, and managed on site in accordance with accepted industry standards. A plan for minimizing, controlling, and managing shall be prepared and implemented during the construction activities and available upon request. At a minimum, the plan shall include measures to limit soil disturbance and how to prevent dust from

entering the air.

31. The following conditions shall be complied with in regards to restoration of the wetland resource areas, including bank, and the 100-foot buffer zone:
  - a. The restoration activities shall be performed in accordance with the approved referenced plans or as required by the Conservation Commission unless specified otherwise in this Order. The Commission reserves the right to require additional plantings to ensure achievement of 90% cover of native plant species within three full growing seasons;
  - b. All plant species and seed mixes shall be native variety and not landscape cultivars in accordance with the approved plan. Manifests, receipts, and bills inventorying the species type, size, and quantity shall be provided to the Commission to document that all species and seed mix installed at the site meet the native specification in accordance with approved plans and conditions contained herein;
  - c. Live fascines and live stakes shall be planted in the dormant season;
  - d. Restoration construction activities must be supervised by a Professional Wetland Scientist or Registered Landscape Architect who shall be approved by the Conservation Commission and be a professional with experience in wetland replication, wetland hydrology and a working knowledge of botany. Such a person shall be retained to supervise and monitor construction of the restoration areas until the restoration areas meet the requirements of the Order of Conditions;
  - e. Following construction of the restoration area, the wetland scientist (or commission approved equal) shall certify to the Commission that the area has been constructed in compliance with the Order of Conditions. Such certification shall be accompanied by a plan showing the limits of the restoration area and final grades as surveyed by the licensed land surveyor;
  - f. Seasonal monitoring reports, to begin as soon as the restoration area is constructed, shall be prepared for the restoration area. Monitoring reports shall describe, using narratives, plans, and color photographs, the physical characteristics of the restoration area as well as the upstream and downstream banks with respect to stability, soil characteristics, survival of vegetation and plant mortality, aerial extent and distribution, species diversity and vertical stratification (i.e. herb, shrub and tree layers). A total of three monitoring reports for the restoration area shall be submitted over a three-year period. The monitoring reports shall be prepared to provide spring, summer and fall data. The data shall be provided in a monitoring report to the Commission no later than November 30<sup>th</sup> for the growing season;
  - g. Any damage caused as a direct result of this project to any wetland resource areas shall be the responsibility of the applicant, or awarded contract designee, to repair, restore and/or replace. Sedimentation or erosion into these areas shall be considered damage to

wetland resource areas. If sediment reaches these areas, the Commission shall be contacted and a plan for abatement of the problem and proposed restoration/mitigation measures shall be submitted for approval and implementation;

- h. At least 90% of the surface area (that is 90% coverage of each layer: herbaceous, shrub, sapling, and tree in accordance with the restoration planting plan) of the restoration area be established with native plant species within three growing seasons. If monitoring data indicates that the 90% survivability rate objective cannot be met, a corrective plan of action shall be submitted to the Commission for approval and implemented under the supervision of a landscape architect, wetland scientist, (or commission approved equal);
  - k. Invasive species management shall be performed using the strategies outlined in the referenced SWCA Memo dated 12/31/2020 for invasive plant management control. The services of a licensed herbicide applicator with at least 3 years of experience shall be engaged to oversee herbicide applications. For the woody plants, a stem cut application with an immediate wipe or wick application of the herbicide shall be applied to the cut stems. A dye added to the herbicide mix may be used to show which stems have been treated. For the herbaceous plants, a glove-wipe application (e.g. on swallowwort, reed canary grass) shall be implemented. A controlled spray application shall only be applied to a few targeted species such as Phragmites, Japanese knotweed, and multiflora rose. Glyphosate shall not be used for treatment, and instead alternative herbicides such as Garlon, Milestone, Clearcast shall be used for treatment. Invasive species shall be removed from the restoration area for at least three years following the completion of restoration activities to allow noninvasive native species to become established; and
  - l. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts resulting from resource area alteration or restoration activities.
32. The following conditions are required relative to the stormwater management designed for the proposed project:
- a. All construction and post-construction stormwater management shall be conducted in accordance with supporting documents submitted with the Notice of Intent, the Stormwater Management Report and Drainage Calculations, and the Operation and Maintenance Plan and as approved, or as amended, by the Commission in this Order of Conditions;
  - b. The trail shall be comprised of a porous stabilized crushed granite pavement surface.
  - c. The project Landscape Architect or Professional Engineer shall be on site during construction of the porous surfaces, including the trail and parking sub-base and surface, to oversee their installations and to certify the full permeability of the porous surfaces. The project Landscape Architect or Professional Engineer shall inspect all aspects of the porous sub-bases and surfaces material during installation so that he/she/they can certify,

for the Request for Certificate of Compliance, that the trail and parking areas were installed in accordance with the approved plan.

- d. The trail and parking surfaces shall be tested on its permeability and certified by the project Landscape Architect or Professional Engineer. The test for certification shall be performed by application of clean water at the rate of at least 5 gpm over the surface, using a hose or other distribution devise, or another Conservation Commission approved method if different. Water used for the test shall be clean, free of suspended solids and deleterious liquids. The project engineer shall observe that all applied water shall infiltrate directly without puddle formation or surface runoff so that he/she/they can certify in writing to the Conservation Commission, for the Request for Certificate of Compliance, that the porous surfaces were installed in accordance with the approved plan and per the latest specifications and details.
- e. The stormwater management systems approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority,

33. For the protection of the resource areas, the following conditions shall continue in perpetuity and shall not expire with the issuance of a Certificate of Compliance:

- a. The owner(s) and/or applicant shall immediately correct any erosion problems that occur on the site. If any additional erosion and sedimentation controls are found to be necessary by the owner(s), the applicant, the Commission, or the Conservation Administrator, the owner(s) and/or applicant shall install additional sediment controls. This Condition shall remain for two years after the issuance of the Certificate of Compliance;
- b. During and after work on this project, there shall be no discharge or spillage of fuel, oil, or other pollutants into any part of the site governed by this Order. The applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident, or vandalism. Any such discharge or spillage of fuel, oil, or other pollutants shall be reported immediately to the Lexington Fire Department and the Conservation Office. This condition shall remain in perpetuity and shall not expire with the issuance of the Certificate of Compliance;
- c. The use of chemical fertilizers, pesticides, herbicides and sodium-based products, except as conditioned above in special condition 31k or as expressly approved in writing by the Conservation Commission upon receipt of a written request accompanied by applicable material safety data sheets and specifications, is prohibited within areas subject to protection or within 100 feet of bank to reduce the impact of these products on the resource areas when transported by stormwater or by leaching through the soil.

- d. The stormwater management system, comprised of the porous trail surface, and porous pavement parking area shall be maintained regularly, in accordance with a submitted and approved Operations and Maintenance Plan, to ensure long-term performance of the stormwater management system. At a minimum, the systems shall be inspected and maintained as specified in the DEP Stormwater Handbook and repaired as needed. Inspection and Maintenance Program Logs shall be maintained by the Town of Lexington Conservation Commission. When the system (or any best management practice) clogs and/or fails, the system (or best management practice) shall be repaired and/or replaced, and
  - e. The porous surfaces shall remain pervious surfaces. No additional impervious surfaces shall be permitted on the lot without the approval of the Commission. Any proposal to exceed the proposed impervious areas shall at a minimum require plans for full mitigation of any additional stormwater runoff impacts and shall be considered a departure from the plans referenced in this Order. This will require that a Notice of Intent be filed under the wetlands laws applicable at the time;
  - f. All mitigation as proposed as part of this project shall remain in perpetuity. The approved planting areas, invasive removal areas, the rain gardens, and the stormwater system shall remain in perpetuity and if replacement is necessary, shall be subject to the approval of the Commission.
34. The request for a Certificate of Compliance required by General Condition 12 shall require a 21-day notice to the Commission. Accompanying the request for a Certificate of Compliance shall be the following:
- a. One electronic TIFF file and one pdf file of the record as-built plans (scale to be the same as approved plan) stamped and signed by a registered professional land surveyor showing all structures, buildings, impervious surfaces, all infrastructure components and stormwater management system with invert elevations, existing grades, trail layout, work zone area limits, and any other elevations or distances the Commission may specify to ensure compliance with this Order;
  - b. A final invasive species and native plant restoration monitoring report, including details and specifications on the methods of invasive species and full inventory of native plants, as to the status of invasive species management and native plant restoration activities within the area, and
  - c. Certification from Professional Engineer or Landscape Architect that all porous surfaces and drainage infrastructure and stormwater best management practices were constructed according to approved plans and are functioning properly.
35. The Commission designates the Conservation Director as its administrative agent with full powers to act on its behalf in administering and enforcing this Order, except the Director

shall not approve changes to the Order or approved plan (See General Condition 13) or issue Certificates of Compliance.

**NARRATIVE FOR LEXINGTON GENERAL BYLAWS, ARTICLE XXXII**

The Lexington Conservation Commission has conducted an on-site inspection, has reviewed the Notice of Intent, the submitted information, and the public hearing testimony and has determined that the area in which the work is proposed is significant to the following values of the Code of the Town of Lexington, Chapter 130:

Flood control	Water Pollution	Groundwater
Storm Damage Prevention	Erosion control	Aquatic life and Wildlife
Public or Private Water Supply	Surrounding Land, Homes or Buildings	
Other Water Damage Prevention	Streams, Ponds, or other Bodies of Water	
Recreation		

Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 under the **General Conditions** outlined on pages 5, 6, and 7 of 12 above, and all Documents, Findings and Special Conditions outlined on pages 10-1 thru 10-10 above shall be included in this Order pursuant to the Code of the Town of Lexington, Chapter 130, and shall also include the following Findings, Rationale for Decision, and Additional Special Conditions:

**FINDINGS (in addition to Section D. No. 1 to 3 on Page 10 of 12 on WPA Form 5):**

- D-4. Pursuant to Section 130-8(C)(4) of the Code, "Land bordering thereon" is a protected resource area. Land bordering thereon is defined as "(a) 100 feet horizontally lateral from the edge of any bank, freshwater wetland [bordering vegetated wetland] ...or land subject to flooding (herein after called Buffer Zone)."
- D-5. The Commission finds that the proposed project is in compliance with the Code of the Town of Lexington, c. 130 (formerly General Bylaw Article XXXII) Rules, Section 5(2) and 5(6) - Performance Standard for Increase of Runoff and Pre-development Conditions because the project is removal of impervious surfaces and installation of porous trail, and will result in a reduction of impervious cover and related stormwater runoff in accordance with the referenced engineering design, specifications and plans.

**RATIONALE FOR DECISION**

The project, comprised of ADA trail improvements within the 100-foot Buffer Zone of Bank and Bordering Land Subject to Flooding, protected resource areas under the Lexington Wetland Protection Code, has demonstrated compliance with the Lexington Wetland Protection Code Rules. Specifically, the project complies with Rules, Section 5(2), 5(5) and 5(6). This is achieved through removal of impervious surfaces and re-naturalization of existing impervious and disturbed areas with native plant species, the use of porous surfaces on all proposed trails and

parking areas.

To protect the interests identified in the Code, the Commission requires that applicants meet six (6) additional Performance Standards in addition to meeting the Performance Standards outlined in the Act. Since the applicant has met the Performance Standards, more specifically, the Rules, Section 5(2) Increase in Runoff, Section 5(5) Buffer Zone, and Section 5(6) Pre-development Conditions, and the applicant has proposed significant mitigation measures, such as installation of erosion control techniques, invasive species management and native plantings, the proposed work can be conditioned to protect the interests of the Code. The Commission approves the proposed project under the Code subject to the following additional conditions:

**LIST OF SPECIAL CONDITIONS relating to Lexington Wetland Protection Code C. 130 (See Section D. No. 3 on WPA Form 5, Page 10 of 12):**

D(3)a. The applicant, owner, or project manager shall include the BL number (CNOI-20-33) on the DEP sign as required by General Condition 9 of this Order.

D(3)b. For the protection of the resource areas, the following conditions shall continue in perpetuity and shall not expire with the issuance of a Certificate of Compliance:

1. No additional impervious surfaces shall be permitted on the lot without the approval of the Commission. Any proposal to exceed the proposed impervious area shall at a minimum require plans for full mitigation of any additional stormwater runoff impacts and shall be considered a departure from the plans referenced in this Order. This will require that an application be filed under the wetlands laws applicable at the time;
2. No drain shall be installed that discharges above or below the ground into the Wetlands area, the 100-foot buffer zone or that connects to the town drainage system without the prior written consent of the Conservation Commission;
3. A copy of these continuing conditions shall be included with the closing documents of all sales of the property.





**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:  
201-1204  
 MassDEP File #  
CNOI-20-33  
 Lexington Bylaw #  
Lexington  
 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.

2/9/2021

1. Date of Issuance

Please indicate the number of members who will sign this form.

6

This Order must be signed by a majority of the Conservation Commission.

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.

<u>[Signature]</u> Signature	<u>Philip Hamilton</u> Printed Name
<u>[Signature]</u> Signature	<u>David Langseth</u> Printed Name
<u>[Signature]</u> Signature	<u>Ralph "Duke" Bitsko</u> Printed Name
<u>[Signature]</u> Signature	<u>Alex Dohan</u> Printed Name
<u>[Signature]</u> Signature	<u>Kevin Beuttell</u> Printed Name
<u>[Signature]</u> Signature	<u>Ruth Ladd</u> Printed Name
<u>[Signature]</u> Signature	<u>Holly Samuels</u> Printed Name

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

2/5/2021

[Handwritten mark]



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

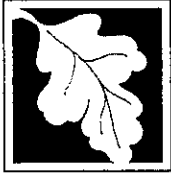
Provided by MassDEP:  
 201-1204  
 MassDEP File #  
 CNOI-20-33  
 Lexington Bylaw #  
 Lexington  
 City/Town

## 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.



**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:  
 201-1204  
 MassDEP File #  
 CNOI-20-33  
 Lexington Bylaw #  
 Lexington  
 City/Town

### G. Recording Information

Prior to commencement of work, 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 the Conservation Commission listed below.

Lexington  
 Conservation Commission

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

To:  
Lexington  
 Conservation Commission

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

Massachusetts Ave, Arlington Reservoir      201-1204, CNOI-20-33  
 Project Location      MassDEP File Number

Has been recorded at the Registry of Deeds of:

Middlesex      \_\_\_\_\_      \_\_\_\_\_  
 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