JOINT PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS 69A Hagood Avenue Charleston, SC 29403-5107

and

THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Office of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
North Charleston. South Carolina 29405

REGULATORY DIVISION Refer to: SAC-2009-01311

March 14, 2024

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1344), Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408) and the South Carolina Coastal Zone Management Act (48-39-10 et.seq.), an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

Mr. David Isom
SHM Charleston City Marina, LLC
7 Lockwood Drive
Charleston, South Carolina 29401

Mr. Justin Davis
Applied Technology & Management
941 Houston Northcutt Boulevard
Mount Pleasant, South Carolina 29494

to modify their permit and reconfigure the internal layout of the existing marina in the

Ashley River

located at the Safe Harbor Charleston City Marina at 17 Lockwood Drive in Charleston, Charleston County, South Carolina (Latitude: 32.7781°, Longitude: -79.9544°), Charleston Quad. The proposed facility is within the project area of a Corps Federal Civil Works project known as the Ashley River Navigation Channel.

In order to give all interested parties an opportunity to express their views

NOTICE

is hereby given that written statements regarding the proposed work will be received by the **Corps** until

15 Days from the Date of this Notice,

and SCDHEC will receive written statements regarding the proposed work until

30 Days from the Date of this Notice

from those interested in the activity and whose interests may be affected by the proposed work.

NOTE: This public notice and associated plans are available on the Corps' website at: http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices .

Applicant's Stated Purpose

According to the applicant, the purpose of the proposed project is to remove concrete structures which have exceeded their design life, resolve chronic flooding of the marina office, and improve the use of the available water space within the marina.

Project Description

The proposed work consists of consists of several modifications to the previously permitted Safe Harbor Charleston City Marina. Key elements of the modification request include: demolition of fixed concrete piers/wall panels, relocation of the existing heavy-duty floating 'Megadock', reconfiguration of various dock trees, reconfiguration of the central walkway (Dock 'CW'), relocation of the previously permitted Welcome Center and existing restroom buildings, new dinghy/day dock, floating boat storage structures, and after-the-fact permitting of various floating docks and floating boat storage structures associated with the Charleston Community Sailing School dock. The proposed modifications would remove structures that have reached the end of their useful life, improve navigational safety within the marina, and increase resiliency by providing improved protection from winds and waves. See below and the attached figures for a full description of the proposed modifications:

Demolition of Fixed Concrete Piers/Wall Panels:

The applicant proposes to demolish several existing fixed concrete structures throughout the marina. Portions of the work has been completed and the applicant is requesting after the fact authorization. The structures that have been removed are located adjacent to Docks "U", "CW", "M" and "J" and consist of concrete pilings, pile caps, deck, and wall panels. Pilings were cut off at or below the mudline to minimize disturbance to the river bottom sediment and to ensure there are no remaining impediments to navigation. The portions of these structures above the mudline were removed and properly disposed of offsite. The current marina office, which is located on the fixed concrete structure adjacent to Dock "O" and still exists at the time of this notice, would be demolished along with the concrete structure. The marina office/operations would be relocated to the proposed new (but previously permitted) floating Welcome Center building.

Heavy Duty Floating 'Megadock':

Under the existing permit, the applicant was previously authorized to relocate the existing 1,525'-long Megadock approximately 200' channelward and connect it to a new 730' heavy-duty floating dock to create a single 2,255' long dock. The Megadock was never relocated or modified, and the applicant is now requesting to change the previously authorized modification:

- The entire 1,525'-long existing Megadock would be relocated approximately 400' landward to serve as the new southern main walkway (Dock "O"). As shown on the attached drawings, the existing Megadock would now provide a single main walkway for access to reconfigured Docks "AA" "ZZ" (described below).
- In keeping with the previous authorization, a new heavy-duty floating dock measuring 2,255' would be installed approximately 200' channelward from the existing Megadock's current location.

Reconfiguration of Floating Docks

The floating dock arrangement throughout the marina would be reconfigured as follows:

- The relocated 1,525'-long Megadock would serve as the new southern main walkway (Dock "O") and connect to Dock "CW" via a new 15'-wide heavy duty dock. The Megadock would provide a single access point to floating docks "AA", "BB" "V", "W", "X", "Y", "Z", and the new Dock "ZZ".
 - A new dock "ZZ" would be created and extend off the southern end of the relocated Megadock. The new dock would be configured in an L-shape to provide protection from wind/waves for Docks "Z" and "Y". Dock "ZZ" would consist of a 196' x 15' heavy-duty floating dock extending channelward off the end of the relocated Megadock, with another 327' x 15' heavy-duty dock segment extending parallel to the shore and back towards Dock "X".
 - The position/length of the other dock trees would be modified to connect to the relocated Megadock. The dock trees would be "shifted" (relative to the currently permitted dock layout) to provide wider fairways and larger turning basins between the dock trees.
- Slip sizes/dimensions would be adjusted to address current market trends and vessel requirements.
- Docks currently designated as "E", "F", "G" would be incorporated into the new arrangement of Docks "J", "I", H". These docks would remain accessible from the northern main walkway (Dock "M"), which would be replaced and realigned with the relocated Megadock (Dock "O").
- Docks "S", T", and "U" would be removed.

Central Walkway (Dock "CW") Reconfiguration

The previously permitted Dock "CW" will be reconfigured as follows:

The previously permitted fixed marina access pier would be shortened by 75'. The
pier would still provide access to the primary marina basin via the previously

- approved ADA-compliant 80'-long gangway.
- A 20' wide Central Walkway would run directly from the fixed marina access pier to the new 2,255' Megadock on the channelward side of the marina.
- All existing dedicated wet slips landward of the existing restroom building and fixed structures would be eliminated.
- Ten 101' X 10.5' floating finger docks will be installed along the 20' wide main walkway.

Relocation of the Welcome Center and Restroom Buildings

The applicant would relocate the previously permitted floating Welcome Center building and existing floating restroom buildings to a centralized location within the reconfigured marina. Since the existing marina office would be demolished (described above), the Welcome Center would now also serve as the marina office. The floating Welcome Center would be relocated approximately 300' landward, while the floating restroom would be relocated approximately 150' landward.

New Dinghy/Day Dock

Approximately 80' of the fixed concrete pier currently used to access Docks "U" - "Z" from the upland parking lot would be removed, and a new 4' x 45' aluminum gangway would be placed on the channelward end of the remaining portion of the fixed concrete pier. This gangway would lead to a new 50' x 6' floating dock that would be oriented parallel to the shore. The proposed dock would provide short-term day-dockage for boaters utilizing the moorings in the surrounding waters and local boaters in smaller vessels.

Community Sailing School Dock

The applicant is seeking after-the-fact authorization for an existing 38' x 6.5' timber floating dock, a 22' x 35' timber floating dock with storage racks for small sailboats and motorized chase/safety boats, and a 12' x 58' floating boat storage structure with a removable canvas canopy, non-motorized watercraft storage racks, equipment dock boxes, and a trash receptacle. A small (10' x 17') floating work platform with scaffolding and a dock box would be tied to the docks in this general area when not in service.

Floating Boat Storage Structures

The applicant is proposing to potentially install floating boat storage structures (e.g., jet-docks, boat-blocks, floating boat lifts, etc.) in dedicated wet slips and certain side-tie dockage areas, as indicated on the attached drawings. The floating boat storage structures may be installed in all dedicated wet slips and side-tie areas, except for the following:

- All the larger (100') dedicated wet slips along Dock "CW"
- The side-tie dockage along the eastern side of the new Dock "ZZ"
- The entire length of the new Megadock
- The portion of the new 12'-wide main walkway (Dock "M") near the Yacht Club dock.

The applicant stated that they are requesting authorization to install the floating boat storage structures in all the wet slips and side-tie areas not identified above to provide operational flexibility; they expect that only a portion of the slips and side-tie areas would have floating boat storage structures installed in them at any given time.

The proposed reconfiguration of the marina would result in the net reduction of 45 total slips and 12,800 square shading. However, installation of the proposed floating boat storage structures has the potential to result in up to 350,740 square feet of new shading impacts in the event that all of the structures are in installed, resulting in a net gain of no more than 337,940 square feet (7.76 acres). It is noted that the actual area of new shading impacts is expected to be much less since only a portion of the slips and side tie areas would have floating boat storage structures installed at any point in time.

Avoidance and Minimization

The applicant has stated that the proposed project will avoid and/or minimize impacts to the aquatic environment by keeping all proposed modifications within the permitted marina footprint. Allowing users to store boats out of the water would reduce the potential for undetected leaks or spills into the water. Furthermore, removal of the aging concrete structures would eliminate adverse impacts to the aquatic environment that would occur if the structures were left in place and continue to deteriorate.

Proposed Compensatory Mitigation

The applicant has not proposed mitigation for impacts to wetlands or waters of the United States since the proposed project would not result in a loss of aquatic resources.

South Carolina Department of Health and Environmental Control

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the certifying authority, South Carolina Department of Health and Environmental Control, in accordance with provisions of Section 401 of the Clean Water Act (CWA). The CWA Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification, or waiver, for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 Certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying authority. In accordance with Certification Rule part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received a Department of the Army (DA) permit application and the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

The work shown on this application must also be certified as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930). This activity may also require evaluation for compliance with the S. C. Construction in Navigable Waters Permit Program. State review, permitting and certification is conducted by the S. C. Department of Health and Environmental Control. The District Engineer will not process this application to a conclusion until such certifications are received. The applicant is hereby advised that supplemental information may be required by the State to facilitate the review.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed permit modification would in up to 7.76 acres of additional impacts to estuarine substrates utilized by various life stages of species comprising the shrimp, and snapper-grouper management complexes. The majority of the estimated new impacts would occur as a result of shading from the proposed floating boat storage structures, and the actual amount would likely be less depending on the number of structures installed at any point in time. The District Engineer's initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). The District Engineer's final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Endangered Species

Pursuant to the Section 7 of the Endangered Species Act of 1973 (as amended), the Corps has reviewed the project and based on the location of the project and available information, the following species may be present in the County(s) where the work will occur: The northern long-eared bat, tricolored bat, West Indian manatee, eastern black rail, piping plover, red-cockaded woodpecker, Rufa red knot, American wood stork, green sea turtle, Kemp's Ridley sea turtle, leatherback sea turtle, loggerhead sea turtle, American chaffseed, Canby's dropwort, and pondberry.

Based on all information provided by the applicant and the most recently available information, the District Engineer has determined the following:

The project will have <u>no effect</u> on the northern long-eared bat, tricolored bat, eastern black rail, red-cockaded woodpecker, American wood stork, green sea turtle, Kemp's Ridley sea turtle, leatherback sea turtle, loggerhead sea turtle, American chaffseed, Canby's dropwort, pondberry, piping plover, or the Rufa red knot and will not result in the destruction or adverse modification of designated or proposed critical habitat.

The project <u>is not likely to adversely affect</u> the West Indian manatee (with the inclusion of the manatee protection measures) or result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request for written concurrence from the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on this determination.

This public notice serves as a request to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for any additional information they may have on whether any listed or proposed endangered or threatened species or designated or proposed critical habitat may be present in the area which would be affected by the activity.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

In accordance with Section 106 of the NHPA, the District Engineer has consulted South Carolina ArchSite (GIS), for the presence or absence of historic properties (as defined in 36 C.F.R. 800.16)(/)(1)) and has initially determined that there are historic properties present, but they will not be affected; therefore, there will be no effect on historic properties. To ensure that other historic properties that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office and other interested parties to provide any information they may have with regard to historic properties. This public notice serves as a request for concurrence within 30 days from the SHPO (and/or Tribal Historic Preservation Officer).

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Section 14 of the Rivers and Harbors Act of 1899

The proposed project described in this notice would require permission pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408). Permission for an alteration under Section 408 may be granted when, in the judgment of the Secretary of the Army, the alteration will not be injurious to the public interest and will not impair the usefulness of the project. Decisions on proposed alterations are delegated to the District Commander unless one or more criteria requiring elevation are triggered.

The Ashley River Navigational Channel was approved by the Rivers and Harbors Acts of June 14, 1880, and July 25, 1912, River and Harbor Committee Doc. 4 62d Cong., 2d session; August 26, 1937, River and Harbor Committee Doc. 449, 74th Cong., 2d session. The project provides for a channel 30 feet deep and 300 feet wide, and 7.4 miles long, to facilitate commercial ship traffic. The project was completed in 1940 and has not

been dredged since 1954. The channel is considered to be in stable condition, in that it has not required routine dredging, and its intended use was never fully realized, as commercial ship traffic has utilized different nearby channels over the years.

Corps' Evaluation

Section 10 of the Rivers and Harbors Act of 1899

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps cannot undertake to adjudicate rival claims.

Section 14 of the Rivers and Harbors Act of 1899

Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408) is based on factors which are outlined in Engineering Circular (EC) 1165-2-220. Review of the requests for modification will be reviewed by a USACE technical review team considering the following factors:

- 1. Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the federally authorized project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. All appropriate technical analyses including geotechnical, structural, hydraulic and hydrologic, real estate, and operations and maintenance requirements, must be conducted and the technical adequacy of the design must be reviewed. The Charleston District is working closely with the requestor to ensure that all required technical plans, maps, drawings, and specifications necessary for these analyses are provided and complete. In order to approve a request for modification, it must be determined that the usefulness of the authorized project will not be negatively impacted.
- 2. Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the Corps project may have on the public interest requires a careful weighing of all those factors that are relevant in each particular case. Factors that may be relevant to the public interest depend upon the type of Corps project being altered and may include, but are not limited to, such

things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest. This determination is not the same as the "contrary to the public interest determination" that is undertaken pursuant to Sections10 described above.

3. Legal and Policy Compliance. A determination will be made as to whether the proposal meets all legal and policy requirements. This includes the National Environmental Policy Act (NEPA) and other environmental compliance requirements, as well as Corps policy. While ensuring compliance is the responsibility of the Corps, the requester is required to provide all information that the Charleston District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances.

408 Process Overview: The basic 408 process for this application is outlined in EC 1165-2-220, ¶¶ 7.h. (4). In cases in which a Section 408 permission (except for Section 408 decisions that must be made by the Division Commander, per paragraph 8.c.) and a Regulatory standard individual permit are both required for the same proposed alteration/activity, the district will conduct these evaluations in a coordinated and concurrent manner resulting in a single decision document. Note that implementing regulations and policies for the Regulatory permit require the evaluation of proposed activities and their compatibility with the purposes of a federal project. The Section 408 analysis informs the compatibility with the purposes of a federal project for Regulatory purposes. In addition, there will be a single transmittal letter to the requester that includes as attachments both the Section 408 decision letter and the Regulatory permit. The District Commander is the deciding official for the single decision document for these cases, although he or she may further delegate these combined decisions following the same requirements as in paragraph 8.d.

Solicitation of Public Comment

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity. Any person may

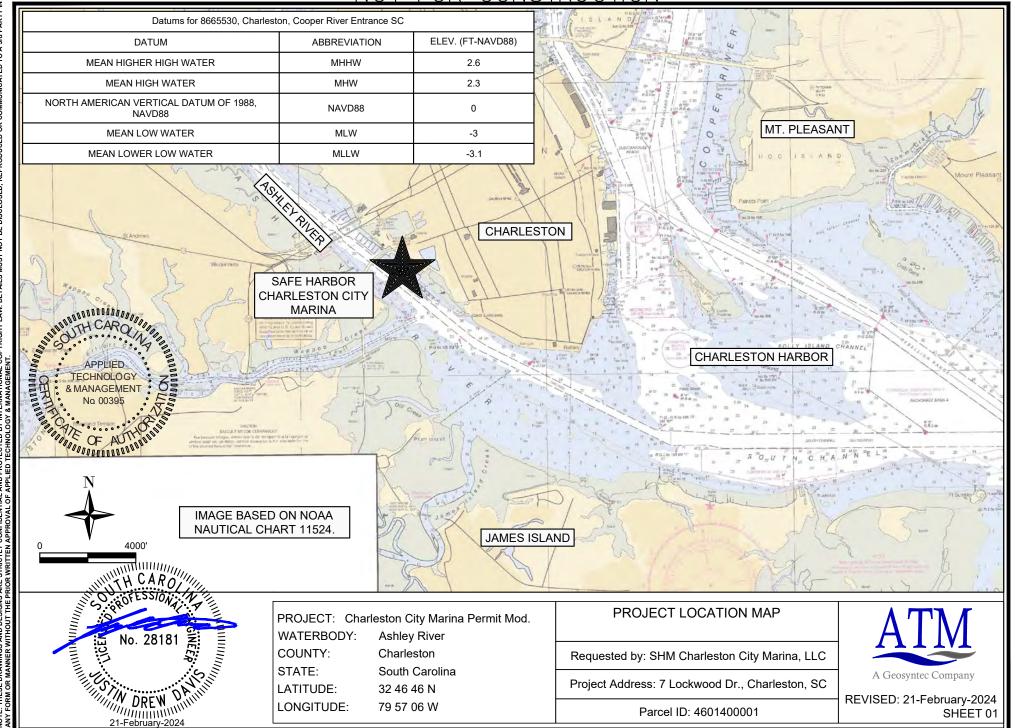
request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

Please submit comments in writing, identifying the project of interest by public notice/file number (SAC-2009-01311), to Jesse.M.Rice@usace.army.mil or the following address:

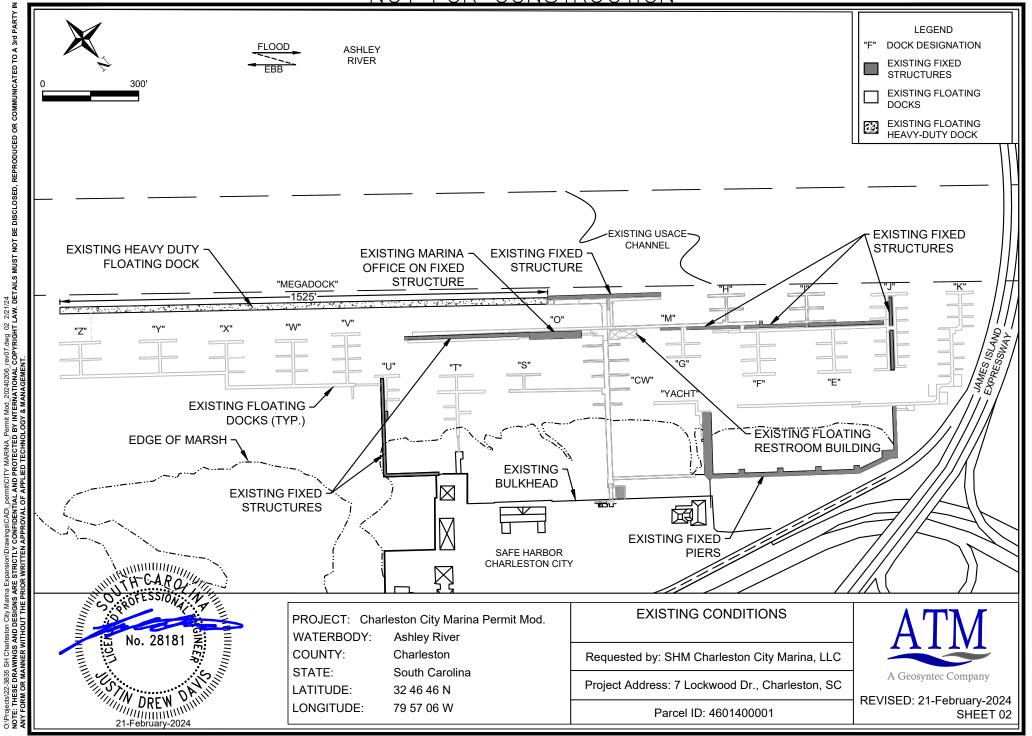
U.S. Army Corps of Engineers ATTN: REGULATORY DIVISION 69A Hagood Avenue Charleston, SC 29403-5107

If there are any questions concerning this public notice, please contact Jesse Rice, Project Manager, at (602) 230-6854 or by email at Jesse.M.Rice@usace.army.mil.

FOR PERMITTING PURPOSES ONLY "NOT FOR CONSTRUCTION"



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