



Drawbridge Operator

Recommendation for New Job Classification and
Prevailing Wage Rate

Prepared By:

MassDOT

With Cooperation From:

District 4

District 5

District 6

June 6, 2017

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Executive Summary

The establishment of the prevailing wage rate for Drawbridge Operator (Construction) has impacted two types of MassDOT public works contracts: (1) contracts for the rehabilitation or replacement of drawbridges, and (2) contracts for operation & maintenance (O&M) of drawbridges. This paper identifies those impacts, clarifies the differences between the qualifications of drawbridge operators and electricians, provides data showing Massachusetts pays much more than other states for drawbridge operation, and finally provides support for a proposal for one prevailing wage rate to be used at all times when drawbridge operation is required under a MassDOT contract.

History of Drawbridge Operators by Contractors at MassDOT

Since 1992, Drawbridge Operators hired by contractors have operated many of the MassDOT owned movable bridges under various maintenance contracts. In the first such contract, Contract 93162 - *Maintenance of State Highways in Essex County*, the Commonwealth Of Massachusetts Executive Office Of Labor And Workforce Development Department Of Labor Standards (DLS) did not specify a prevailing wage rate for drawbridge operators. In 1994, the use of contracted drawbridge operators was expanded and again a prevailing wage rate was not set for drawbridge operators.

As of August 20, 2013, DLS had not set a prevailing wage rate for Drawbridge Operators. As a result, the lowest wage rate, e.g. Tree Trimmer, was applied to drawbridge operators when the bridge was operated during maintenance and construction activities. Effective August 20, 2013, (DLS) set a prevailing wage rate for “Drawbridge Operator (Construction)” based on a wage rate applicable to an Electrician.

History of DLS Guidance – Drawbridge Operator Prevailing Wage Rates from 1997 to the Present

A number of letters have been written to the Department of Labor concerning the wage rate that should be paid to Drawbridge Operators. A list of these letters is provided below, and their full contents are provided in the Exhibits of this report.

Exhibit A: Letter dated November 21, 1997 from Construction Industries of Massachusetts, CIMS, to the Department of Labor and Workforce Development Division of Occupational Safety (DOS).

The Construction Industries of Massachusetts, CIMS, argued that the drawbridge operators operating the drawbridge during construction of the Fore River Drawbridge in Quincy under project 110651 (Contract 98480) should be paid prevailing wage rates.

Exhibit B: Letter dated December 3, 1997 from the Department of Labor and Workforce Development Division of Occupational Safety (DOS) to the Construction Industries of Massachusetts, CIMS.

The Department of Labor and Workforce Development Division of Occupational Safety (DOS) wrote to the Construction Industries of Massachusetts, CIMS, regarding the applicability of prevailing wage rates to the operation of a drawbridge during construction of the Fore River Drawbridge in Quincy under project 110651 (Contract 98480). DOS wrote: "...Therefore, the operation of the drawbridge will be an integral part of the rehabilitation project and the prevailing wage schedule issued pursuant to M.G.L. Ch. 149, sections 26 and 27 for this project will apply to the operators employed by the construction contractor".

Exhibit C: Letter dated December 20, 2013 from the Executive Office of Labor and Workforce Development, Department of Labor Standards (DLS) to Attorney Francis A. Shannon, III.

The letter from DLS to Francis A. Shannon, III, Esq. was in response to Attorney Shannon's request for advice with regard to the appropriate classification and prevailing wage rates for drawbridge operators working on the Fore River Bridge Replacement contract (Contract 98480). First the letter confirmed the Prevailing Wage rate to be paid to drawbridge tenders/operators was the "Tree Trimmer Groundman" rate. Second, the addition of the "Drawbridge Operator (Construction)" rate to the Prevailing Wage Rate Schedule issued by DLS required payment at the substantially higher "Drawbridge Operator (Construction)" rate effective August 20, 2013.

Exhibit D: Inside Construction Agreement Amendment II between the Boston Chapter of National Electrical Contractors Association (NECA) and Local Union 103, IBEW dated November 6, 2014.

The amendment titled: *Bridge Operation and Maintenance* states this agreement shall govern the operation, repair and maintenance of electrically-driven bridges and all work shall be performed by Inside Journeyman Wiremen.

Exhibit E: Letter dated December 5, 2014 from the Executive Office of Labor and Workforce Development, Department of Labor Standards (DLS) to Attorney Joel Lewin.

The DLS states that prevailing wage rates must be paid to Drawbridge Operators while the bridge is under construction and the proper classification is Drawbridge Operator (Construction). However, because of the significant increase of the prevailing wage rate, the lowest classification, Tree Trimmer Ground man, shall be used for Contracts Awarded prior to December 5, 2014. The Drawbridge Operator (Construction) rate shall apply to all contracts awarded after the date of the letter (12/5/14). The Drawbridge Operator rate was set at the Electrician Rate Local 103.

Qualifications of Drawbridge Operators and Electricians (Local 103)

Exhibit F describes the duties of a Drawbridge Operator. It goes over the requirements, tests required to operate a drawbridge. These requirements are specific to safe operation of a drawbridge.

The following is a summary of key requirements of a Drawbridge Operator:

- Must be competent and reliable and must have sufficient skill and experience to properly operate the equipment involved.

- May be exposed to: adverse weather conditions; may be subject to work-related verbal abuse; harmful effects of noise, fumes, gases, etc.; hazardous conditions such as open water channels, ladders, bridge staging, steep slopes, etc.; and may be required to stand for long periods of time; lift and carry heavy objects in excess of fifty pounds; work in a confined area; work varied shifts, weekends, holidays and nights and on a standby (on call) work status.
- Communicate on the marine radio in English.
- Read and demonstrate his/her understanding of the Coast Guard Regulations and Massachusetts Department of Transportation's procedures regarding the operation of drawbridges.
- Must be able to adjust to changing situations to meet emergency or changing conditions, to maintain a calm manner in stressful and emergency situations and to exercise sound judgement.

The following is a summary of key duties of a Drawbridge Operator:

- Promptly open the bridge for the passage of vessels when a request to open has been given in accordance with established signaling procedures.
- Promptly close the bridge after passage of vessels and re-establish flow of vehicular traffic in a timely manner.
- Be awake and alert at all times for signals from vessels desiring passage through bridge in order to ensure safe and expedient passage.
- Maintain records, reports and logs.
- Immediately report any failure, disorder or breakage, which will in any way affect the efficient operation of the bridge to the Engineer.
- Keep the draw tender's building clean and orderly at all times
- Prevent unauthorized entry into draw tender's buildings, machinery areas and fender systems.
- Frequently and randomly inspect the draw tender's building, fender pier systems, lift/swing span, approaches and waterway for suspicious activities.

Exhibit G defines the requirements of a Drawbridge Operator (Construction) *Electricians Local 103*. These requirements include education, licenses, equipment and experience associated with tradespersons who perform wiring and electrical work.

The following is a summary of key requirements of a Drawbridge Operator (Construction) *Electricians Local 103*:

- Are licensed by the state examiners of electricians
- Learn their trade through a formal apprenticeship program that lasts three years or more
- Learn to read blueprints and technical diagrams
- Learn to inspect electrical components and use testing devices to identify electrical problems
- Trained to observe a high level of safety protocols
- Responsible for understanding and abiding by local and state building codes and regulations

The following is a summary of key duties of a Drawbridge Operator (Construction) Electricians Local 103:

- Specialize in connecting electrical systems to the outside power source, and then distributing that power throughout the facility
- Installing conduit, lighting fixtures and electrical outlets
- Inspect, maintain and repair existing electrical systems within the facility
- Installs and maintains all of the various types of electrical systems found in commercial and industrial facilities including include lighting, receptacles, motors, heating equipment, and systems that control the operation of all of a facility's energy usage

As evidenced in Exhibits F & G, the requirements for a Drawbridge Operator and a Drawbridge Operator (Construction) Electricians Local 103 are not consistent. It is MassDOT's position that a licensed Electrician is not required to operate MassDOT's movable bridges. Although Electricians have proved to be very capable drawbridge operators, the skills of an Electrician are not necessary to the operation of a drawbridge. As a result, MassDOT has been incurring a significant cost premium to operate its drawbridges during construction because the cost of a licensed Electrician is significantly higher (by about \$50/hr.) than a Drawbridge Operator. This is further detailed in the next section.

Discussion on Pay Rates

Drawbridge Operator (Construction) Electricians Local 103

Presently, there is a prevailing wage rate set by the Commonwealth Of Massachusetts Executive Office Of Labor And Workforce Development Department Of Labor Standards for Drawbridge Operator (Construction) *Electricians Local 103*. This rate is equivalent to the prevailing wage rate for Electrician *Electricians Local 103*. The rate as of March 1, 2016 is \$75.56 which is broken down as follows:

Drawbridge Operator (Construction) Electricians Local 103				
Base Wage	Health	Pension	Supplemental Unemployment	Total Rate
\$46.17	\$13.00	\$16.39	\$0.00	\$75.56

In contrast to the pay rate of Electricians, Drawbridge Operators are typically paid a much lower rate.

MassDOT Bridge Operator II (MassDOT employees operating bridges)

MassDOT still has a few in-house operators. MassDOT Bridge Operator II's are members of ALLIANCE, AFSCME – SEIU LOCAL 888, UNIT 2 (MassDOT Unit B). A Bridge Operator II has a Jobcode of E13017 and is in Bargaining Unit 02 and is a Grade 13. The hourly rate ranges from \$17.71 at Step 1 to \$23.05 at Step 12.

Federal Executive Branch

Per the website www.bls.gov/OES for the U.S. Bureau of Labor Statistics, Division of Occupational Employment Statistics, the mean hourly rate in May of 2015 was \$25.08 for Federal bridge and lock tenders.

Top Paying States

Per the website www.bls.gov/OES for the U.S. Bureau of Labor Statistics, Division of Occupational Employment Statistics, the mean hourly rate in May of 2015 was as follows for bridge and lock tenders:

Illinois	\$27.52
Minnesota	\$26.87
Iowa	\$26.13
Missouri	\$25.58
Washington	\$25.05

Per the website www.bls.gov/OES for the U.S. Bureau of Labor Statistics, Division of Occupational Employment Statistics, the mean hourly rate in May of 2015 was as follows for bridge and lock tenders:

Chicago, IL	\$29.33
St. Louis, MO	\$28.62
Ocean City, NJ	\$26.90
Cincinnati, OH	\$26.32
Seattle, WA	\$24.92

Drawbridge Operators Working for Contractor Under Contract 83942

During normal operation, Drawbridge operators are not subject to prevailing wage. Contractor's bid a daily unit price on the work, and provide a low wage rate. On Contract 83942, the rates are as follows:

Louis A.	\$12.00
Thomas B.	\$12.00
Edward D.	\$12.00
Shaun K.	\$13.00
Philip L.	\$12.00

Each of these employees has been trained on drawbridge operation and Coast Guard requirements and has taken a written and practical test to become certified.

Financial Impact:

As discussed above, MassDOT is paying a premium of around \$50.00 per hour for drawbridge operation during construction when compared to bridge operation in other States. One recent example is a project concerning Bridge G-05-002 in Gloucester. The drawbridge was being

operated by a contractor pursuant to an operation and maintenance contract with MassDOT. There was an unexpected foundation failure of the control house. Prior to the failure, there was no construction taking place at the bridge so the prevailing wage rate for Drawbridge Operators did not apply. MassDOT paid the contractor's unit bid price of around \$13.00 per hour for operation of the bridge. To address the failure of the control house, MassDOT then commenced a multiyear project to replace the control house and make significant upgrades to the bridge in order to keep this critical bridge operational. When the bridge became under construction, the prevailing wage rate for Drawbridge Operators, equal to an electrician's rate, was required to be paid. To date, this has cost MassDOT a premium of \$1,512,485.10.

The majority of drawbridge operation in Massachusetts is performed and paid under private operation and maintenance contracts. Due to the age and condition of these bridges, there is a considerable amount of tradespersons activity on these bridges to keep them safe and operational for the residents of Massachusetts. The example cited above demonstrates the financial impact on just one of these drawbridges. Continuing to pay a prevailing wage rate based on skills which are not needed for the operation of MassDOT's drawbridges will unnecessarily cost the citizens of the Commonwealth tens of millions of dollars over the next several years.

MassDOT's Position:

MassDOT's position is that the additional premium costs of Drawbridge Operator (Construction) *Electricians Local 103* are not justified. Drawbridge Operators are performing the duties of a drawbridge operator, not the duties of electricians. As described in this report, the duties of the drawbridge operator do not change when tradespersons are working on a bridge. As an example, a drawbridge operator's pay rate would go from under \$20.00 per hour to over \$75.00 per hour when a tradespersons crew has been mobilized to patch a pot hole on the bridge. Nothing has changed for the drawbridge operator other than the fact that their rate of pay has just gone up over \$50.00 per hour. The drawbridge operators are trained and qualified to communicate through marine radios and public address systems with maritime traffic, pedestrians and tradesmen working on bridges. This communication is a critical part of the training and qualifications for these drawbridge operators. Exhibit G defines the qualifications and duties of an electrician. Few if any of the drawbridge operation tasks, see Exhibit F, are commensurate with an electrician. Although electricians have shown that they can effectively operate a drawbridge with the appropriate training, the cost premium to staff bridge operations with electricians is not required, and cannot be justified as an appropriate expenditure of tax dollars. The prevailing wage rate for Drawbridge Operators should be based on the duties of trained qualified drawbridge operators, not electricians.

Summary:

MassDOT is requesting reconsideration of the prevailing wage rate applicable to drawbridge operators. As outlined in this report, rates across the nation for drawbridge operators range from \$17.00 to \$28.00 per hour. Federal Bridge and Lock tenders receive a rate of \$25.08/ hour. MassDOT employee bridge operators receive between \$17.71 per hour and \$23.05 per hour. Nationwide, the top paying states of Bridge Operators are: Missouri, Washington, Iowa, Minnesota and Illinois, ranging from \$25.05 to \$27.52.

The Drawbridge Operator classification and prevailing wage rate should not be based on wages paid to the Electricians Local 103 union. The job requirements, training, education and skill level of drawbridge operators are not consistent with that of the members of Electricians Local 103, nor are the skills of licenses electricians needed for the operation of drawbridges in the Commonwealth.

Proposed Implementation:

If DLS were to establish a prevailing wage rate for Drawbridge Operators based on the duties of trained, qualified drawbridge operators (and not electricians), it would:

- (1) Ensure that qualified drawbridge operators receive a fair and equitable rate of pay;
- (2) Eliminate the premium costs that MassDOT is currently paying; and
- (3) Save millions in taxpayer dollars going forward.

Also, if the prevailing wage rate were based on the duties of drawbridge operators, MassDOT would require in its contracts that Drawbridge Operators be paid at least the prevailing wage rate even when no construction and maintenance activities are taking place on the particular bridge. Applying one wage rate in all circumstances will simplify pricing decision for bidders, which may lead to additional savings in lower bid prices on MassDOT's contracts.

Thank you for your consideration.

EXHIBIT A

001/5 FRI 12/03-5/11-21-97 24 C W - 745

*Labor Relations Division
of
Construction Industries of Massachusetts*

77 Turnpike Road, Post Office Box 3118 • Southborough, Massachusetts 01745-0118

EXECUTIVE COMMITTEE

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JOHN D. O'REILLY III

JAMES F. GROSSO

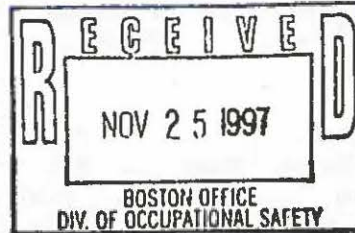
TELEPHONE

(508) 460-1500

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November 21, 1997

VIA TELECOPIER AND FIRST CLASS MAIL

Mr. Robert Prezioso, Deputy Director
Department of Labor and Workforce Development
Division of Occupational Safety
100 Cambridge Street
Boston, Massachusetts 02202

Re: Massachusetts Highway Department - Bridge Rehabilitation -
Route 3A Bridge over the Fore River (Rolling Lift Bascule
Bridge)

Dear Mr. Prezioso:

This Association represents the Union signatory bidders on the above-entitled project. This project is estimated to have a cost of approximately \$33,000,000 and, while the bid has been postponed previously, is currently scheduled for bidding on December 2, 1997.

One of the unusual aspects of the bid documents is a specific notation that the six employees (two for each shift), who are required to be employed by the contractor for the purpose of raising and lowering the draw bridge during construction to accommodate ships and boats passing beneath the bridge, are not to be considered as "posted rate" employees. The functions of these six employees is essentially to coordinate with the construction employees working on the bridge so that the bridge may be safely raised and lowered without endangering any of these employees.

EXHIBIT A

Mr. Robert Prezcioso, Deputy Director
Department of Labor and Workforce Development
Division of Occupational Safety
November 21, 1997
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Vehicular traffic will continue to flow during the three-year construction project, and, of course, the six employees will also have to coordinate with the construction crews so as to insure that vehicular traffic is not on the bridge while it is raised and lowered.

Apparently the Massachusetts Highway Department feels that because these types of activities are not strictly "construction" activities, they should not be covered by the statute. In fact, they are similar to other activities on public works projects which have historically been considered to be covered. For example, when a contractor is performing public works construction on an existing highway and is required to maintain traffic flow through the ongoing construction project, he is required under the contract to supply flaggers and other personnel to coordinate the flow of traffic with the construction crews and trucks, backhoes and other construction equipment. These flaggers do not perform "construction work" but clearly have uniformly been considered to be covered by the posted wage rates applicable to that construction project.

Similarly, on public works construction project at facilities such as Logan Airport where there is a contractual necessity for the contractor to have ongoing contact with the airport tower to insure that construction personnel and equipment are not dangerously located on runways with incoming and outgoing air traffic, employees of the construction contractor are designated exclusively to maintain radio contact with the tower to insure that construction personnel and equipment are always maintained in a safety location on the appropriate areas in the runway vicinity. Again, these personnel are not performing "construction work" but have always been considered to be covered by the posted wage rate laws. It is the position of this Association that the draw bridge function of these employees is similar to the above functions which are clearly covered by the posted wage rate laws. Just as the other employees are maintaining the safe flow of vehicular traffic and the safe flow of air traffic, these employees are not only insuring the safe flow of ships and boats beneath the bridge, they are also responsible for the safety of the construction personnel and construction equipment working on, around and under the bridge and should thus be considered to be an integral part of the construction crew.

At the very least, this work which is essential to the continued operation of the construction, while allowing both vehicular and shipping traffic to continue, should be considered to

EXHIBIT A

Mr. Robert Prezcioso, Deputy Director
Department of Labor and Workforce Development
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be "public works" within the meaning of Massachusetts General Laws Chapter 149, Section 27F. The contract specifications require the contractor to operate the equipment to raise and lower the bridge during the construction and, as the Court noted in Commonwealth v. W. Barrington Co., 5 Mass. App. 416, 419-20 (1977) the scope of Section 27F goes far beyond "construction" and if it were limited to "construction", there would be no need to have 27F as Sections 26 and 27 have already covered "construction." In W. Barrington, street sweeping completely separated from any construction project was considered to be covered. Recently this Department in a matter involving the Southeast Expressway project determined that certain operations relating to the changing of the jersey barriers from one traffic lane to another, while perhaps not strictly construed as "construction", certainly would fall within the concept of public works under Section 27F. The rationale of this Department in that decision was that the traffic control devices were traditionally performed by the Commonwealth and, when performed by a private contractor, fall within the concept of "public work". In this instance the Commonwealth has for years arranged for the bridge to be raised and lowered and thus the construction contractor on this job will be performing the functions traditionally performed by the Commonwealth. Thus under the rationale of the W. Barrington case, as well as under the October 16, 1995 decision of this Department, applying Section 27F to the barrier transport vehicle (BTV) operations on the Expressway, it is respectfully submitted that, at the very least, these job functions fall within Section 27F.

For the reasons set forth above, it is submitted that the jobs involved in the raising and lowering of this bridge during the public works construction project should be covered by either Sections 26 and 27 or, at the very least, by Section 27F. This appeal is filed on behalf of our Association members involved in this bid process as well as on behalf of Local 4, International Union of Operating Engineers, AFL-CIO.

Very truly yours,


John D. O'Reilly, III

JDO/hh

cc: Arthur Flamm, Esquire
Mr. William Ryan, B.M., Local 4 Operating Engineers
Massachusetts Highway Department

EXHIBIT A

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The Commonwealth of Massachusetts
Department of Labor and Workforce Development
Division of Occupational Safety

ANGELO BUONOPANE
Director

ROBERT J. PREZIOSO
Deputy Director

December 3, 1997

John D. O'Reilly, III, Counsel
Labor Relations Division of the
Construction Industries of Massachusetts
77 Turnpike Road
Post Office Box 3118
Southborough, MA 01745-0118

Re: Applicability of prevailing wage rates to the operation of a drawbridge during construction

Dear Mr. O'Reilly:

This letter responds to your request for a determination of the applicability of the prevailing wage law, M.G.L. ch. 149, sections 26 - 27F, to the operators of the drawbridge over the Fore River in Quincy (the "drawbridge") during the upcoming rehabilitation project (Massachusetts Highway Department project # 110651).


There is no dispute that, in general, the rehabilitation project is covered by prevailing wage rates. This letter addresses the specific issue of whether prevailing wage rates are applicable to the operators of the drawbridge -- the persons who will control the raising and lowering of the bridge, along with any associated functions -- for the duration of the rehabilitation project.

Given that the construction contractor will provide drawbridge operators at all times during the rehabilitation project in place of regular Massachusetts Highway Department employees, it is obvious that the bridge will need to be raised and lowered to accommodate construction activities and that the regular operation of the drawbridge will require additional care due to the hazards and/or limitations caused by the construction. The operator will, at all times, need to be mindful of the construction schedule; the structural changes in progress; and the hazards to vehicular traffic, pedestrian traffic, and waterway traffic caused by the construction. Therefore, the operation of the drawbridge will be an integral part of the rehabilitation project and the prevailing wage schedule issued pursuant to M.G.L. ch. 149, sections 26 and 27 for this project will apply to the operators employed by the construction contractor.

EXHIBIT B

A copy of this letter will be provided to the Massachusetts Highway Department. If you have additional questions concerning this matter, please do not hesitate to contact me.

Sincerely,



Robert J. Prezioso,
Deputy Director

cc: Stewart Field, Program Manager, DOS
Linda Hamel, Esq., General Counsel, DOS
David Mullen, Esq., Massachusetts Highway Department



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS

DEVAL L. PATRICK
GOVERNOR

JOANNE F. GOLDSTEIN
SECRETARY

HEATHER E. ROWE
DIRECTOR

December 20, 2013

Attorney Francis A. Shannon, III
Shannon Law Associates, Inc.
300 Crown Colony Drive, Suite 504
Quincy, MA 02169

Dear Attorney Shannon:

The Department of Labor Standards ("DLS") writes in response to your request for an advisory opinion under the Massachusetts Prevailing Wage Law, G.L. c. 149, §§ 26 and 27, with regard to appropriate classification and prevailing wage rates for certain employees and activities at the Fore River Bridge Replacement in Quincy-Weymouth, Massachusetts.

The questions you have posed are italicized below and answers to those questions follow thereafter:

1. *Does Addendum No. 10 (Exhibit A) as directed by the awarding authority control how Cora should classify and pay its bridge tender employees as "Tree Trimmer Groundman?"*

At the time MassDOT requested its rate sheet from DLS for incorporation into the RFP for the Fore River Bridge project, DLS did not list a prevailing wage classification for "Bridge Tenders" or other bridge operators.¹ MassDOT had previously requested clarification with DLS as to the proper classification of "Bridge Tenders" on June 28, 2011.² At that time, DLS advised MassDOT that, because there was no prevailing wage classification for bridge operators, the correct classification was that of the lowest rate on the issued rate sheet.³ As of the February 17, 2012 rate sheet issued to MassDOT, that classification was "Tree Trimmer Groundman."⁴ MassDOT answered the bidders that a Bridge Tender should be paid at the same rate as a "Tree

¹ See Wage Request No. 20120217-017.

² E-Mail from John Brady, DOT to Steve Falcone, DLS, June 28, 2011.

³ Phone call between Patricia DeAngelis, DLS, and John Brady, DOT, June 28, 2011. This is consistent with previous advice regarding bridge tenders DLS provided to contractors in 2010. DLS retains sole authority to issue classification determinations. (See letter to Trager, May 4, 1994). MassDOT did inquire with DLS as to the proper wage classification for a Bridge Tender, and DLS provided its answer to MassDOT, the awarding authority. MassDOT, in turn, relayed that information to bidders.

⁴ See Wage Request No. 20120217-017.

EXHIBIT C

Trimmer Groundman.”⁵ It was appropriate for Cora to have classified and paid its bridge tender employees as “Tree Trimmer Groundman.”

2. *If Question No. 1 is answered in the affirmative, does CORA back pay its employee bridge tenders \$1.46 per hour retroactive to January 29, 2012?*

CORA does not have to back pay its employee bridge tenders \$1.46 per hour retroactive to January 29, 2012. Contractors must pay the rates that are listed on the effective rate sheet for each project. In the case of multi-year projects requiring annual updates to prevailing wage schedules, when the new rate schedule is issued (or on the anniversary date of the general contract if later than the Issue Date on the wage schedule), contractors are obligated to classify workers and pay the effective corresponding wage rates on the updated schedule.

3. *The Prevailing Wage Rates issued February 17, 2012 and published in the bid set of the Contract Documents (Exhibit B) has no labor classification for “Drawbridge Operator,” which classification was subsequently added in the updated Prevailing Wage Rates issued August 20, 2013 (Exhibit C at Page 9 of 38), should Cora now classify its bridge tenders as a “Drawbridge Operator”?*

As a “Drawbridge Operator” classification and corresponding rates were added to the prevailing wage rate schedules sometime between the start of the Fore River Bridge Replacement project and by the time an annual update was required, Cora must utilize the new classification and corresponding effective wage rates for its bridge tenders as of the Issue Date of the project’s updated wage schedule (or anniversary date of the execution of the general contract if after the Issue Date of the schedule). The job description of a “Bridge Tender,” as defined by Cora, is one who “operates bridges to ensure the safe passage of water traffic and automobiles” and whose “[d]uties include operating equipment to raise and lower the vertical lift bridges.”⁶ As such, the correct classification of “Bridge Tender” is “Drawbridge Operator.”⁷

4. *If Question No. 3 is answered in the affirmative, does Cora back pay its bridge tender employees retroactive to March 1, 2013?*

⁵ In an e-mail conversation between MassDOT and DLS, then-DLS General Counsel Patty DeAngelis advised MassDOT that, where a job classification does not exist on the Prevailing Wage Rate Sheet, a contractor must ensure its workers under that classification are paid no less than the lowest rate on the applicable rate sheet. As of the February 17, 2012 rate sheet, “Tree Trimmer Groundman” was the lowest rate classification.

⁶ E-Mail from Steven Shane Smith, Counsel to Cora Operations, to Heather Rowe, DLS, October 04, 2013.

⁷ Wage rates for “Drawbridge Operator” were set based on the Electrical Industry of Greater Boston Agreement between Local 103, IBEW of Greater Boston and the Electrical Contractors Association of Greater Boston, dated September 2011 through August 2016. The Agreement covers workers who operate, repair and maintain electrically-driven bridges, “including but not limited to drawbridges and swing bridges.”

EXHIBIT C

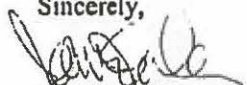
Cora is not under an obligation to retroactively change classifications or pay rates for the bridge tenders prior to the Issue Date of the project's updated wage schedule (or anniversary date of the execution of the general contract if after the Issue Date of the schedule).

5. *Our unconfirmed understanding is MassDOT and White-Skanska signed the Fore River Bridge contract on August 24, 2012 making August 24 the "anniversary date of the execution of the general contract." On August 20, 2013 (4 days before the anniversary date), new wage rates were published. However, on September 5, 2013, a second set of new wage rates were published. Assuming August 24 is the anniversary date, do you agree that the contractors need not utilize the new wage rates until 08/25/14 since the 09/05/13 wage rates came out after the 08/24 anniversary date?*

The contractors should use the set of wage rates published on August 20, 2013, as the annual update issued at the contract anniversary date. M.G.L. c. 149, § 27 requires an update each year after the awarding of the contract.⁸

I hope this information has been helpful.

Sincerely,


Jean E. Zeiler
General Counsel

CC: Jocelyn Jones, Deputy Chief & Special Counsel for Fair Labor Policy, Fair Labor Division, Office of the Massachusetts Attorney General

⁸ The department issued the later wage schedule at MassDOT's request. The department does not here determine that the 09/05/13 wage schedule may serve as the update for the next contract anniversary date in 2014.

EXHIBIT C

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Inside Construction Agreement Amendment II

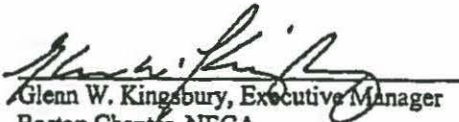
New Section:

BRIDGE OPERATION AND MAINTENANCE

This Agreement shall govern the operation, repair and maintenance of electrically-driven bridges, including but not limited to drawbridges and swing bridges. All work under this section shall be performed by Inside Journeyman Wiremen and shall be paid in accordance with the wages and benefits set forth in this Agreement. This Amendment shall apply to all jobs bid on and after the date of its original execution, September 17, 2012.

For the Employer

For the Union


Glenn W. Kingsbury, Executive Manager
Boston Chapter, NECA
Dated: 10-31-2014

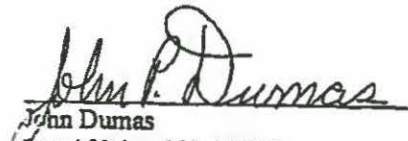

John Dumas
Local Union 103, IBEW
Dated: 11/6, 2014

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THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS

DEVAL L. PATRICK
GOVERNOR

December 5, 2014

RACHEL KAPRIELIAN
SECRETARY
HEATHER E. ROWE
DIRECTOR

PW-2014-06-12.05.14

Re: Drawbridge Operator

Dear XXX:

The Department of Labor Standards ("DLS") has issued two determinations in the last couple of years on the proper job classification and prevailing wage rate under M.G.L. c. 149, §§ 26 and 27, for workers whose duties primarily involve operating equipment to raise and lower bridges to ensure the safe passage of water vessels and road traffic. You requested that we revisit the classification based on information regarding the duties of a "bridge tender." You also requested that the DLS determine when the prevailing wage rate must be paid when a job is filled on a 24-hour basis, but construction is not taking place during that entire time.

The bridge tender classification and wage rate determinations are based on a unique set of facts pertaining to this matter and do not set any precedent for future classification and wage determinations.

I. What is the proper job classification for workers who raise and lower bridges to ensure the safe passage of water vessels and road traffic?

a. Applicability of prevailing wage to drawbridge operators

The DLS uses the terms "drawbridge operator," "bridge tender," and "bridge operator" interchangeably for purposes of discussion of the job of raising and lowering bridges to allow the passage of water and road traffic.¹ As an initial matter, the DLS reiterates the long-standing position that drawbridge operators or tenders who control the raising and lowering of a bridge during a bridge project are covered by the prevailing wage under M.G.L. c. 149, §§ 26 and 27. See Letter to Reilly (December 3, 1997). As stated in that letter, and presently applicable, the DLS understands that the construction contractor must provide drawbridge operators at all times during the bridge rehabilitation

¹ The U.S. Department of Labor Dictionary of Occupational Titles lists "Drawbridge Operator" as a subset of "Bridge, Lock, and Lighthouse Tenders." The DLS is unaware of a description of the work of a drawbridge tender that would distinguish it from a drawbridge operator.
CHARLES F. HURLEY BUILDING • 19 STANIFORD STREET • 2ND FLOOR • BOSTON, MA 02114
TEL: 617-626-6975 • FAX: 617-626-6965
www.mass.gov/dols

EXHIBIT E

project in place of regular state or municipal employees. The bridge is raised and lowered to accommodate construction activities. The operator must be mindful of the construction schedule, the structural changes in progress; and particular hazards to waterway, vehicular, and pedestrian traffic caused by the construction. The bridge operation is an integral part of the rehabilitation project and the operators must be paid the prevailing wage.

b. Prior classification determinations

MassDOT requested clarification of the proper classification of "Bridge Tenders" on June 28, 2011.² At that time, the DLS advised MassDOT that, because there was no prevailing wage classification for bridge operators, the correct classification was the one that had the lowest rate on the applicable rate sheet.³ The lowest rate was under the classification "Tree Trimmer Groundman."⁴

After that determination, the DLS was advised that the collective bargaining agreement between Local 103, IBEW and the Electrical Contractors Association of Greater Boston contained the job classification "Drawbridge Operator." Article 6.34, "Bridge Operation, Repair and Maintenance," provides, "This Agreement shall govern the operation, repair and maintenance of electrically-driven bridges, including but not limited to drawbridges and swing bridges. All work under this section shall be performed by Inside Journeyman Wiremen..." As a result of this information, the DLS determined that the proper job classification for "Bridge Tender" was "Drawbridge Operator." A "Drawbridge Operator" classification and corresponding rates were added to the prevailing wage rate schedules.

c. Revised classification determination

The DLS has received and reviewed additional information that warrants revisiting the job classification for "bridge tender" or "bridge operator." The DLS was asked to reconsider whether "Bridge Operation, Repair and Maintenance," was intended to cover the type of work performed by a bridge tender. In response to a request from the DLS, the IBEW and National Electrical Contractors Association (NECA) provided a joint letter setting forth their agreed-upon definition of "operation" as set forth in the agreement. According to the letter, in referencing "bridge operation," the collective bargaining agreement covers the following job duties:

Operation – Electric Bridge Tender

The performance of work by qualified persons which insures the safe passage of water traffic, trains, other vehicles and persons in compliance with the general

² E-Mail from John Brady, DOT to Steve Falcone, DLS, June 28, 2011.

³ Phone call between Patricia DeAngelis, DLS, and John Brady, DOT, June 28, 2011. This is consistent with previous advice regarding bridge tenders DLS provided to contractors in 2010.

⁴ See Wage Request No. 20120217-017.

⁵ Electrical Industry of Greater Boston Agreement between Local 103, IBEW of Greater Boston and the Electrical Contractors Association of Greater Boston, dated September 2011 through August 2016.

requirements of the Commonwealth of Massachusetts, Department of Transportation policies, procedures, and bulletins, and United States Coast Guard regulations governing drawbridge requirements and operations. In general, Electric Bridge Tenders, after receiving signals from approaching vessels, or other approved means or modes of transportation as required, are responsible for initiating movements by which bridges and related equipment are safely set in motion by pre-engineered and defined mechanical and electrical means, including confirmation that the Electric Bridge has attained its desired destinations. Electric Bridge Tenders shall make observation, direct communications and perform necessary record keeping as directed by appropriate authority.

The definition describes the work of a bridge tender; therefore, the job is within the jurisdiction of the IBEW and NECA collective bargaining agreement. In accordance with M.G.L. c. 149, §26, the DLS sets prevailing wage rates based on "collective agreements or understandings in the private construction industry between organized labor and employers." The DLS also looks to these agreements and understandings to determine the appropriate job classifications under the prevailing wage law. M.G.L. c. 149, §27. The "Drawbridge Operator" classification and corresponding rates will remain on the prevailing wage rate schedules.

d. Effective date of the Drawbridge Operator classification

The DLS determination that the bridge tender was classified as Drawbridge Operator on the prevailing rate sheet caused a significant increase in the wage rate. In accordance with normal practice, a prevailing rate determination by the DLS is effective immediately, and appears on prevailing rate sheets issued subsequent to the determination. The Drawbridge Operator classification appeared on requested rate sheets immediately after the determination of the proper classification. The new rate was prospective from the date it appeared on the prevailing rate sheet.

The DLS departs from the normal effective date in regard to the Drawbridge Operator classification due to the unique circumstances. The departure should not be viewed as setting any precedent outside the particular facts of this classification. The major factor in this case is the significant increase in the prevailing wage rate for contracts that had already been awarded. As a public agency, the DLS cannot ignore the practical implications of the rate change for this classification on contractors who had already successfully bid a contract. The DLS reiterates that, in general, changes in classifications and increases in rates are effective immediately, even on already-awarded contracts. The bridge tender classification is the exception.

The DLS also takes note of the agreement between the IBEW and NECA that jurisdiction over bridge operation and maintenance work would "apply to all jobs bid on and after the date of its original execution, September 17, 2012." The DLS notes initially that it is not bound by the union/management agreement regarding the effective date of a classification. Nevertheless, M.G.L. c. 149, §26 provides that wage rates may be based

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on "understandings" in the private construction industry. Given the unusual increase in the prevailing wage for the Drawbridge Operator classification, the impact on already-awarded contracts, and the "understanding" of the parties in the private construction industry, the DLS determines that the Drawbridge Operator classification on the prevailing rate sheet is only effective for public works bid after the date of this letter. For contracts awarded prior to this date, the bridge tender must be paid at the lowest rate on the applicable rate sheet. Currently, the lowest rate is for the classification "Tree Trimmer Groundman." M.G.L. c. 149, § 27 requires an updated rate schedule each year after the awarding of the contract. For the bridge tender classification, if the construction contract was awarded prior to the date of this letter, the rate for the annual update will remain the lowest rate on the wage sheet for the duration of the contract. This does not apply to any other job classification that may change during the course of a construction project, which must be paid at the proper classification when a new rate sheet is issued.

II. When must the prevailing wage rate be paid on a 24-hour job?

As stated previously, drawbridge operators/bridge tenders who control the raising and lowering of a bridge during a bridge rehabilitation project are covered by the prevailing wage under M.G.L. c. 149, §§ 26 and 27. The bridge operation is, generally, covered 24-hours per day. The DLS was advised that during a construction project, the contractor is required to provide the 24-hour coverage. The question arose as to whether the bridge tender must be paid the prevailing wage during the entire 24-hours, or only during the time when construction is taking place.

Several scenarios were presented:

1. Construction is underway but the bridge may or may not have to be raised. The DLS position is that the prevailing wage must be paid at all times construction is going on and the bridge is in operation. The DLS understands that the bridge tender may only have to raise and lower the bridge for the ordinary passage of vessels unrelated to the construction, and that the bridge may not have to open at all or only infrequently. The bridge tender is essentially on call to respond in relation to the construction and must at all times be mindful of the construction schedule, the work taking place, and hazards to waterway, vehicular, and pedestrian traffic caused by the construction.
2. Breaks in construction may take place during the course of a shift when construction is temporarily halted. The DLS position is that ordinary breaks in work or pauses in certain jobs while other work is accomplished is a normal workplace occurrence. Workers at or on the construction site who are awaiting assignment or who must wait to perform their job until another aspect of the job is completed are generally entitled to pay at the applicable prevailing rate. The bridge tender is entitled to the prevailing rate during such temporary breaks in construction. If the construction completely ceases for

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the day or shift, the bridge tender may be paid at the regular, non-prevailing wage rate.

3. The bridge tender is on duty and construction is going on, but the bridge may not be opened due to time of day, order of the Coast Guard, closure of the waterway, or other reason. The DLS position is that the prevailing wage is not required if the bridge may not be opened due to rule or order.
4. Construction is not taking place for a period of time due to mandatory cessation of work, such as during certain times of the year, or during certain shifts such as overnight, or for weather-related reasons, or because design issues have arisen. The bridge tenders need not be paid the prevailing wage during such times when construction is not taking place. If some construction is taking place during such times, the bridge tender on duty is entitled to the prevailing rate.

We hope we have addressed all of the potential scenarios that come up. We will be happy to consider other situations, if necessary.

Please do not hesitate to contact this office with questions regarding any of the issues addressed in this letter.

Sincerely,

Jean E. Zeiler
General Counsel

CC: Jocelyn Jones, Deputy Chief & Special Counsel for Fair Labor Policy, Fair Labor Division,
Office of the Massachusetts Attorney General

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OPERATION OF DRAWBRIDGES
(GENERAL PROVISIONS)

ITEM 105.030	OPERATION OF BRIDGE L-18-16T = S-05-08T	DAY
ITEM 105.031	ON CALL OPENING OF BRIDGE L-18-16T = S-05-08T	EACH
ITEM 105.040	OPERATION OF BRIDGE G-05-002	DAY
ITEM 105.041	ON CALL OPENING OF BRIDGE G-05-002	EACH
ITEM 105.050	OPERATION OF BRIDGE B-11-005 = S-01-013	DAY
ITEM 105.051	ON CALL OPENING OF B-11-005 = S-01-013	EACH
ITEM 105.060	OPERATION OF BRIDGE N-11-011 = S-02-003	DAY
ITEM 105.061	ON CALL OPENING OF BRIDGE N-11-011 = S-02-003	EACH
ITEM 105.071	ON CALL OPENING OF N-10-011	EACH
ITEM 105.072	ON CALL OPENING OF BRIDGE A-07-010	EACH
ITEM 105.073	ON CALL OPENING OF BRIDGE H-12-020 = W-20-004	EACH
ITEM 105.074	ON CALL OPENING OF BRIDGE G-15-001 = H-12-012	EACH
ITEM 105.075	ON CALL OPENING OF BRIDGE B-11-001	EACH
ITEM 105.085	ON CALL OPENING OF BRIDGE L-18-015=R-05-008	EACH
ITEM 105.1	BRIDGE OPERATOR'S HELPER	HOURL

MAINTENANCE
GENERAL

The Contractor shall perform routine maintenance of draw tender's buildings, bridge decks, sidewalks, fender systems, machinery rooms, navigation lights and any other permanent lighting on the bridge including street lighting and traffic signals, as described below. The Contractor shall be responsible for snow removal as described below. The Contractor shall also prevent unauthorized entry into draw tender's buildings, machinery areas and fender systems.

MATERIALS, SUPPLIES AND EQUIPMENT

Material and Supplies provided by the Contractor shall include but are not limited to the following:

- Hand towels, paper towels, sponges, hand cleaner, hand soap, toilet tissue, window cleaning fluids, general purpose cleaning fluids, floor wax, etc.
- Brooms, dustpans, dusters, cleaning brushes, mops, buckets, pails, trash bags.
- Shovels, snow shovels, rakes and push brooms.
- Bottled drinking water and dispensers.
- Rechargeable flashlights for the Foxhill, Blynman, Kernwood, and Gillis Drawbridges

OPERATION OF DRAWBRIDGES (Continued)

Additional materials and supplies outside of the scope of the aforementioned materials and supplies may also be necessary. The Engineer must authorize the purchase of any such materials or supplies prior to its purchase by the Contractor. Please see the "CONTRACTOR REQUEST FOR DRAWBRIDGE SUPPLIES" form.

The following Equipment may be necessary to properly complete the Routine Maintenance of Drawbridges:

- Hand saws, power brooms, shears, loppers, snow throwers, grass mowers, grass trimmers, litter wands, etc.
- The aforementioned Equipment shall be considered incidental to the work without additional compensation.

MAINTENANCE OF THE DRAWTENDER BUILDING

The Contractor shall keep the draw tender's building clean and orderly at all times. The Contractor is responsible for the following:

- All floors and stairs shall be swept daily or more frequently if necessary.
- All floors and stairs shall be washed monthly or more frequently if necessary.
- All windows shall be washed when dirty, but not less than once each month
- The control consoles shall be kept clean at all times.
- Bathroom facilities, sinks and toilets shall be kept clean at all times.
- The interior walls, ceiling and outside of electrical cabinets shall be dusted monthly or more frequently if necessary and washed twice yearly or more frequently if necessary.
- The Contractor is responsible for the proper off site disposal of all household trash generated by the bridge operators.

MAINTENANCE OF GEAR ROOMS, MACHINERY AREAS AND FENDER SYSTEMS

The Contractor shall keep all gear rooms, machinery areas and fender systems free of debris, dirt, sand, weeds, fishing line, bird droppings, etc. These areas shall be swept monthly or more frequently if necessary. Bird droppings shall be removed per OSHA and DEP regulations at no additional compensation to the Contractor.

OPERATION OF DRAWBRIDGES (Continued)**MAINTENANCE OF BRIDGE DECKS, APPROACHES AND SIDEWALKS**

The Contractor shall keep all bridge decks and approaches and sidewalks free of debris, dirt, sand, weeds, growth, fishing line, bird droppings, etc. These areas are defined in each Drawbridge Item under Bridge Layout section.

The Contractor shall inspect these areas daily and all debris shall be removed immediately. Such debris includes but not limited to trash, bottles, cans, paper, cups, fishing line, cigarette butts, car parts, glass, etc.

The area within the swing of all rolling or swinging barrier gates and traffic gates shall be kept free of debris, dirt, sand, weeds, growth, fishing line, bird droppings, etc at all times.

All growth behind the guardrail on the bridge approaches shall be cut to 12 inches beyond the edge of slope or a minimum of 8 feet from the back edge of guardrail to a maximum height of 3 inches. Such growth includes but not limited to grass, weeds, sumac, brush, poison ivy, etc. All growth within 8 feet surrounding all draw tender's buildings shall be cut to a maximum height of 3 inches. All growth shall be cut a minimum of five (5) times yearly. At no time shall the growth be allowed to grow beyond 6 inches. At such time the growth shall be cut as described above. This work shall be completed by a Laborer and be compensated for under Item 100.1.

MAINTENANCE OF TRAFFIC AND PEDESTRIAN GATES AND BARRIERS

The lights mounted on or adjacent to the traffic gates and barriers whose purpose is to regulate or warn vehicles during opening and closing of the drawbridge shall be inspected daily for proper operation. The Contractor shall replace any broken or burned out bulbs immediately. This work shall be completed by an Apprentice Electrician or an Electrician and be compensated for under Item 100.1.

NAVIGATION LIGHTS

The Contractor shall inspect all navigation lights on the bridge on a daily basis to determine that they are functioning properly. The Contractor shall replace any broken or burned out bulbs immediately. This work shall be completed by an Apprentice Electrician or an Electrician and be compensated for under Item 100.1.

Navigational lighting shall conform to the requirements as outlined in the Code of Federal Regulations (e-CFR), Title 33, Chapter I, Subchapter J Section 118.

OPERATION OF DRAWBRIDGES (Continued)**PERMANENT LIGHTING**

The Contractor shall inspect all permanent lighting in the draw tender's buildings, machinery areas, on walkways, stairways, and fender systems on the bridge, street lighting and traffic signals to determine that it is functioning properly. The Contractor shall replace any broken or burned out bulbs immediately. This work shall be completed by an Apprentice Electrician or an Electrician and be compensated for under Item 100.1.

SNOW REMOVAL

The Contractor shall be responsible for snow removal from the traffic gates, sidewalks and the draw spans as described below to maintain safe operation of the bridge:

- The Contractor shall be responsible for snow removal on all of the drawbridges in this Contract whether it is manned or unmanned during the winter months.
- The movable span, traffic and barrier gates are to remain operational regardless of weather conditions.
- The Contractor shall remove all snow within 3 feet of all traffic gates and barriers.
- The Contractor shall remove all snow within 3 feet of all traffic signals.
- The Contractor shall remove all snow on all sidewalks (as defined in each Drawbridge Item under Bridge Layout).
- The Contractor shall remove all snow within 6 feet of all draw tender's building doors and all trap doors and/or manholes used to access the bridge.
- The Contractor shall remove all snow on stairs to fender systems.
- The contractor is required to supply a snow blower for use by the bridge operators for snow removal. The snow blower shall have the minimum requirements: 8 HP, 3 feet, 4 speed, with reverse and chains. The snow blower shall remain the property of the Contractor at the end of the Contract.
- Snow removal in the mechanical/electrical areas shall be performed by Laborers, Millwrights and/or Electricians and be compensated for under Item 100.1.

OPERATION OF DRAWBRIDGES (Continued)**OPERATION****GENERAL**

All work under these items includes providing services for the operation and routine maintenance of the drawbridges owned by the Massachusetts Department of Transportation.

All work shall be in accordance with the following:

- The Contractor shall provide a sufficient number of qualified personnel to accomplish the work and still accommodate employee leave and absenteeism.
- The Department reserves the right at any time to contract for and perform other or additional work on these Drawbridges. The Contractor shall conduct his/her work on this Contract so as not to interfere with or hinder the progress or completion of work being performed by other Contractors. The Contractor shall cooperate with other Contractors working on these Drawbridges as directed by the Engineer.

WAGE RATES

Note that Massachusetts General Laws, Chapter 149, Section 26, wage rates, found in this proposal do not apply to activities performed under Items 105.030 through 105.1. However, they are applicable to the remainder of the Items in the Contract pertaining to construction activities (see definitions at G.L. c. 149, Section 27D). Contractors with questions about prevailing wage rate applicability, rates or classifications have an affirmative obligation to inquire with the Department of Labor Standards at 617-626-6953.

A Drawbridge Operator (Construction), compensated under ITEM 100.1 BASE LABOR RATE per HOUR, shall be used while a bridge is under construction (see definitions at G.L. c. 149, Section 27D), at times when the drawspan may be opened. The prevailing wage rate of a Drawbridge Operator (Construction) must be paid to a drawbridge operator who is on duty while the bridge is under construction, except when the drawspan may not be opened due to time of day, order of the Coast Guard, closure of the waterway, or other reason. See Prevailing Wage Opinion Letter from the Executive Office of Labor and Workforce Development, Department of Labor Standards (DLS) Number PW-2014-06-12.05.14, dated December 5, 2014.

OPERATION OF DRAWBRIDGES (Continued)**PERSONNEL**

The contractor shall provide adequate personnel to operate the bridges listed and in accordance with Coast Guard regulations. The hours of such operation are listed under the various items of work.

The Contractor's attention is called to the fact that these bridges are critical to both the highway system as well as waterway navigation. The bridges operate under the rules and regulations of the United States Coast Guard. Improper operation may result in fines imposed by the Coast Guard of \$1,000 dollars per boat for each day that the violation continues. Any such fines that are imposed as a result of the Contractor's improper operation or negligence will be borne by the Contractor.

Drawbridge personnel may be exposed to: adverse weather conditions; may be subject to work-related verbal abuse; harmful effects of noise, fumes, gases, etc; hazardous conditons such as open water channels, ladders, bridge staging, steep slopes, etc; and may be required to stand for long periods of time; lift and carry heavy objects in excess of fifty pounds; work in a confined area; work varied shifts, weekends, holidays and nights and on a standby (on call) work status.

OPERATORS

Only properly trained and certified Operators shall be used. The Contractor shall implement a Drug and Alcohol testing policy for all Drawbridge Operators. The cost of all Drug and Alcohol testing shall be borne by the Contractor. The qualifications of the Operators shall be as described herein.

CONTRACTOR'S SUPERVISION

The Contractor shall have at least one (1) Bridge Operator Supervisor for the purpose of supervision, training, scheduling and coordinating this contract with the Engineer.

The Bridge Operator Supervisor shall visit each bridge at least once per week (including nights and weekends) to ensure the proper supervision of drawbridge operations and routine maintenance. All visits shall be logged in the Daily Diary at each bridge.

The Bridge Operator Supervisor will be available locally, twenty-four (24) hours a day, seven (7) days a week. This employee will be the Department's contact person for day to day operation and emergency situations.

The Supervisor shall be knowledgeable in moveable bridges.

The Supervisor shall fill shifts as a Bridge Operator only with prior approval of the District Four Drawbridge Supervisor.

The Engineer shall be kept advised at all times as to the identification and means of contacting the Supervisor.

OPERATION OF DRAWBRIDGES (Continued)**QUALIFICATIONS OF CONTRACTOR'S PERSONNEL**

The Contractor shall insure that all Bridge Operator Supervisors, Bridge Operators and workmen employed by him/her are competent and reliable. All such employees must have sufficient skill and experience to properly perform the work assigned to them and to operate the equipment involved. The MassDOT Drawbridge Supervisor must certify all Bridge Operators prior to independent operation of each bridge. The Department may withdraw the Bridge Operator Certification of any Bridge Operator or Bridge Operator Supervisor if deemed necessary.

INITIAL TRAINING OF BRIDGE OPERATORS

For bridges with specific hours of operation the Present Contractor will provide on the job instruction to the Contractor and his/her Bridge Operators. This training will begin immediately if so directed by the Engineer upon receipt of the signed contract. The Engineer will determine all training hours and schedules.

For bridges without specific hours of operation the Present Contractor will train Operators as directed by the Engineer.

All labor costs associated with the Contractor's employees during the training shall be the responsibility of the Contractor. The Contractor shall be responsible for training all Operators after the initial training period is completed.

OPERATION OF DRAWBRIDGES (Continued)**DRAWBRIDGE OPERATOR REQUIREMENTS**

The requirements for Bridge Operators are as follows:

- Demonstrate ability to operate the bridge to the Engineer.
- For bridges with specific hours of operation the Operators shall complete 40 hours of instruction and a minimum of 12 bridge openings per Operator for each bridge that the Operator may be assigned to operate. Additional hours of instruction and training may be required at the Contractor's expense if so determined by the Engineer.
- For bridges without specific hours of operation the Operators shall receive instructions on the proper operation and perform a minimum of five (5) openings. Each Bridge Operator will require certification from the MassDOT Drawbridge Supervisor. A Bridge Operator, certified for each individual bridge, will be required at all openings.
- Must be able to communicate on the marine radio in English.
- Must read and demonstrate his/her understanding of the Coast Guard Regulations and Massachusetts Department of Transportation's procedures regarding the operation of drawbridges and these Special Provisions in regard to the drawbridges prior to certification and to the satisfaction of the Engineer.
- Must pass a written exam pertaining to the Massachusetts Department of Transportation's procedures regarding the operation of drawbridges and these Special Provisions and the Coast Guard Regulations and a practical exam.
- Must be able to adjust to changing situations to meet emergency or changing conditions, to maintain a calm manner in stressful and emergency situations and to exercise sound judgement.

OPERATION OF DRAWBRIDGES (Continued)**CONDUCT OF DRAWBRIDGE OPERATORS**

Contractor's personnel shall conduct themselves in a courteous and professional manner at all times. Any bridge operator who acts in an improper manner shall be subject to disciplinary action or dismissal by the Contractor as determined by the Massachusetts Department of Transportation. The Department may withdraw the Bridge Operator Certification of any Bridge Operator or Bridge Operator Supervisor if deemed necessary.

RESPONSIBILITY OF DRAWBRIDGE OPERATORS

- All Bridge Operators must remain on duty until relieved by a certified Bridge Operator or until the end of the hours the Coast Guard requires the bridge to open on signal.
- Operator is to be awake and alert at all times for signals from vessels desiring passage through bridge in order to ensure safe and expedient passage.
- The Bridge Operator shall immediately report any failure, disorder or breakage, which will in any way affect the efficient operation of the bridge to the Engineer. The Bridge Operator shall submit a "REQUEST FOR MINOR DRAWBRIDGE REPAIRS" for ALL other needed repairs.
- A "MOVEABLE BRIDGE MALFUNCTION REPORT" shall be submitted to the MassDOT Drawbridge Supervisor within 24 hours.
- The Bridge Operator is not permitted to have any appliances or furniture placed in the bridge operator's house without prior approval of the Engineer.
- The Bridge Operator shall open the bridge promptly for the passage of vessels when a request to open has been given in accordance with established signaling procedures. The Bridge Operator shall, in all cases open the bridge if the pilot signals for a bridge opening.
- The Bridge Operator shall close the bridge promptly after passage of vessels and re-establish flow of vehicular traffic in a timely manner.
- The Bridge Operator will be required to check the condition of all moving parts before the first bridge opening of the day, and after any work crews, inspection crews or any other persons have been on the bridge. These checks shall be recorded in the Bridge Opening Logbook.
- All damage caused by the Contractor while performing Routine Maintenance of the Drawbridges shall be repaired and/or replaced immediately by the Contractor with no additional compensation.
- All accidents shall be reported immediately to the appropriate authorities (police, fire, Coast Guard, harbormaster, etc) and the MassDOT Drawbridge Supervisor.
- After an accident the appropriate report(s) (VEHICULAR, PEDESTRIAN AND MARINE TRAFFIC ACCIDENT REPORT) shall be submitted to the MassDOT Drawbridge Supervisor within 24 hours. A brief record of all accidents shall be entered into the Daily Diary.

OPERATION OF DRAWBRIDGES (Continued)**SAFETY AND SECURITY**

- All bridge operators shall frequently and randomly inspect the draw tender's building, fender pier systems, lift/swing span, approaches and waterway for suspicious activities. All suspicious activities shall be reported to the Engineer immediately. If the bridge operator perceives the suspicious activity as a threat he/she shall call 911 immediately.
- Unauthorized persons shall not be permitted in the control house on any other buildings at anytime.
- The Bridge Operator shall not allow any person to operate the bridge except persons authorized by the Engineer.
- No one is permitted to fish from or loiter on the bridge fender system or draw span or in any way hinder the operation of the Drawbridge. The Bridge Operator should use reasonable control efforts to prohibit these activities. The Bridge Operator shall contact the local police when reasonable control efforts fail.
- Boats are not permitted to be tied or moored to the bridge fender system or bridge piers.
- No vehicles of any description, including bicycles are permitted to park on the bridge approaches between the end of the movable span and the first safety gate.
- The Contractor shall have a Worker Health & Safety Plan. The Contractor shall submit a written program or plan to the Engineer prior to the commencement of work. All submittals shall be reviewed and approved by the Engineer.
- The Contractor shall comply will all safety policies and procedures.

RECORD KEEPING

The Contractor's personnel shall maintain records that include but are not limited to the following:

- Bridge Opening Logs (supplied by MassDOT as needed)
- Daily Diary (supplied by MassDOT annually)
- Drawbridge Reports (Monthly, Annual)
- Accident Reports (Vehicular, Pedestrian and Marine Traffic)
- Moveable Bridge Malfunction Report
- Monthly Routine Maintenance Verification Forms
- Drawbridge Lubrication Verification Form
- Request for Minor Drawbridge Repairs
- Request for Supplies
- Unnecessary Drawbridge Opening Report

OPERATION OF DRAWBRIDGES (Continued)**RECORD KEEPING (Continued)**

See the attached copies of each of these above forms included in Document A00816 except Bridge Opening Logs and Daily Diary which to be supplied by MassDOT (District Four), when needed.

In addition to the forms and reports included in Document A00816, Drawbridge Malfunction Call Lists are included in Document A00815 on this Contract.

UTILITIES

The Department shall pay for fuel and currently installed utilities with the exception of telephone charges. All telephones shall be equipped with call waiting.

<u>Name of Drawbridge</u>	<u>Average Monthly Telephone Charges</u>
Foxhill Temporary	\$38.71
Blynman	\$39.74
Kernwood	\$40.80
General Edwards	\$38.00 (estimated)
Gillis	\$41.41
Plum Island	\$36.81

TRAINING OF NEW CONTRACTOR

The Contractor shall be required to assist in training new Contractor's personnel on the operation of the above bridges in the final two weeks of the contract period.

The Contractor must notify the MassDOT Drawbridge Supervisor of the training schedule of any newly hired bridge operators.

MARINE RADIO

The Contractor shall supply portable hand-held marine 2-way radios capable of receiving and transmitting on Channel 13 for the Foxhill, Blynman, Kernwood, and Gillis Drawbridges, cost of which shall be considered incidental to the each specific Items without additional compensation. These radios shall always be on the individual bridge for use by the Bridge Operator when he/she is away from the permanent marine radio.

The Contractor shall supply a portable hand-held marine 2-way radio capable of receiving and transmitting on Channel 13 for use under Items 105.071, 105.072, 105.073, 105.074, 105.075, and 105.085 cost of which shall be considered incidental to the aforementioned Items without additional compensation. This portable hand-held marine 2-way radio shall be brought to each opening of these On-Call Bridges.

OPERATION OF DRAWBRIDGES (Continued)**IDENTIFICATION OF BRIDGE OPERATORS
AND BRIDGE OPERATOR SUPERVISORS**

The Contractor shall maintain at each bridge site an identification card for each employee that includes a picture (color, minimally 2 inches x 3 inches), name, identifying number and the drawbridge name for which the employee has completed the required training. The identification card must be mounted on the bridge under a transparent tamper-proof cover.

The identification card is valid only to authorize operation of the specific bridge that the Bridge Operator was trained to operate.

METHOD OF MEASUREMENT AND BASIS OF PAYMENT
(Items 105.030 through 105.085)

Work performed under Items 105.030, 105.040, 105.050, and 105.060 will be measured and paid at the respective Contract unit price per DAY. The "DAY" unit is defined as the drawbridge operation services performed within a twenty-four hour period; unless otherwise noted. The specified routine maintenance shall be considered incidental to the work without additional compensation. The quantity of the unit "DAY" shall be reduced proportionally to the number of hours a Drawbridge Operator (Construction) is operating the drawbridge while construction activities are occurring. However, prevailing wage is not required if the drawbridge operator is on duty and construction is going on, but the drawspan may not be opened due to the time of day, order of the Coast Guard, closure of the waterway, or other reason.

For example:

If the time spent on the Foxhill Drawbridge, ITEM 105.030 OPERATION OF BRIDGE L-18-16T = S-05-08T per DAY, on December 1st by a Drawbridge Operator (Construction) is 8 hours, the unit "DAY" for ITEM shall be reduced proportionally as follows:

The Foxhill Drawbridge is manned from 5:00 AM to 7:00 PM, 14 hours per day, 7 days per week from October 1 through May 31.

$$14 \text{ hours} - 8 \text{ hours} = 6 \text{ hours}$$

$$6 \text{ hours} \div 14 \text{ hours} = 0.43$$

0.43 Unit Day shall be paid for ITEM 105.030 OPERATION OF BRIDGE L-18-16T = S-05-08T per DAY.

OPERATION OF DRAWBRIDGES (Continued)**METHOD OF MEASUREMENT AND BASIS OF PAYMENT****(Items 105.030 through 105.085) (continued)**

Work performed under Items 105.031, 105.041, 105.051, 105.61, through 105.075 and 105.085 will be measured and paid at the respective Contract unit price per EACH. The "EACH" unit is defined as each time the contractor is called upon by the Department and responds to the bridge site to open the bridge to allow for the passage of a boat or boats and as defined under each Item. A response to a bridge site to open the bridge shall be defined as a ninety (90) minute period beginning fifteen minutes prior to the scheduled time of the opening. It does not mean the number of openings that may be required while the Contractor is at the site. The specified routine maintenance shall be considered incidental to the work without additional compensation. If construction activities are occurring and a Drawbridge Operator (Construction) is operating the drawbridge for an on call opening, there will be no additional payment under Item 105.031, 105.041, 105.051, 105.61, through 105.075 or 105.085.

The Contract price per DAY and EACH will include but not limited to furnishing all labor, materials, equipment (including bridge operator overtime if furnished by the Contractor) necessary to operate and perform routine maintenance on the drawbridges and to provide the Bridge Operator Supervisor.

The Contractor shall be compensated for the cost of supplies outside of the scope of the aforementioned materials and supplies, authorized by the Engineer, as specified in PAYMENT FOR MATERIALS section. Contractor shall be responsible for hand towels, paper towels, sponges, hand cleaner, hand soap, toilet tissue, window cleaning fluids, general purpose cleaning fluids, floor wax, brooms, dust pans, dusters, cleaning brushes, mops, buckets, pails, shovels, snow shovels, rakes, push brooms, trash bags, bottled drinking water and dispensers the cost of which shall be considered incidental to the work without additional compensation.

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Qualifications and Duties of Drawbridge Operator (Construction) *Electricians Local 103*

MassDOT considers the following to be the qualifications and duties of the Drawbridge Operator (Construction) *Electricians Local 103*:

Drawbridge Operator (Construction) *Electricians Local 103* shall be Inside Journeyman Wiremen.

Electricians typically learn their trade through a formal apprenticeship program that lasts three years or more, depending on the field of specialization. During their apprenticeship, electricians learn to read blueprints and technical diagrams. They learn to inspect electrical components and use testing devices to identify electrical problems. Because electric power can be dangerous and even deadly if not handled properly, electricians are. They are responsible for understanding and abiding by local and state building codes and regulations.

Inside wiremen are electricians who specialize in connecting their commercial customers' electrical systems to the outside power source, and then distributing that power throughout the facility. An inside wireman's job might include installing conduit, lighting fixtures and electrical outlets. Inside wiremen inspect and maintain electrical motors and equipment. They may install alarm systems or electrical control panels. In addition to installations, inside wiremen inspect, maintain and repair existing electrical systems within the facility. The Inside Wireman installs and maintains all of the various types of electrical systems found in commercial and industrial facilities. Equipment used may include lighting, receptacles, motors, heating equipment, and systems that control the operation of all of a facility's energy usage. Inside Wiremen also install electrical systems in industrial facilities such as chemical plants, power plants, chip manufacturing facilities and automobile plants.

A journeyman inside wireman is one who has completed training and is qualified to perform his duties on his own. Massachusetts General Law Part I, Title XX, Chapter 141, Section 1 describes a "Journeyman electrician", as a person qualified to do the work of installing, repairing, or maintaining wires, conduits, apparatus, devices, fixtures, or other appliances used for heat, light, power, fire warning or security system purposes. Section 1A states: No person, firm or corporation shall enter into, engage in, or work at the business or occupation of installing wires, conduits, apparatus, devices, fixtures, or other appliances for carrying or using electricity for light, heat, power, fire warning or security system purposes, unless such person, firm or corporation shall be licensed by the state examiners of electricians in accordance with this chapter and, with respect to security systems, unless such person, firm or corporation shall also be licensed by the commissioner of public safety in accordance with the provisions of sections fifty-seven to sixty-one, inclusive, of chapter one hundred and forty-seven.

Qualifications and Duties of Drawbridge Operator (Construction) Electricians Local 103 (continued)**Duties**

A Drawbridge Operator (Construction) shall operate the drawbridges and traffic gates by using electrical control panels and/or mechanical devices when a Contractor is on site working on the primary operation systems of the bridge and/or secondary electrical systems. The work being done may affect the bridge's ability to operate. For the drawbridge to be fully operational, the Contractor will need to complete repairs or perform some type of operation prior to removing equipment and manpower from the bridge. Communication between the construction crew and the Drawbridge Operator (Construction) is required to know when the bridge will be fully functioning. The Drawbridge Operator (Construction) may need to operate the bridge with some of the safety features disabled. Visual Spotters may be required at the bridge site to confirm that there are no issues with the bridge opening.

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