

Serena McIlwain, Secretary Suzanne E. Dorsey, Deputy Secretary

August 18, 2023

Davis, Bowen & Friedel, Inc c/o Ken Eaton 106 N Washington Street, Ste 103 Easton, MD 21601

Via email: keaton@dbfinc.com

Re: Agency Interest Number: 175445 Tracking Number: 202261898 Tidal Authorization Number: 22-WQC-0049

Dear Town of Ocean City:

Your project did not qualify for approval under the Maryland State Programmatic General Permit (MDSPGP); therefore a separate review and issuance of the federal permit will be required by the U.S. Army Corps of Engineers. <u>The federal permit is not attached.</u>

Additionally, your project required a Wetlands License to be approved and issued by the Maryland Board of Public Works (BPW) and a Wetlands Permit to be issued by the Maryland Department of the Environment (MDE). The Wetlands License will be sent to you by BPW's Wetlands Administrator, and the Wetland Permit will be sent to you by MDE's Wetlands and Waterways Program.

A project that does not qualify for approval under the MDSPGP requires an individual Water Quality Certification (WQC) to be issued by the Maryland Department of the Environment, which is attached. Please take a moment to read and review your WQC to ensure that you understand the limits of the authorized work and all of the general and special conditions.

You should not begin any work until you have obtained all necessary State, local, and federal authorizations. Please contact Robert M Simmons at robertm.simmons@maryland.gov or 410-901-4044 with any questions.

Sincerely. MMI

Tammy K. Roberson Chief Tidal Wetlands Division



STATE OF MARYLAND DEPARTMENT OF THE ENVIRONMENT WATER AND SCIENCE ADMINISTRATION WATER QUALITY CERTIFICATION



### 22-WQC-0049

EFFECTIVE DATE: August 18, 2023 CERTIFICATION HOLDER: Town of Ocean City ADDRESS: Attn: Paul Mauser 301 Baltimore Ave Ocean City, MD 21842 PROJECT LOCATION: Assawoman Bay - Various 16 Canals Ocean City, MD 21842

UNDER AUTHORITY OF SECTION 401 OF THE FEDERAL WATER POLLUTION CONTROL ACT AND ITS AMENDMENTS AND IN ACCORDANCE WITH § 9-313 THROUGH § 9-323, INCLUSIVE, OF THE ENVIRONMENT ARTICLE, ANNOTATED CODE OF MARYLAND, THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, WATER AND SCIENCE ADMINISTRATION HAS DETERMINED THAT THE REGULATED ACTIVITIES DESCRIBED IN THE REQUEST FOR CERTIFICATION FOR THE PROPOSED TOWN OF OCEAN CITY CANAL DREDGING AND AS DESCRIBED IN THE ATTACHED PLAN SHEETS DATED JUNE 2023 AND ANY SUBSEQUENT MODIFICATIONS APPROVED BY THE DEPARTMENT WILL NOT VIOLATE MARYLAND'S WATER QUALITY STANDARDS, IF CONDUCTED IN ACCORDANCE WITH THE CONDITIONS OF THIS CERTIFICATION.

THIS CERTIFICATION DOES NOT RELIEVE THE APPLICANT OF RESPONSIBILITY FOR OBTAINING ANY OTHER APPROVALS, LICENSES, OR PERMITS IN ACCORDANCE WITH FEDERAL, STATE, OR LOCAL REQUIREMENTS AND DOES NOT AUTHORIZE COMMENCEMENT OF THE PROPOSED PROJECT. A COPY OF THIS REQUIRED CERTIFICATION HAS BEEN SENT TO THE CORPS OF ENGINEERS. THE CERTIFICATION HOLDER SHALL COMPLY WITH THE CONDITIONS LISTED BELOW.

### **PROJECT DESCRIPTION**

- Maintenance dredge by mechanical method a 81,292 square foot area to 4.0 feet mean low water and a 77,122.16 square foot area to 3.0 feet mean low water(Canals 8, 18.A, 23); new dredge by mechanical method a 86,503.10 square foot area to 6.0 feet mean low water and a 157,031.54 square foot area to 4.0 feet mean low water (Canal 2), and a 739,754.69 square foot area to 4.0 feet mean low water and a 781,312.33 square foot area to 3.0 feet mean low water (Canals 4, 22, 25, 27, 32, 33, 34A, 44B, 45, 48, 51, 52), and transport approximately 33,559 cubic yards of dredged material to an approved site at 12008 Saint Martins Neck Road, Bishopville in Worcester County or Parcel 185 Friendship Road, Berlin in Worcester County.
- 2. Provide for subsequent maintenance dredging for a period of 6 years.

# **GENERAL CONDITIONS**

- 1. All water quality-related performance standards and conditions required by the Department in any state issued authorization for activities in tidal wetlands, nontidal wetlands, their 100-year floodplains, nontidal wetlands buffers, or nontidal wetland expanded buffers to ensure that any discharges will not result in a failure to comply with water quality standards in COMAR 26.08.02 or any other water quality requirements of state law or regulation shall be met.
- 2. This Certification does not obviate the need to obtain required authorizations or approvals from other State, federal or local agencies as required by law.
- 3. All additional authorizations or approvals, including self-certifying General Permits issued by the Department, shall be obtained and all conditions shall be completed in compliance with such authorizations.
- 4. The proposed project shall be constructed in accordance with the approved final plan by the Department, or, if Department approval is not required, the plan approved by the U.S. Army Corps of Engineers, and its approved revisions.
- 5. All fill and construction materials not used in the project shall be removed and disposed of in a manner which will prevent their entry into waters of this State.
- 6. This Certification does not authorize any injury to private property, any invasion of rights, or any infringement of federal, state, or local laws or regulations.
- 7. Authorized representatives of the Department shall be provided access to the site of authorized activities during normal business hours to conduct inspections and evaluations of the operations and records necessary to assure compliance with this Certification.
- 8. No stockpiles of any material shall be placed in Waters of the U.S. or state or private tidal wetlands.
- 9. Temporary construction trailers or structures, staging areas and stockpiles shall not be located within tidal wetlands, nontidal wetlands, nontidal wetlands buffers, or the 100-year floodplain unless specifically included on the Approved Plan.
- 10. This Certification is valid for the project identified herein and the associated U.S. Army Corps of Engineers authorization NAB-2022-60605 and NAB-2022-61040 (Town of Ocean City Dredging) until such time that it expires or is not administratively extended.

## **SPECIAL CONDITIONS**

1. All Critical Area requirements shall be followed and all necessary authorizations from the Critical Area Commission ("Commission") shall be obtained. This Certificate does not constitute authorization for disturbance in the 100-foot Critical Area Buffer. "Disturbance" in the Buffer means clearing, grading, construction activities, or removal of any size of tree or vegetation. Any anticipated Buffer disturbance requires prior written approval, before commencement of land

disturbing activity, from local jurisdiction in the form of a Buffer Management Plan.

- 2. All work performed under this Water Quality Certificate shall be conducted by a marine contractor licensed by the Marine Contractors Licensing Board (MCLB) in accordance with Title 17 of the Environment Article of Annotated Code of Maryland. Licensing by MCLB shall occur prior to the beginning of construction activities. A list of licensed marine contractors may be obtained by contacting the MCLB at 410-537-3249, by e-mail at MDE.MCLB@maryland.gov or by accessing the Maryland Department of the Environment, Environmental Boards webpage.
- 3. The issuance of this Certificate is not a validation or authorization by the Department for any of the existing structures depicted on the plan sheets on the subject property that is not part of the authorized work description, nor does it relieve the Certificate Holder of the obligation to resolve any existing noncompliant structures and activities within tidal wetlands.
- 4. The Certificate Holder shall transport all dredged material in watertight trucks. No dredged material shall be discharged onto the roadways of the State.
- 5. The Certificate Holder shall dispose of dredged material only at the dredge disposal site approved by this Water Quality Certification. The Certificate Holder shall submit an application for modification of the Certificate to MDE for approval of any dredge disposal site not authorized within the Certificate.
- 6. The Certificate Holder shall conduct subsequent maintenance dredging within the scope of this license in terms of authorized dredge area and authorized depths. The Certificate Holder shall:
  - a. Dredge no more than 500 cubic yards of material at each maintenance dredging.
  - b. Comply with all applicable conditions of this license.
  - c. Submit a detailed dredged material disposal plan to be approved by the Water and Science Administration, Tidal Wetlands Division prior to the start of dredging.
  - d. Notify and receive approval from the Water and Science Administration, Compliance Program a minimum of 10 days prior to the start of each maintenance dredging operation.
  - e. The Certificate Holder shall stake the dredge area and receive approval from the Water and Science Administration's, Compliance Division prior to the start of dredging.
- 7. The Certificate Holder shall conduct a post dredge bathymetric survey and forward to the Water and Science Administration, Tidal Wetlands Division within 45 days after the termination of any phase of dredging.
- 8. The Certificate Holder shall conduct maintenance dredging within the scope of this Certification in terms of authorized dredged area, volume of material and authorized depths.
- 9. No dredging shall occur from April 1 through June 30 of any year for the protection of summer flounder.

# **CITATIONS & STATEMENTS OF NECESSITY**

1. Statement of Necessity for General Conditions 1, 2, 3, 4, and Special Conditions 1, 3: These conditions are necessary to ensure that water quality standards are met, and designated uses are maintained.

Citations: Federal and state laws which authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.23.02.06; COMAR 26.17.01; COMAR 26.23; COMAR 26.24

2. Statement of Necessity for General Conditions 5, 8, 9: Fill or construction material within or adjacent to regulated resources may cause discharges resulting in turbidity in excess of water quality standards and interfere with designated uses of growth and propagation of fish, other aquatic life, wildlife; and other designated uses; and fail to meet general water quality criteria that waters not be polluted by substances in amounts sufficient to be unsightly or create a nuisance.

Citation: 26.08.02.03B(1)-B(2); COMAR 26.23; COMAR 26.24; COMAR 26.17.04

3. Statement of Necessity for General Condition 6: This condition is necessary to clarify the scope of this certification to ensure compliance with water quality regulations, without limiting restrictions through other requirements.

Citation: Federal and state laws which authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08, COMAR 26.08.02.10E; COMAR 26.23.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.24

4. Statement of Necessity for General Condition 7: Conditions of certification involve precise actions to comply with water quality standards. Site inspection may be necessary to ensure that limits, methods, and other requirements are met to ensure that water quality standards are met and designated uses are maintained. These conditions are necessary to ensure that the activity was conducted, and project completed according to terms of the authorization/certification, while allowing for review of in-field modifications which may have resulted in discharges to ensure that water quality standards were met. Designated uses include support of estuarine and marine aquatic life and shellfish harvesting and for growth and propagation of fish, other aquatic life, and wildlife

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2); COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04

5. Statement of Necessity for General Condition 10: This condition is necessary to qualify the period of applicability of the terms and conditions of this Certification to be protective of Maryland water quality standards.

Citations: Federal and state laws which authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; 40 C.F.R. 121, 15 C.F.R. 930, Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.17.04; COMAR 26.23; COMAR 26.24

6. Statement of Necessity for Special Condition 2: Expertise for conducting certain activities is required to ensure that there is no violation of water quality standards nor interference with designated uses. This condition is necessary to ensure that discharges will be conducted in a manner which does not violate water quality criteria nor interfere with designated uses.

Citation: COMAR 26.08.02.02B(2)- B(4); COMAR 26.08 02.03B(2)(d) – (e); COMAR 26.08.02.03B(1)(b); 26.08.02.03B(2); COMAR 23.02.04.04

7. Statement of Necessity for Special Conditions 4, 5, 6: Unauthorized discharges may enter regulated waters as result of activity or structural failure. A plan to address inadvertent discharges will prevent or address further violations of water quality standards and failure of water to meet designated uses, including uses of growth and propagation of fish, other aquatic life, wildlife; and other designated uses; and fail to meet general water quality criteria that waters not be polluted by substances in amounts sufficient to be unsightly or create a nuisance.

Citation COMAR 26.08.02.02B(1)d; COMAR 26.08.02.02B(3); COMAR 26.08.02.03B(1) and B(2); 26.08.02.01B(2); 26.08.02.02B(1)

8. Statement of Necessity for Special Condition 7: The condition is necessary to ensure that the dredging results in water depths which are appropriate to support designated uses of fishing and water contact recreation and propagation of fish, other aquatic life and wildlife; and ensure that no discharges are unsightly, create a nuisance, change to an objectionable color or interferes with designated uses.

Citations: COMAR 26.08.02.01B(2); COMAR 26.08.02.02B(1); 26.08.02.02B(3); COMAR 26.08.02.03B

9. Statement of Necessity for Special Condition 8: The limits on the scope of maintenance dredging are necessary to ensure that no discharges would violate water quality standards and designated uses for water clarify, turbidity, growth and propagation of fish, other aquatic life, and wildlife; and water contact recreation.

Citations: COMAR 26.08.02.02B(1)(d); COMAR 26.08.02.02B(3); COMAR 26.08.02.03B

10. Statement of Necessity for Special Condition 9: A time of year restriction is necessary to maintain the designated use for support of estuarine and marine aquatic life and shellfish harvesting.

Citation: Federal and state laws which authorize this condition include but are not limited to: COMAR: 26.08.02.02B(1)(d); 26.08.02.02B(3); COMAR 26.08.02.02-16.

#### **CERTIFICATION APPROVED**

D. Lee Currey, Director

Water and Science Administration

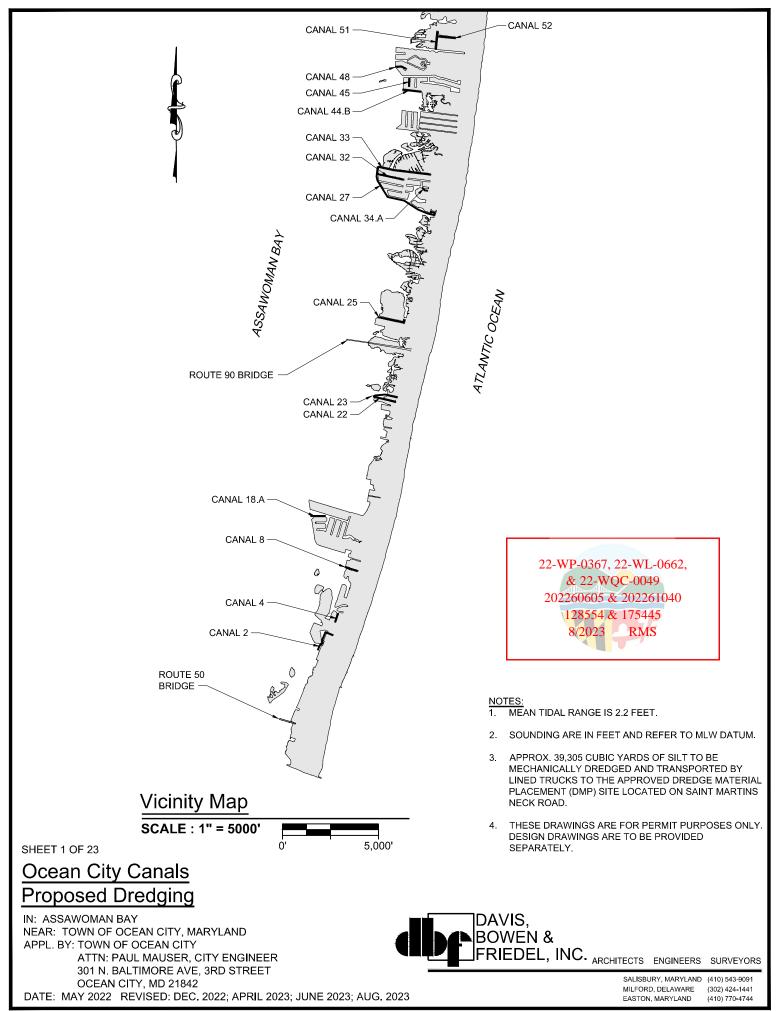
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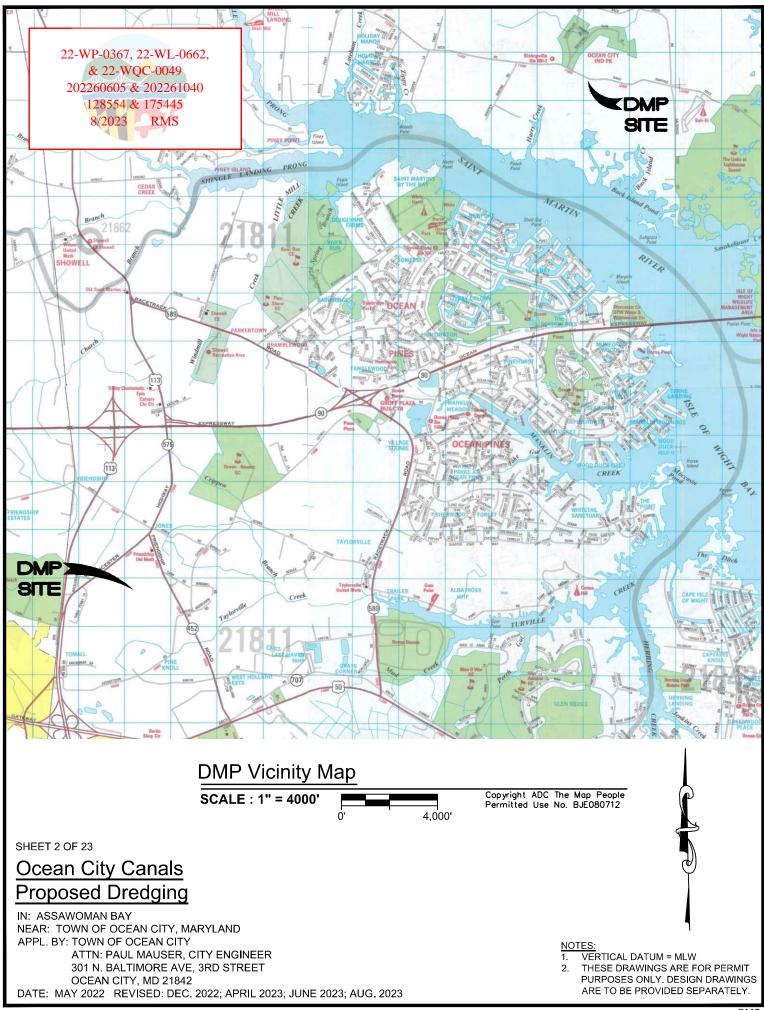
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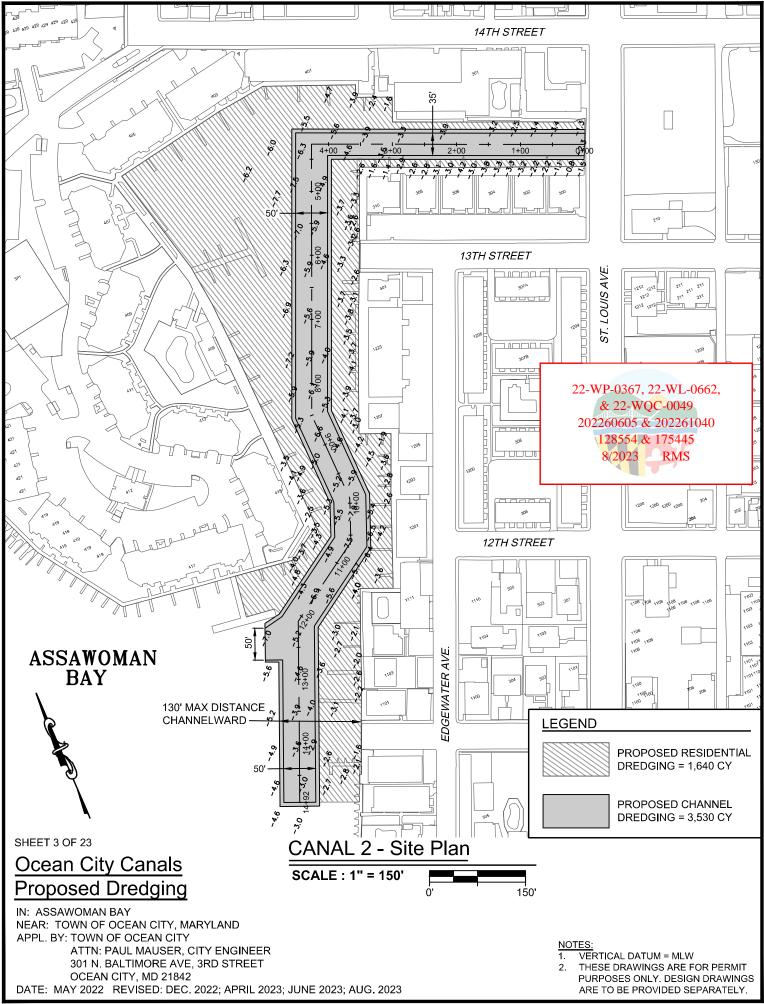
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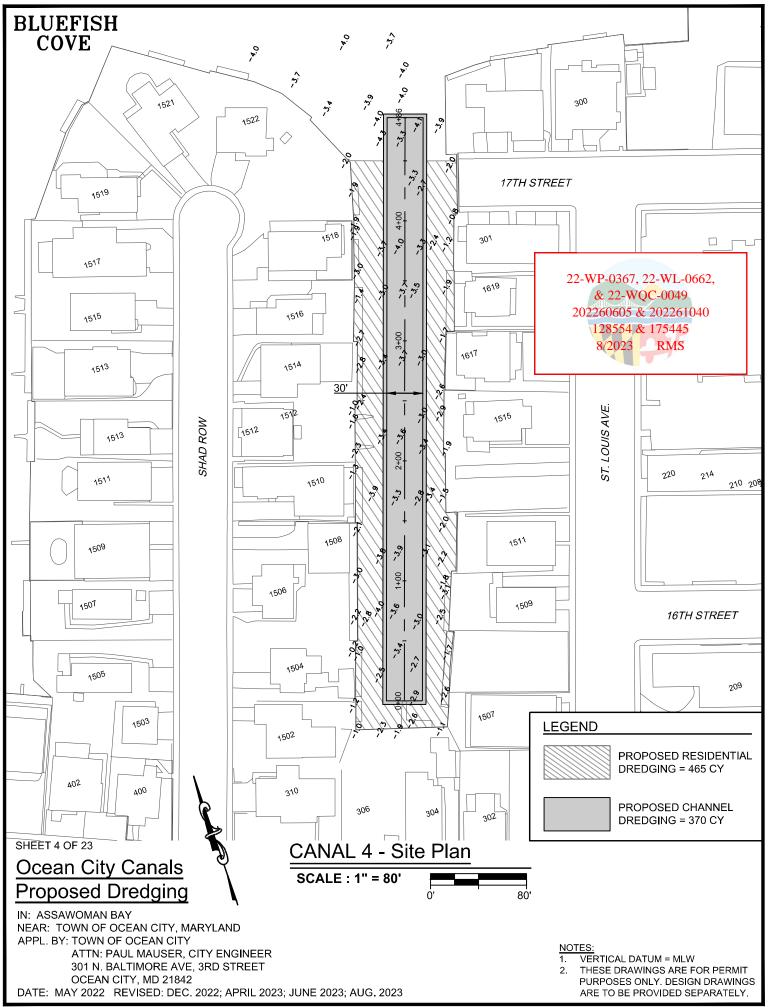
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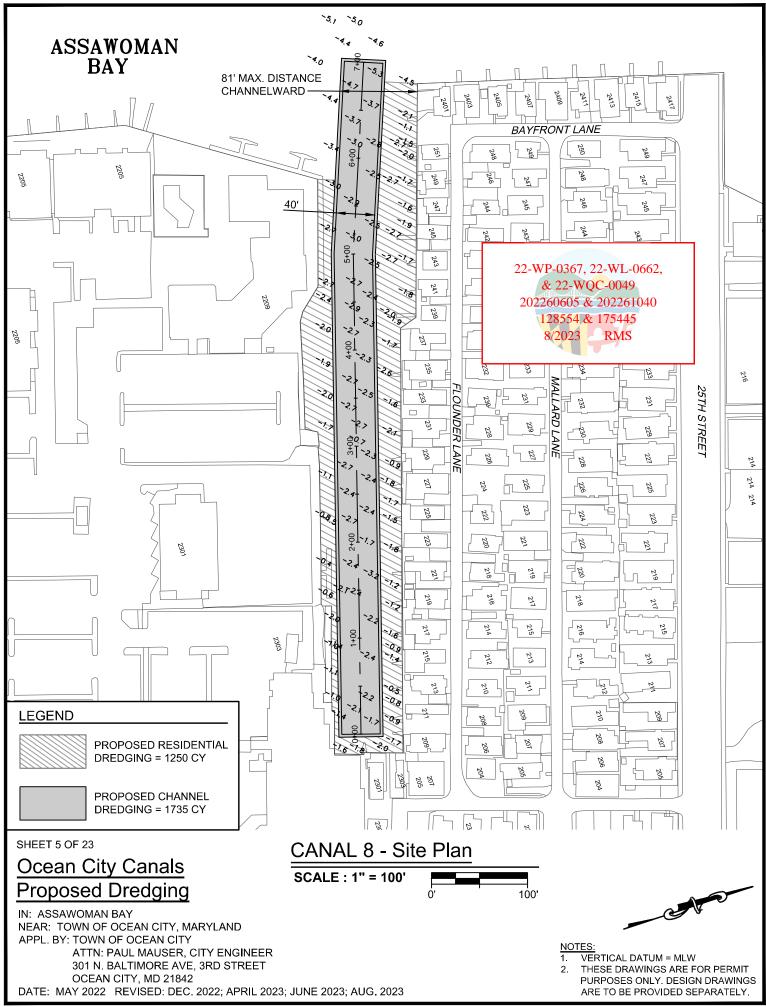
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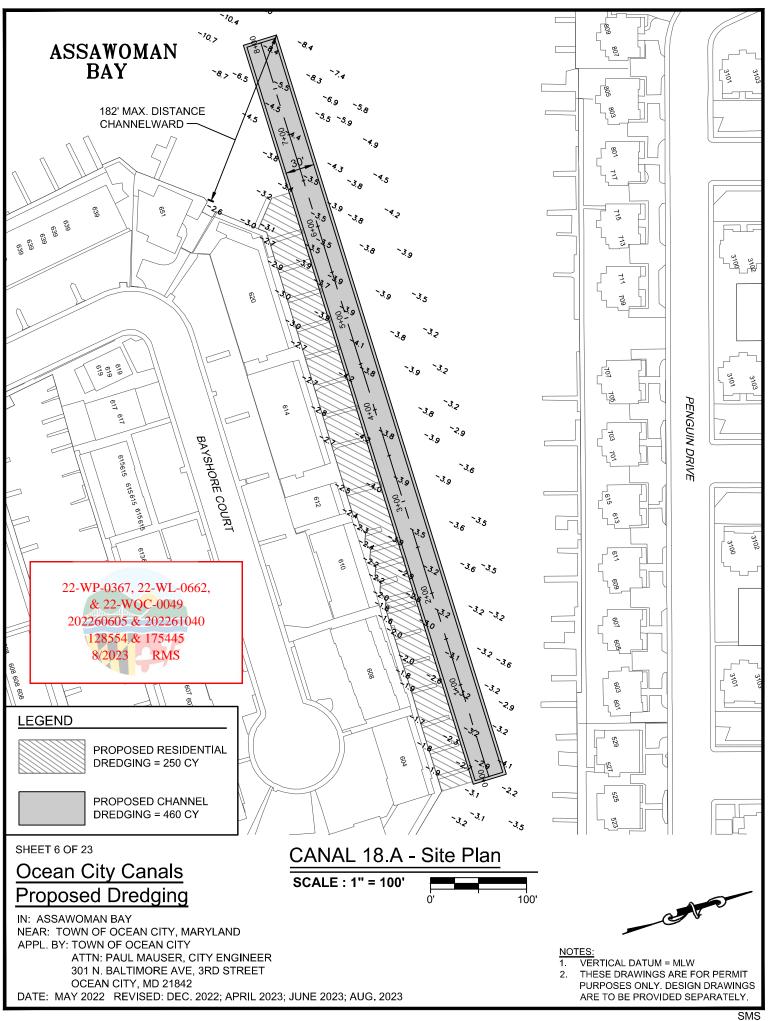


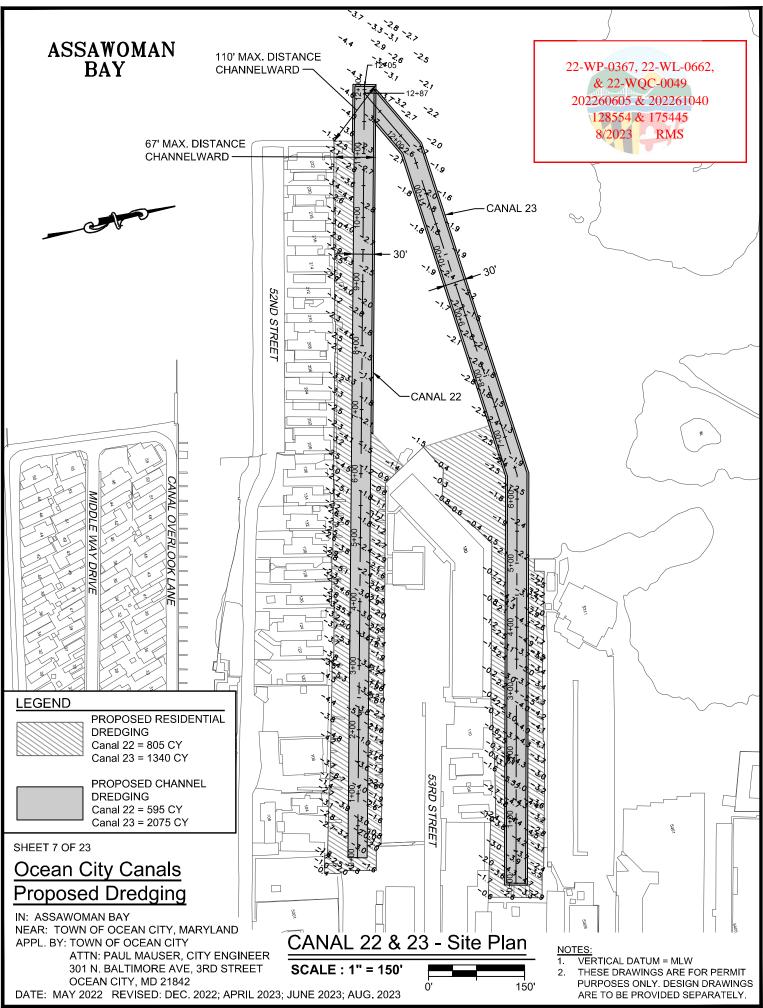


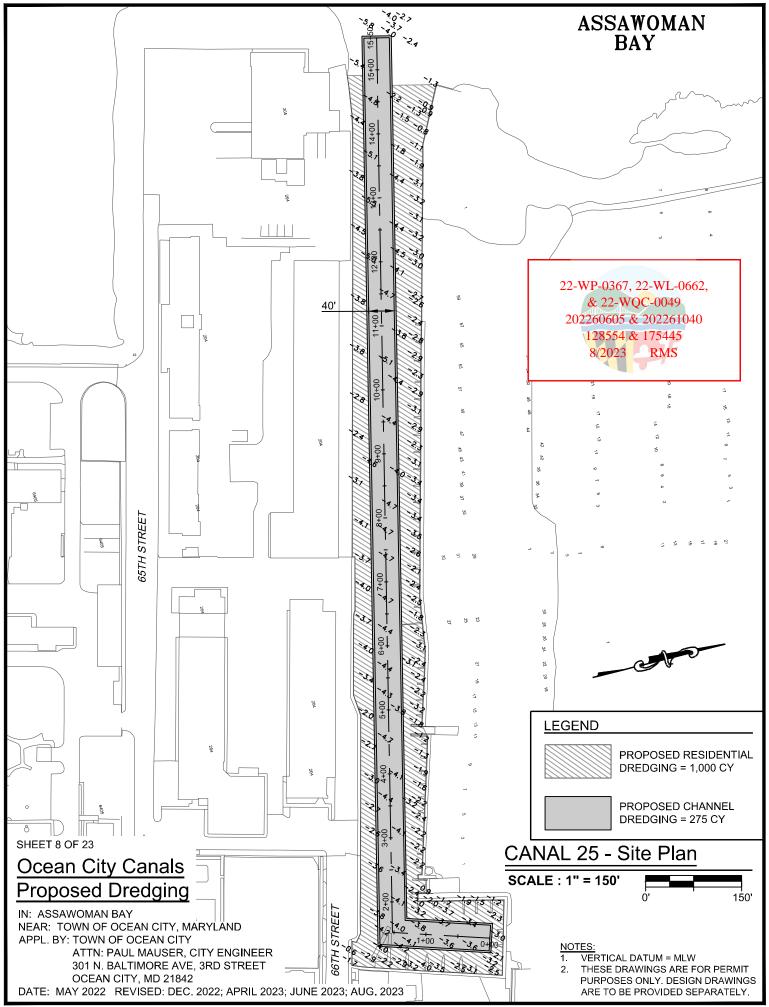


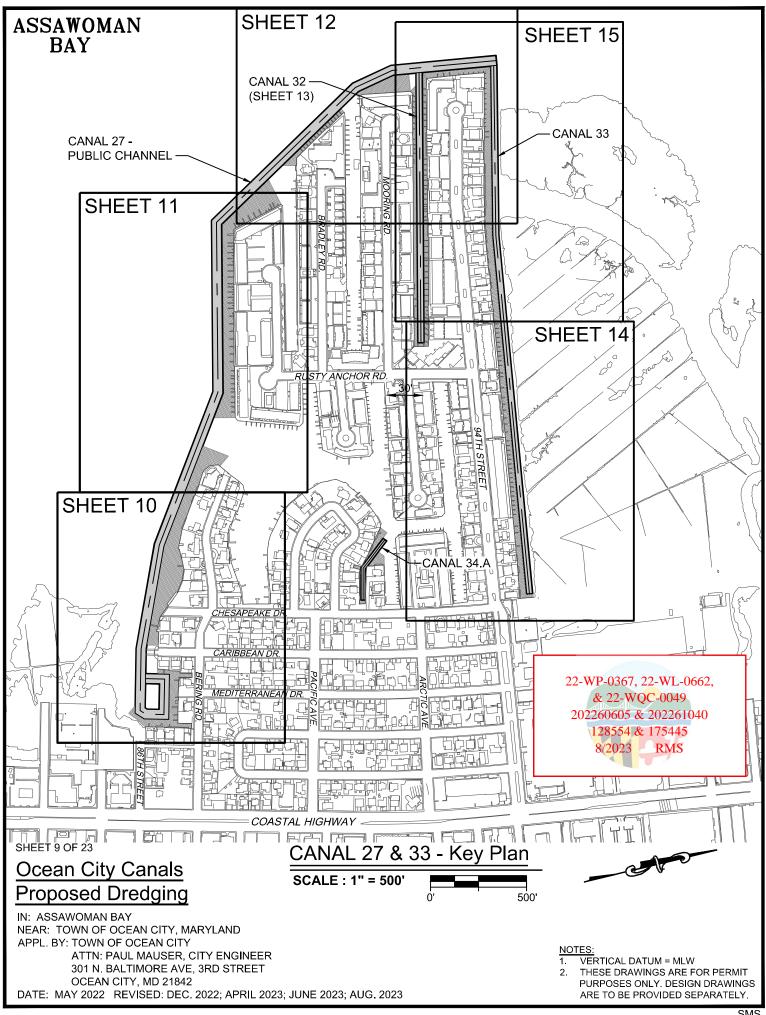


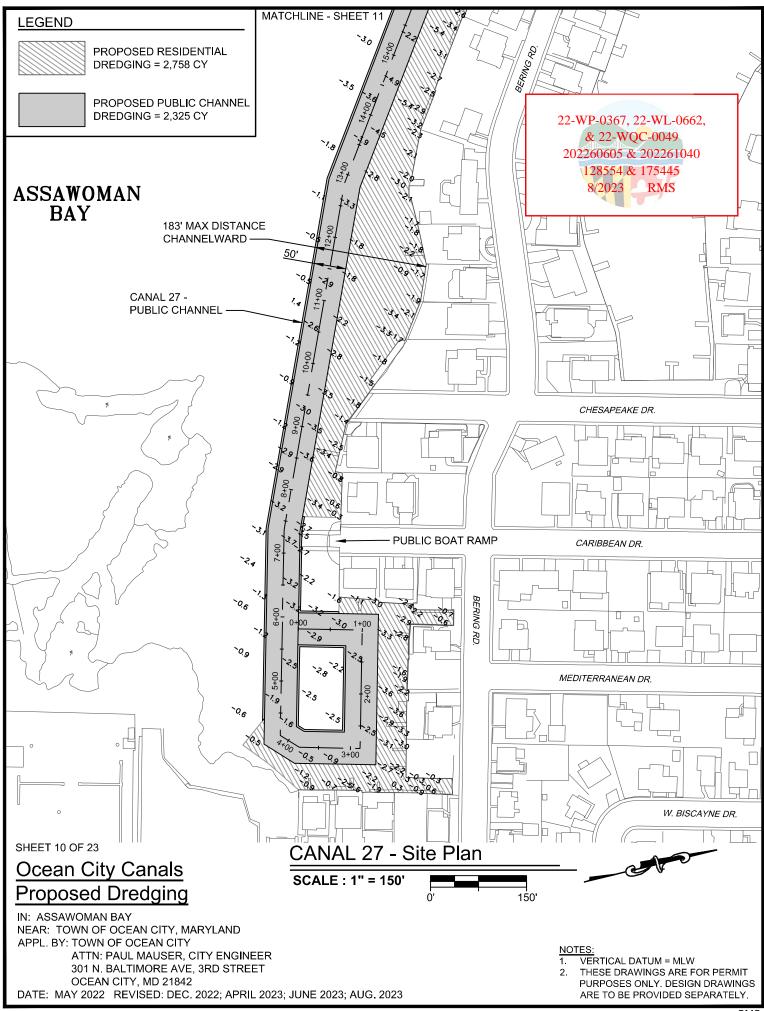


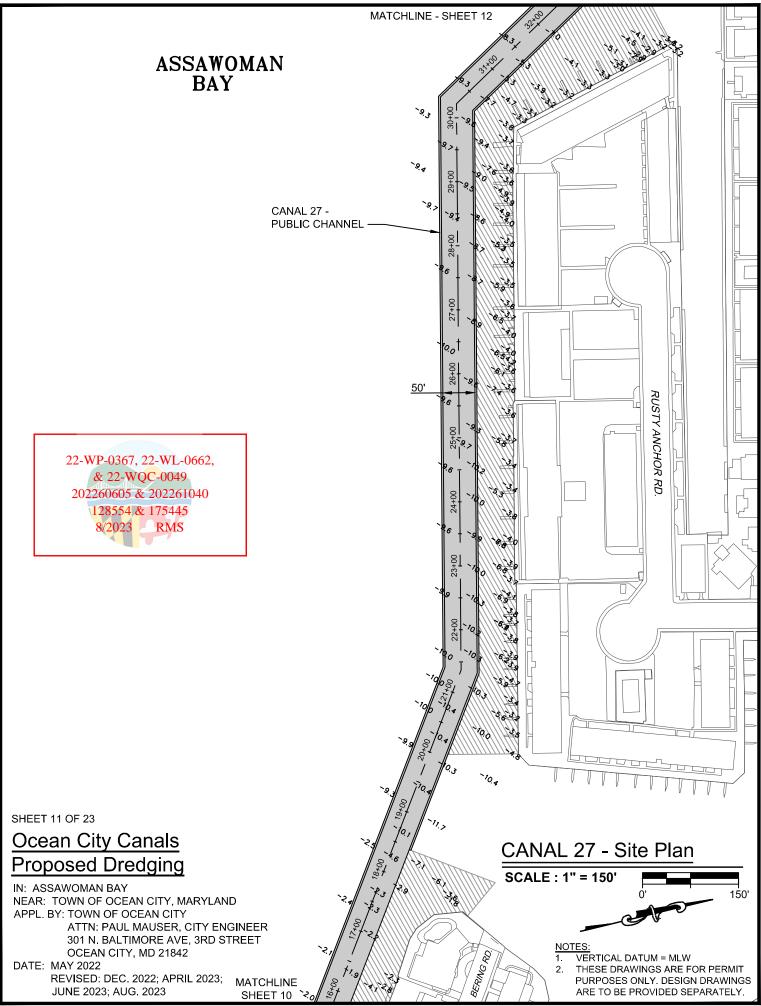


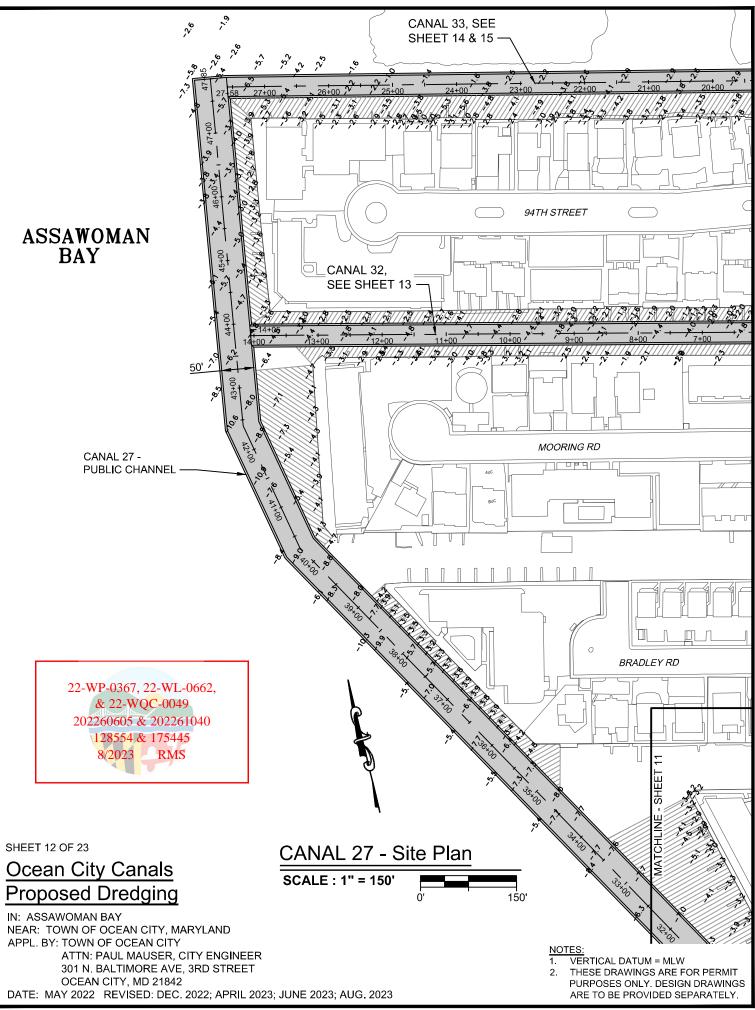


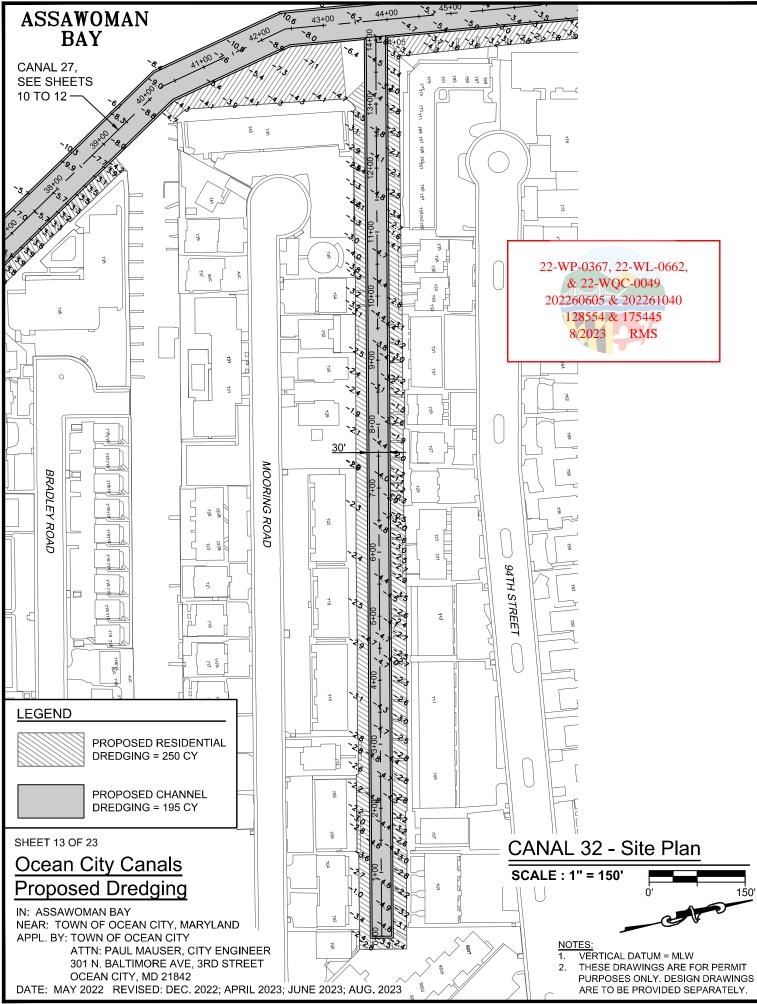


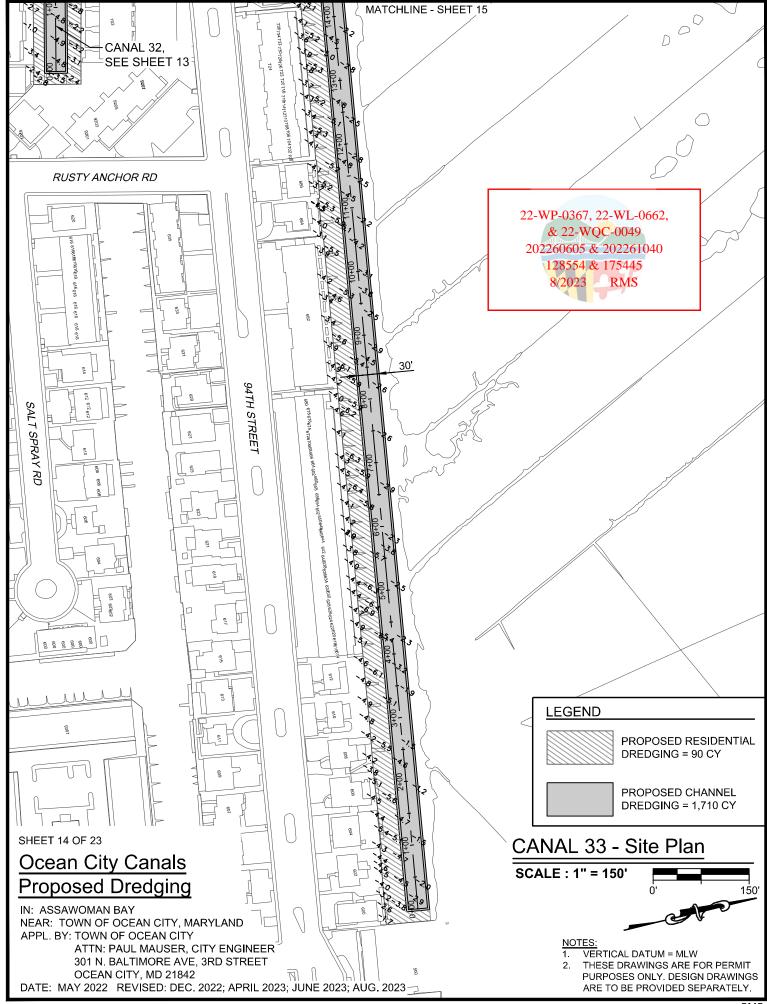


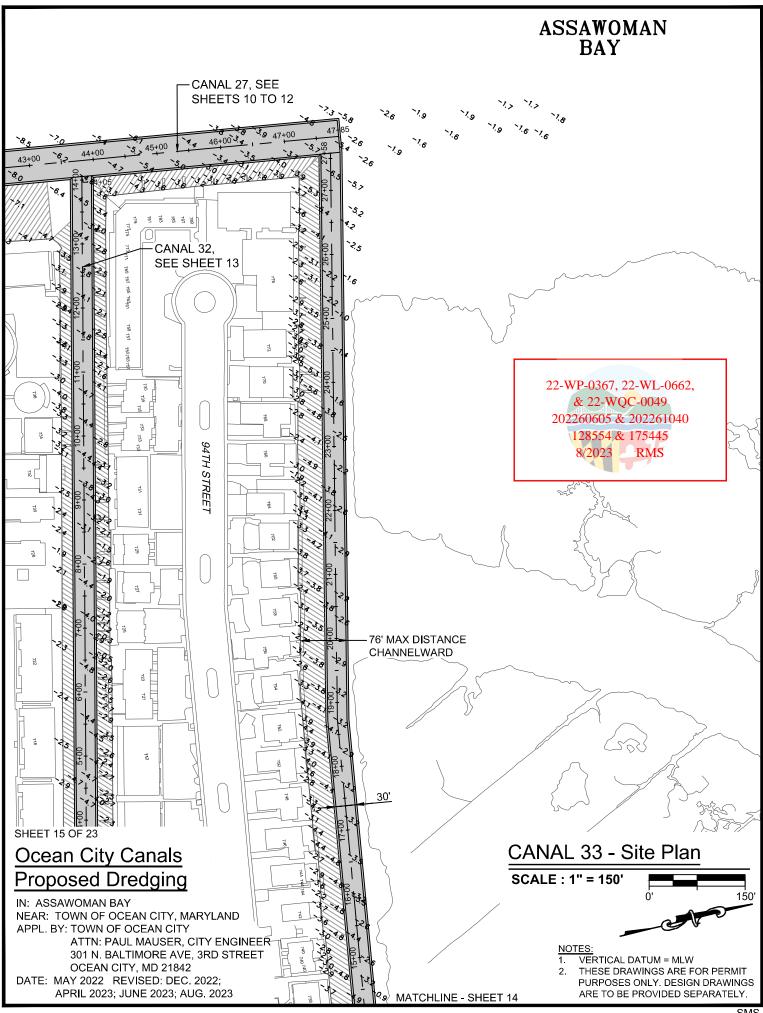


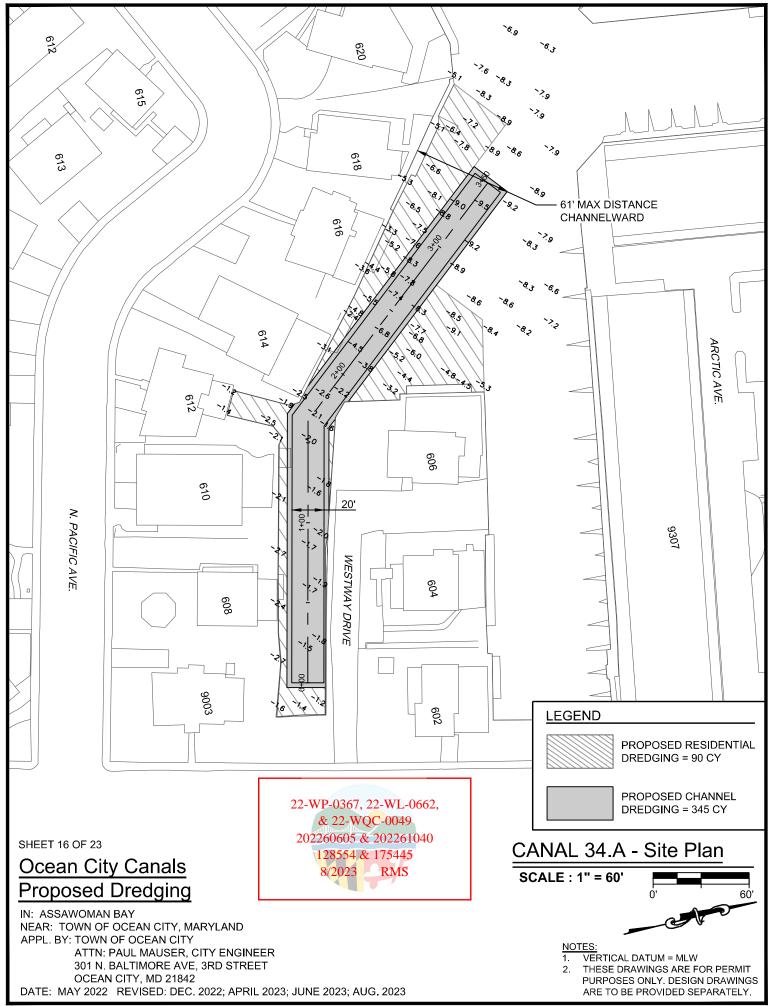


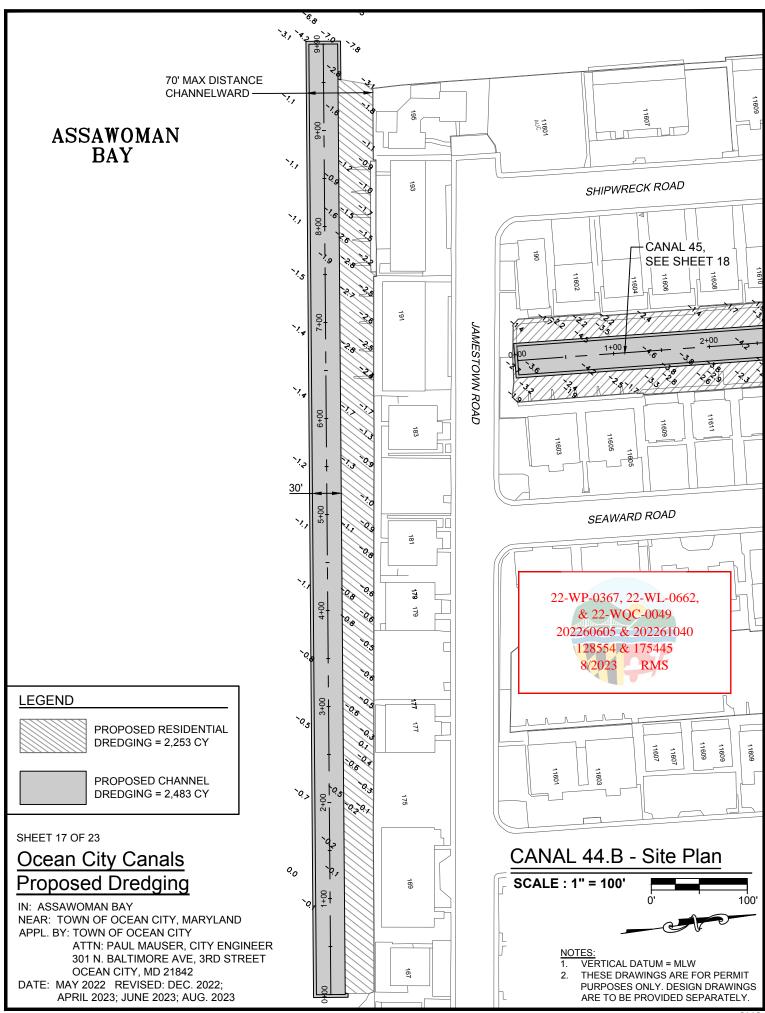


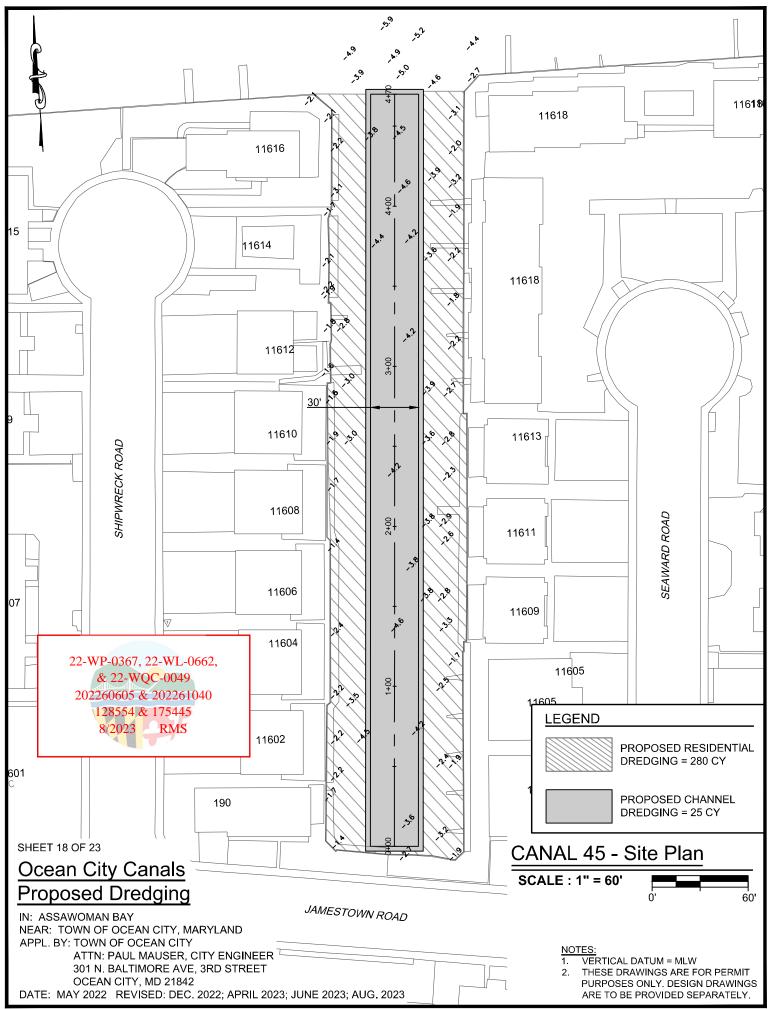


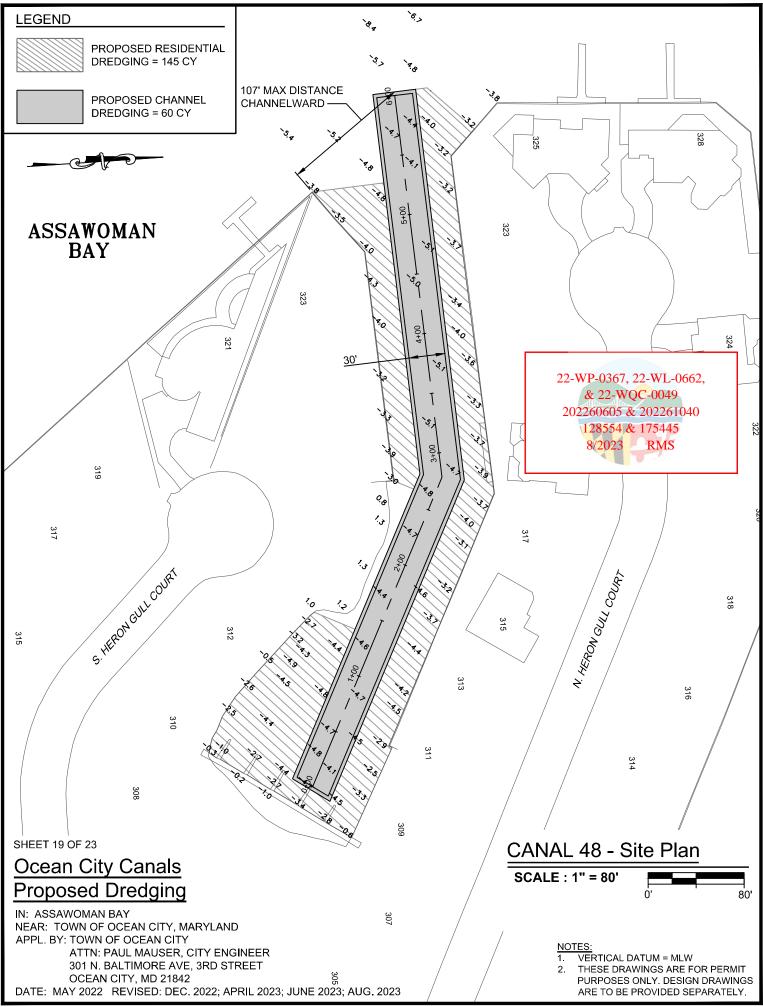


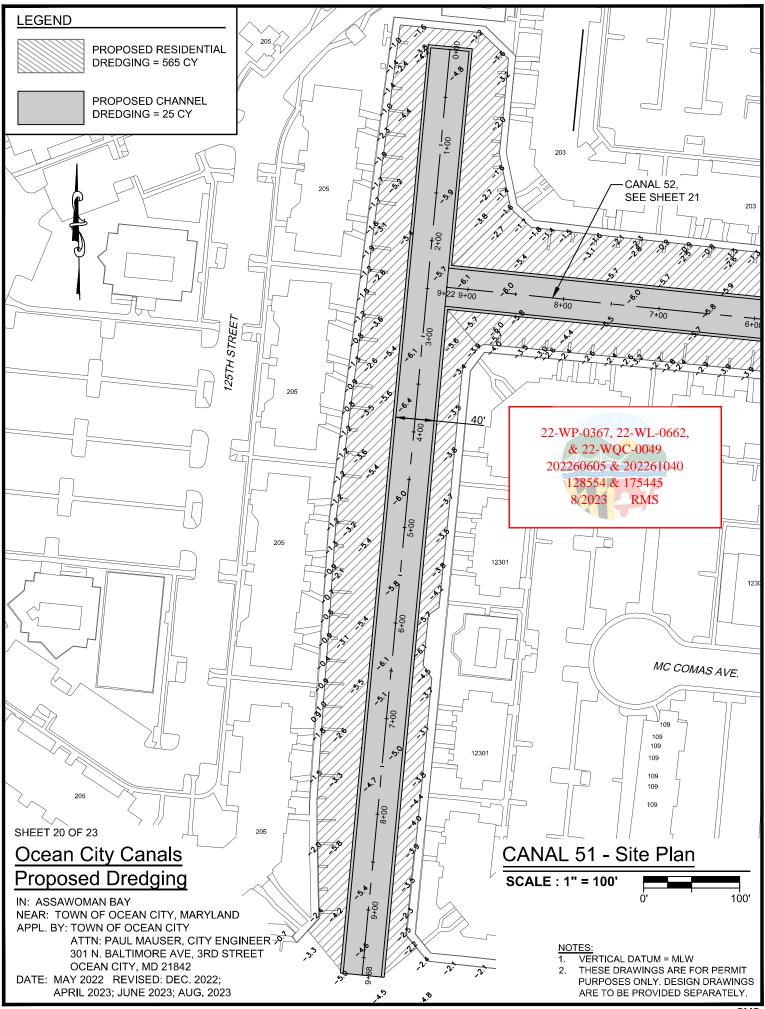


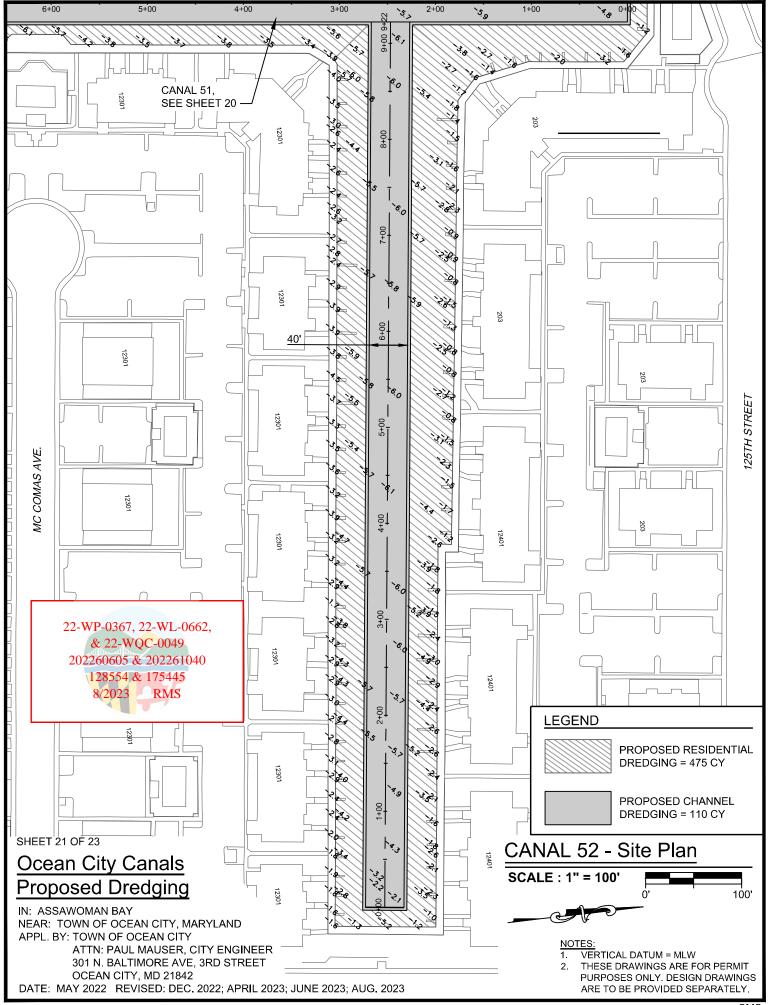


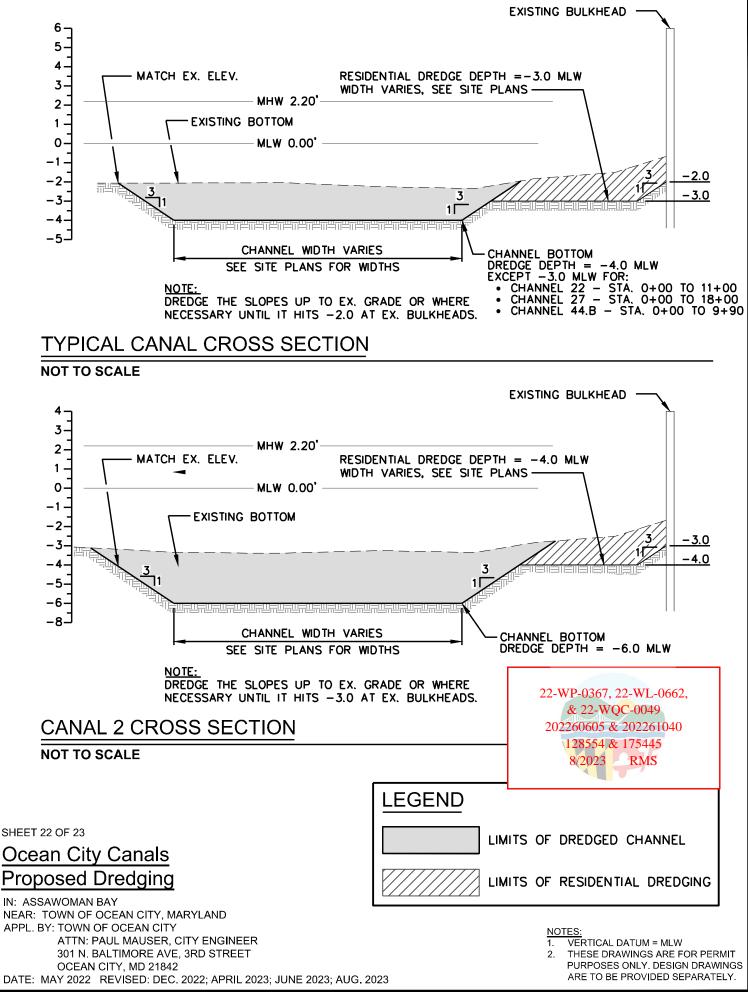












Canal				Proposed Dreged Quantity CY		Proposed Dreged Area SF		
No.	Station	Latitude	Longitude	Residential	Channel	Residential	Channel	
2	0+00	N38° 20' 40.31"	W75° 04' 55.33"	3530	1640	157031.54	86503.10	PRIVATE
	14+92.34	N38° 20' 32.72"	W75° 05' 05.57"					
4	0+00	N38° 20' 47.15"	W75° 04' 53.76"	<mark>4</mark> 65	355	21118.03	16416.00	
	4+50	N38° 20' 51.35"	W75° 04' 51.92"					
8	0+00	N38° 21' 13.10"	W75° 04' 38.38"	1250	1735	30724.17	32476.00	
	7+00	N38° 21' 15.30"	W75° 04' 46.71"					
18A	0+00	N38° 21' 41.82"	W75° 04' 58.56"	250	460	21814.58	290 <mark>16.0</mark> 0	
	8+00	N38° 21' 41.95"	W75° 05' 08.60"					
22	0+00	N38° 22' 39.83"	W75° 04' 11.36"	805	595	49382.00	38193.00	
	11+00	N38° 22' 42.53"	W75° 04' 24.74"					
23	0+00	N38° 22' 42.11"	W75° 04' 10.13"	1340	2155	38801.22	488 <mark>16.00</mark>	
	13+50	N38° 22' 43.14"	W75° 04' 26.82"					
25	0+00	N38° 23' 21.99"	W75° 04' 04.29"	3030	545	92569.53	7 <mark>1576.00</mark>	
	15+50	N38° 23' 23.91"	W75° 04' 21.89"					
27	0+00	N38° 24' 16.20"	W75° 03' 45.73"	2758	2325	233785.00	266580.00	0.000
	48+50	N38° 24' 41.85"	W75° 04' 19.51"					C
32	0+00	N38° 24' 34.04"	W75° 04' 02.85"	1215	195	54123.07	50592.62	
	14+05.36	N38° 24' 37.22"	W75° 04' 20.04"					PRIVATE
33	0+00	N38° 24' 36.44"	W75° 03' 45.21"	90	1710	92198.70	992 <mark>96.02</mark>	
	27+58.23	N38° 24' 41.03"	W75° 04' 19.34"					
34A	0+00	N38° 24' 28.04"	W75° 03' 47.37"	90	<mark>34</mark> 5	9302.29	9033.27	
	3+50	N38° 24' 29.84"	W75° 03' 50.86"					
44B	0+00	N38° 25' 19.09"	W75° 03' 50.27"	2253	2483	31236.00	32999.00	PLIRITC
	9+50	N38° 25' 20.34"	W75° 04' 02.10"					
45	0+00	N38° 25' 21.92"	W75° 03' 58.14"	- 280	25	23028.94	17136.00	
	6+00	N38° 25' 26.55"	W75° 03' 57.73"					
48	0+00	N38° 25' 31.05"	W75° 03' 59.84"	400	60	32939.38	21817.14	
	6+00	N38° 25' 32.12"	W75° 04' 07.00"					
51	0+00	N38° 25' 49.98"	W75° 03' 38.64"	565	25	62252.28	44675.80	
	9+68.18	N38° 25' 40.48"	W75° 03' 40.05"					1
52	0+00	N38° 25' 46.43"	W75° 03' 27.25"	475	110	65159.30	42423.54	
	9+22.25	N38° 25' 47.54"	W75° 03' 38.75"					
			Total	18796	14763	1015466.02	907549.49	

SHEET 23 OF 23

Ocean City Canals Proposed Dredging

IN: ASSAWOMAN BAY NEAR: TOWN OF OCEAN CITY, MARYLAND APPL. BY: TOWN OF OCEAN CITY ATTN: PAUL MAUSER, CITY ENGINEER 301 N. BALTIMORE AVE, 3RD STREET OCEAN CITY, MD 21842 DATE: MAY 2022 REVISED: DEC. 2022; APRIL 2023; JUNE 2023; AUG. 2023

22-WP-0367, 22-WL-0662, & 22-WQC-0049 202260605 & 202261040 128554 & 175445 8/2023 RMS

NOTES:

1. VERTICAL DATUM = MLW

2. THESE DRAWINGS ARE FOR PERMIT PURPOSES ONLY. DESIGN DRAWINGS ARE TO BE PROVIDED SEPARATELY.