

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
BUSINESS LITIGATION SESSION
C.A. NO.

LMH-LANE CABOT YARD JOINT VENTURE,)
)
 Plaintiff,)
)
 v.)
)
 HNTB CORPORATION AND)
 JACOBS ENGINEERING GROUP, INC.,)
)
 Defendants.)
)

COMPLAINT AND JURY DEMAND

COMES NOW Plaintiff, LMH-Lane Cabot Yard Joint Venture (“LMH-Lane” or “Plaintiff”), by and through its undersigned counsel, and brings this Complaint against Defendants, HNTB Corporation (“HNTB”) and Jacobs Engineering Group, Inc. (“Jacobs”) (collectively “Defendants” or “Design Engineer”), and states as follows:

PARTIES AND JURISDICTION

1. Plaintiff, LMH-Lane, is a joint venture comprised of The Lane Construction Corporation, with its principal place of business located at 90 Fieldstone Court, Cheshire, Connecticut 06410; and LMH-CMC JV, which, in turn, is comprised of LM Heavy Civil Construction, LLC (“LMH”), with its principal place of business located at 100 Hancock Street, Suite 901, Quincy, Massachusetts 02171; and Cooperativa Muratori & Cementisti-C.M.C. Di Ravenna Societa Cooperativa (LMH’s parent company) with its principal place of business in Ravenna, Italy.

2. Defendant, HNTB, is a foreign professional corporation organized under the laws of the State of Delaware with its principal place of business located at 715 Kirk Drive, Kansas City, Missouri, 64105.

3. Defendant, Jacobs, is a foreign corporation organized under the laws of the State of Delaware with its principal place of business located at 1999 Bryan Street, Dallas, Texas, 75201.

4. The claims set forth in this Complaint are within the general jurisdiction of the Superior Court pursuant to G.L. c. 212, § 4 because the claims exceed \$50,000.00 in value.

5. The Superior Court has personal jurisdiction over the Defendants pursuant to G.L. c. 223A, § 3 because Defendants transact business in Massachusetts, contracted to supply services in Massachusetts, and committed the tortious injuries set forth herein in Massachusetts.

6. Venue is proper in Suffolk County pursuant to G.L. c. 223, § 1 because none of the parties reside in the Commonwealth and the project at issue in this litigation is located in Suffolk County. Additionally, pursuant to Superior Court Administrative Directive 17-1, venue is also proper in the Business Litigation Section of the Superior Court.

7. All conditions precedent to the bringing of this action have occurred or been waived.

PROJECT BACKGROUND

8. On or about April 13, 2018, the Massachusetts Bay Transportation Authority (“MBTA”) solicited electronic bids for the project entitled “MBTA Contract No. R44CN02, Cabot Yard & Maintenance Facility Improvements, South Boston, Massachusetts” (the “Project”).

9. MBTA retained Design Engineer to prepare the geotechnical reports, designs, plans, and specifications for solicitation of the public bids for the Project by MBTA.

10. MBTA and Design Engineer estimated the work of the Project to cost \$216,811,000.00.

11. The work for the Project included: (a) the rebuilding of the existing multi-acre storage and maintenance area at the Cabot Yard campus on Dorchester Avenue that supports the operations of MBTA's Red Line Heavy Rail Rapid Transit System and Bus System; and (b) the replacement and upgrade of many of the elements of the existing Cabot Rail Yard and Cabot Maintenance Facility to allow for improved and safe operation, proper maintenance, and reliable service for the augmented and replaced new Red Line vehicles.

12. The work at the Project included, *inter alia*, site work, track work, structural work, electrical work, traction power work, signal work, communications work, architectural work, building systems work, and new equipment to be installed at the Cabot Yard Maintenance Facility.

13. The Project site was to remain operational during the work of the contract, requiring the contractor to coordinate with Red Line operations and with MBTA.

14. MBTA divided the work of the Project into seven specific contract milestone dates of varying length through milestone number 7.

15. MBTA required the milestones be performed in successive order and be completed within the specified milestone dates set forth in the general conditions of the contract.

16. The Project was to be substantially completed 1,340 days after issuance of a notice to proceed.

17. Because some of the work on the Project involved subsurface work, MBTA included in the bidding documents various geotechnical data and geotechnical investigations of the Project site, and geotechnical data was included in Appendix P (prepared by HNTB) and Appendix Q (prepared by Jacobs) of the plans and specifications.

18. Prior to solicitation of bids for the Project, MBTA issued Addendum Nos. 01 through 06 to the designs, plans, and specifications, and those addenda were included in Appendix U to the designs, plans, and specifications for the Project.

19. MBTA directed all interested general contractors to submit sealed general bids for the Project based upon the designs, plans, and specifications prepared by Design Engineer and provided by MBTA on June 12, 2018, via electronic format at www.bidx.com.

20. LMH-Lane prepared and submitted a bid for the Project and extensively relied on the designs, plans, and specifications prepared by the Design Engineer and provided by MBTA in the preparation of its bid.

21. MBTA prequalified LMH-Lane, as well as other general contractors, to submit a bid to MBTA for the Project in accordance with MBTA's "procedures governing classification and rating of prospective bidders."

22. On or about June 12, 2018, MBTA received general public bids for the Project prepared in accordance with the designs, plans, specifications, and Addenda Nos. 1 through 6 therewith.

23. As required by G.L. c. 30, § 39M, MBTA publicly opened and read the general bids submitted by all prequalified and responding general bidders.

24. LMH-Lane was the lowest eligible, responsive, and responsible bidder for the Project with a bid price of \$213,817,000.00.

25. On or about August 2, 2018, LMH-Lane and MBTA entered into a contract (the “Contract”) in the sum of \$213,817,000 for the Project.

26. LMH-Lane and MBTA, pursuant to the Contract, agreed that LMH-Lane would perform “in strict conformity with the provisions herein contained and of the Notice to Bidders, Bid Form, Supplementary Conditions, Addenda, and Specifications” (Contract and Bond Forms 00510-2 at Clause 2) and all applicable plans referred to therein. Moreover, LMH-Lane and MBTA agreed, pursuant to the Contract, that “[a]ll Plans, Specifications, Supplementary Conditions, Notice to Bidders, Addenda, and Bid Form are specifically made part of this contract as fully and to the same effect as if the same had been set forth at length herein.” *Id.*

27. Pursuant to the Contract (00700-2(A)(24)(a)), HNTB was “retained by the Authority [MBTA] as engineering consultant during the construction of the Cabot Yard Rebuild Work.”

28. Pursuant to the Contract (00700-2(A)(24)(b)), Jacobs was “retained by the Authority [MBTA] as engineering consultant during the construction of the Cabot Carhouse Improvements Work.”

29. The Cabot Yard Rebuild Work and the Cabot Carhouse Improvements Work were to occur simultaneously and were inextricably intertwined such that the Cabot Yard Facility, which includes the Cabot Yard (the “Yard”) and the Cabot Carhouse (the “Carhouse”), functioned seamlessly.

30. On or about August 2, 2018, MBTA, through the Massachusetts Department of Transportation (“MDOT”), issued a notice to proceed to LMH-Lane and also directed LMH-Lane to submit a 90-day initial schedule within 10 days of the notice to proceed and a baseline schedule within 45 days of the notice to proceed.

31. In accordance with the notice to proceed issued by MBTA, LMH-Lane began its work on the Project on or about August 12, 2018.

32. LMH-Lane submitted the required initial construction schedule and baseline schedule to MBTA in accordance with the contractual milestone set forth in the bidding documents, and LMH-Lane reasonably and justifiably anticipated performing the work on the Project in accordance with the construction schedules and the contractual milestones specified by MBTA.

33. MBTA approved the initial construction schedule and subsequently approved the construction baseline schedule on December 28, 2018.

DESIGN DEFECTS IMPACTED PERMITTING

34. On or about October 18, 2018, LMH-Lane applied for a building permit to the Commonwealth of Massachusetts Office of Public Safety and Inspections (the "Office of Public Safety and Inspections"). In support of the application for a building permit, LMH-Lane submitted a copy of the plans and specifications for the Project that had been prepared by Design Engineer and provided by MBTA.

35. In response to LMH-Lane's application for a building permit, the Office of Public Safety and Inspections raised concerns involving the design inclusion of two temporary trailers, the presence of which the Office of Public Safety and Inspections contended improperly added additional combustion load to the building.

36. LMH-Lane immediately notified MBTA and its Design Engineer of the inability to obtain the building permit due to design issues and of the possibility that the issue could have cost and schedule impacts.

37. LMH-Lane requested a response to the questions raised by the Office of Public Safety and Inspections within four days so as not to jeopardize the schedule.

38. MBTA and its Design Engineer took over four weeks to respond to LMH-Lane's request for information.

39. In the building permit application process, the Office of Public Safety and Inspections also advised LMH-Lane that MBTA and its Design Engineer failed to include a copy of a report describing the condition and performance of the existing Carhouse fire standpipe system.

40. LMH-Lane immediately notified MBTA and its Design Engineer of the concerns raised by the Office of Public Safety and Inspections associated with this deficiency and further advised that there could be cost and schedule impacts associated with the lack of information.

41. MBTA and its Design Engineer undertook direction of many weeks of testing regarding the existing fire standpipe system, and it was not until January 11, 2019, that LMH-Lane was able to obtain the building permit necessary to proceed with the work.

42. LMH-Lane was unable to timely secure a building permit because of problems associated with the existing fire suppression system and code violations with the original Project design developed by Design Engineer and provided by MBTA.

43. On September 27, 2018, the Massachusetts plumbing inspector advised that an application for a plumbing permit would not be accepted until concerns with the original Project's plumbing design were resolved.

44. On or about October 29, 2018, the Massachusetts plumbing inspector and Design Engineer met on site and determined that MBTA would modify the original Project design to relocate certain equipment outside of the footprint of the building.

45. Relocation of the work in question required a survey of the building's existing sanitary sewer and associated appurtenances.

46. It took more than five months for MBTA and its Design Engineer to perform and publish its survey and revise the Project plumbing drawings, which were not issued until April 1, 2019.

47. Because of MBTA's and its Design Engineer's failure to provide an acceptable plumbing design, LMH-Lane could not obtain a plumbing permit that was necessary to proceed with the work until April 29, 2019, more than seven months after the plumbing inspector first raised concerns regarding Design Engineer's plumbing design of the Project.

48. Additionally, during the Project, on or about June 4, 2019, the gas inspector for the Commonwealth of Massachusetts issued a stop work order because of an undisclosed design change of the gas service lines supporting the Carhouse and the parts and equipment storage building.

49. MBTA and its Design Engineer failed or refused to notify the gas inspector for the Commonwealth of Massachusetts regarding the modifications to the Project's original design, and the failure to notify the gas inspector resulted in a sixteen-day stop work order.

50. MBTA's and its Design Engineer's failure to timely secure the permits for which it was responsible materially delayed and impacted the critical path of the Project.

CONDUIT RELINING WORK

51. Pursuant to Contract Specification Section 16300-3.2 prepared by Design Engineer, LMH-Lane was required to clean, clear, and reline existing traction power conduits within ductbanks as per the Contract plans.

52. The traction power conduits are “Orangeburg conduits from the 1970’s that comprise a bituminous material with a small amount of asbestos.” Contract Specification Section 16300-1.1E.

53. Pursuant to the Contract, there are over 25,000 linear feet of existing traction power conduits that LMH-Lane was required to clean, clear, and reline.

54. The traction power conduits are located underground underneath the tracks and cover significant portions of the North Yard and South Yard.

55. In June 2019, in accordance with Contract requirements, LMH-Lane investigated the condition of twelve (12) spare conduits and discovered that all of the existing 4-inch Orangeburg conduits were affected by bubbling of conduit walls. LMH-Lane attempted to clean the existing conduit using the procedures set forth in the Contract documents but this did not remove the bubbling.

56. RFI No. 237 was submitted to MBTA on July 19, 2019, requesting clarification of how to perform the existing conduit cleaning work given the bubbling seen in the pre-lining investigation.

57. LMH-Lane notified MBTA that removal of bubbling from the conduits to clear the existing lines was outside of the Contract requirements and considered by LMH-Lane to be a changed condition that could have both cost and schedule impacts. The undisclosed and unknown condition of the traction power conduits and ductbanks are the subject of PCO 122 (“the Conduit Relining Issue”).

58. In March 2021, an additional investigation performed by LMH-Lane at MBTA’s direction revealed that conduit runs between Manhole (“MH”) 6 and MH 2 were completely blocked or collapsed and the concrete ductbank they were encased in was badly deteriorated.

59. Subsequent investigations by LMH-Lane revealed that other conduits in other areas were completely blocked or collapsed as well such that it is impossible to clean and reline the conduits per the Contract requirements without employing means and methods that would destroy the conduits that LMH-Lane was required to reline, pursuant to Contract Specification Section 16300-3.2.

60. MBTA has acknowledged that “nowhere in the Contract documents does the MBTA provide a means and methods[sic] for the[sic] dealing with bubbling of the Orangeburg conduit.”

61. The conduit relining work, which affected almost the entirety of the Yard, could not be performed by LMH-Lane as specified in the Contract.

62. Beginning in September 2021, recognizing the fact that none of the contractually prescribed methods for cleaning and relining the conduits were working, MBTA made the unilateral decision to hire a subcontractor to employ a technique known as “hydro-lazing” to experiment and try to clean and clear a section of the traction power conduit.

63. LMH-Lane had previously warned MBTA that hydro-lazing would significantly damage the conduits and concrete ductbanks.

64. On October 28, 2021, MBTA Senior Project Manager, Brian Campbell, informed LMH-Lane that, after performing the hydro-lazing on an approximately 55ft. run of conduit, “most, if not all of the Orangeburg” was removed and “there was a crack (9’) and a hole (18’) discovered found[sic] when the Orangeburg was removed.”

65. If the Orangeburg conduit is removed, then it is not possible for LMH-Lane to comply with the Contract, which requires LMH-Lane to reline the existing Orangeburg conduits.

66. It took MBTA's contractor approximately 8 hours to complete the hydro-lazing, which equates to a production rate of approximately 6.9 linear feet/hour.

67. Based on the production rate of the hydro-lazing process and the linear feet of conduit that needs to be cleaned and relined and the contractual limitations of operation, and the added safety precautions that would be required given the fact that the Orangeburg contains asbestos, it would take years to complete just the hydro-lazing process.

68. The design, plans, and specifications prepared by Design Engineer and provided by MBTA were defective in that they failed to: (a) disclose the extent of the bubbling of the conduits walls; (b) disclose blocked and/or collapsed conduits in certain areas; and (c) otherwise failed to provide a constructable design for the cleaning, clearing, and relining of the conduit.

69. A reasonable inspection of the condition of the traction power conduits and ductbanks by the Design Engineer at the time the plans and specifications were developed would have revealed there is no way that the traction power conduits could be cleaned, cleared, and relined as called for by the Contract, and that it was impossible for any contractor to carry out this scope of work within the time periods and limitations of operation set forth in the Contract.

OTHER FAILURES TO DISCLOSE ACTUAL CONDITIONS

70. Design Engineer had superior knowledge regarding the existing subsurface conditions and existing subsurface structural conditions on the Project.

71. Design Engineer did not disclose the actual Project subsurface conditions nor did they properly depict or disclose the existing subsurface structural conditions in the bidding documents.

72. Upon commencement of the work, LMH-Lane discovered eighteen previously undisclosed electrical conduits buried within and underneath the Carhouse concrete slab.

73. These previously undisclosed electrical conduits were discovered upon the commencement of demolition work in the Carhouse.

74. Demolition work was halted in the Carhouse due to the presence of the undisclosed electrical conduits.

75. As a result of the discovery of the previously undisclosed electrical conduits, MBTA required LMH-Lane to perform extra work to identify and relocate the live electrical conduits without unnecessarily interrupting the existing train service.

76. LMH-Lane began the work of locating the undisclosed electrical conduits in April 2019 and LMH-Lane continued with this extra work task until mid-December 2019, when the last power source was successfully relocated.

77. Identifying and relocating the previously undisclosed electrical conduits in the Carhouse was a particularly time-consuming task because MBTA required the Carhouse to be fully operational while this work was taking place.

78. LMH-Lane encountered additional differing site conditions in July 2019 when LMH-Lane discovered previously undisclosed and unsafe levels of mercury in the soil to be excavated in the Yard.

79. The Contract documents prepared by Design Engineer and provided by MBTA failed to identify mercury contamination anywhere on the Project site except for limited instances when mercury was located within some existing equipment.

80. The Contract documents prepared by Design Engineer and provided by MBTA failed to identify any contamination in the area being excavated by LMH-Lane near the duct banks.

81. Additionally, Zone A (Ladder Tracks) work was held up because: (a) the Midland Bridge vertical survey in the Contract drawing was defective and took over a year for MBTA and its Design Engineer to correct before a tie dapping submittal could be prepared for work to commence, but the tie dapping submittal was held up because of a differing site condition – a previously undisclosed abandoned bridge girder below the track bed was discovered, which changes the track elevation and requires a revised profile for the track along the Midland Bridge that MBTA and its Design Engineer did not address.

82. LMH-Lane encountered differing site conditions on the Project within the definition of the statutory differing site conditions clause, G.L. c. 30, § 39N, and the differing site conditions on the Project severely delayed, disrupted, and impacted LMH-Lane's performance on the Project.

83. LMH-Lane provided timely notice to MBTA and its Design Engineer regarding the existence of each of the differing site conditions that impacted and delayed LMH-Lane's performance on the Project.

DEFECTIVE DESIGN DOCUMENTS

84. MBTA required LMH-Lane to rely upon the designs, plans, and specifications prepared by its Design Engineer. Therefore, Design Engineer knew or should have known that LMH-Lane would rely extensively on the designs, plans, and specifications in preparing its bid.

85. The design documents prepared by Design Engineer and provided by MBTA were defective, deficient, negligently prepared, and contained numerous material negligent misrepresentations and omissions which impacted major elements of work to be performed on the Project.

86. LMH-Lane submitted at least 722 requests for information to clarify defects in the design documents and to obtain necessary design information to complete the Project.

87. MBTA's and its Design Engineer's responses to requests for information often resulted in re-designs, which required extra work, and resulted in additional costs to LMH-Lane and, in some cases, delays to the Project schedule.

88. For example, the Switch House #1 could not be completed until the stairs are installed. Design Engineer's original design for the Switch House #1 stairs was defective and, as a result of issues raised in RFI 700, MBTA and its Design Engineer were required to redesign them, but the redesign was not completed.

89. Design Engineer's defective design for temporary power also impacted the delivery of Switch House #1, as well as Switch House #2 and the main and satellite CIHs. MBTA and its Design Engineer have yet to provide a revised temporary power design.

90. MBTA has also issued at least 57 design change requests to LMH-Lane due to deficiencies in the design prepared by Design Engineer, in which MBTA contemplated making a change to the design of the Project and requested LMH-Lane to prepare a cost proposal, including possible schedule impacts, should MBTA decide to move forward with the work. In doing so, MBTA and Design Engineer improperly attempted to shift the responsibility of fixing the Design Engineer's design deficiencies upon LMH-Lane.

91. Additionally, MBTA and its Design Engineer would often improperly require LMH-Lane to perform extra work, such as surveying, in support of their efforts to correct their own design deficiencies.

92. MBTA has also issued at least 33 work directives under the Contract, in which it directs LMH-Lane to perform extra work or to resequence work in the field due to issues with the design.

93. When MBTA's responses to requests for information resulted in extra work that would result in time and/or cost impacts, LMH-Lane submitted proposed change order requests ("PCO") to MBTA in accordance with the Contract. Because of, *inter alia*, design changes necessitated by the responses to requests for information and extra work resulting from design change requests, LMH-Lane issued 159 PCOs to MBTA regarding necessary additional work on the Project.

94. The design documents prepared by Design Engineer and provided by MBTA did not properly depict the existing conditions on the Project and did not properly specify the nature and extent of the work to be performed on the Project.

95. In May 2021, MBTA directed LMH-Lane to prepare process plans for and commence work in the South Yard on the installation of Switch ("SW") 44, SW42, and SW41. However, the directed work could not be performed per the Contract because the SW42 Phase A19 conditions conflict with SW41 Phase E33 conditions such that existing conditions do not allow SW41 to be installed as planned, and there are conflicts with the existing signal boxes as well. This design deficiency affected the entirety of the work in the South Yard and prevented completion of the new signal infrastructure system.

96. In addition, work in the South Yard was held up because the traction power routing to the location of the new MH20A and SW#2 in the Contract drawings conflicts with existing duct banks in the Yard, which MBTA and its Design Engineer knew about since

September 2021 but did not resolve. This design deficiency affected the entirety of the work in the South Yard and prevented completion of the new signal infrastructure system.

97. Work in Zone C (Lead Tracks) of the Yard was held up for a number of reasons, including: (a) there are existing drainage facilities and there is an existing bridge abutment at the location in the plans for a signal trough to be installed, which MBTA and its Design Engineer did not resolve for over two years; and (b) there is a conflict and routing issues with the traction power duct bank that MBTA and its Design Engineer have been aware of for over two years, but did not resolve.

98. Design Engineer failed to properly specify, detail, and describe major items of work required for the completion of the Project, including, but not limited to: (a) failure to design the Stinger System properly to enable construction within the contractual limitations of operations; (b) failure to properly design the Paint Booth; (c) failure to properly design the HVAC duct replacement in the Carhouse; (d) failure to properly design the oil/water separator; (d) failure to properly design the truck wash equipment room; (e) failure to properly design the signal connections for the rail at frog locations; (f) failure to properly design the crew platform; (g) failure to account for overhead gantry cranes in the design of the dust collector system; (h) lack of coordination between Carhouse designs and Yard Work designs; and (i) failure to provide documentation showing that the buildings were up to code at the start of the Project.

99. LMH-Lane was required to perform extensive additional and unanticipated work because of the deficient design documents prepared by Design Engineer and provided by MBTA for the Project.

100. The work at the Carhouse and the Yard was interrelated such that the issues caused by defective design documents for the Carhouse resulted in impacts to LMH-Lane's and

its subcontractors' work in the Yard as well as the Carhouse. Similarly, due to the interrelated nature of the work, the issues caused by defective design documents for the Yard resulted in impacts to LMH-Lane's and its subcontractors' work in the Carhouse as well as the Yard.

101. Design Engineer's defective designs, plans, and specifications materially delayed and impacted LMH-Lane's performance, causing LMH-Lane and its subcontractors to incur time impacts and additional expense on the Project, for which LMH-Lane has provided MBTA and Design Engineer with proper and timely notice under the Contract.

DESIGN ENGINEER'S ACTIVE INTERFERENCE

102. Design Engineer had superior and inherent knowledge of the actual conditions of the Project, which was withheld from prospective bidders and was not properly depicted in the bidding documents.

103. Design Engineer knew or reasonably should have known, based upon its inherent and superior knowledge, that the designs provided by MBTA and its Design Engineer for bidding on the Project were deficient and incomplete.

104. Design Engineer wrongfully withheld this superior and inherent knowledge and wrongfully failed to disclose said knowledge in the bidding documents.

105. Design Engineer has actively interfered with LMH-Lane's performance on the Project by, *inter alia*: (a) failing to produce a constructable original design; (b) failing to acknowledge and correct design deficiencies; (c) falsely claiming the issues arising from the design deficiencies were caused by LMH-Lane's work; and (d) otherwise materially delaying, disrupting, and impacting LMH-Lane's performance on the Project.

106. As a result of the aforesaid acts and omissions, LMH-Lane's performance was materially delayed, disrupted, and impacted by Design Engineer and LMH-Lane incurred extensive and unanticipated additional costs on the Project.

LMH-LANE'S DAMAGES

107. LMH-Lane encountered extensive issues for which Design Engineer is responsible, including, *inter alia*, permit delays, differing site conditions, numerous design deficiencies, extensive design changes, and extensive unanticipated additional work on the Project, all of which have materially impacted and delayed LMH-Lane's period of Contract performance.

108. Because of numerous differing site conditions, deficient design documents, unanticipated extra work, and design changes, LMH-Lane was prevented from progressing the work in accordance with the Contract schedule.

109. LMH-Lane has timely and properly requested extensions of time to its period of Contract performance to account for differing site conditions, design issues, design defects, and additional work on the Project, which MBTA refused to grant.

110. LMH-Lane has incurred additional costs as a result of the extensive issues set forth herein for which MBTA and its Design Engineer are responsible.

COUNT I
(Negligent Misrepresentation - HNTB)

111. LMH-Lane incorporates by reference the allegations set forth in Paragraphs 1 through 110 above as though fully set forth herein.

112. As Design Engineer, HNTB was contractually required to provide LMH-Lane (through MBTA) with services, guidance, expertise, advice, and consulting information necessary for LMH-Lane to make informed decisions about the Project.

113. HNTB owed a duty to LMH-Lane to act promptly, professionally, and in accordance with the standard of care of a similarly situated professional in the Commonwealth of Massachusetts.

114. LMH-Lane reasonably relied upon HNTB's professionalism, expertise, advice, and its material representations regarding the Project.

115. HNTB made representations of material facts to LMH-Lane that HNTB knew or should have known LMH-Lane would use in bidding the Project and performing its work in accordance with the Contract documents.

116. HNTB, with the exercise of reasonable care, should have known at the time it made these representations of fact that they were in error.

117. The design documents prepared by HNTB and provided by MBTA contained material negligent misrepresentations and material negligent omissions regarding LMH-Lane's work on the Project.

118. HNTB failed to disclose the inadequacies of its geotechnical investigation knowing that LMH-Lane would rely upon the representations of material facts made by HNTB.

119. HNTB had superior and inherent knowledge regarding the existing structural and physical conditions, and existing subsurface conditions on the Project, which was withheld from prospective bidders and not properly depicted in the bidding documents.

120. HNTB knew, or reasonably should have known, based upon its inherent and superior knowledge of the Project, that the plans and specifications were deficient, inaccurate, and wholly inadequate for LMH-Lane to perform its work on the Project.

121. HNTB breached the standard of care by, among other things, negligently, carelessly, and improperly performing certain of its services for or in connection with the Project

and providing LMH-Lane with deficient plans and specifications, consultation, advice, reporting, guidance, professional opinions, and professional investigations related to LMH-Lane's performance of its work on the Project.

122. The plans and specifications negligently prepared by HNTB materially delayed and impacted LMH-Lane's performance causing LMH-Lane to incur additional time and additional expenses on the Project.

123. As a result of HNTB's negligent misrepresentations, LMH-Lane has incurred losses and/or damages.

COUNT II
(Intentional Misrepresentation - HNTB)

124. LMH-Lane incorporates by reference the allegations set forth in Paragraphs 1 through 110 above as though fully set forth herein.

125. As Design Engineer, HNTB was contractually required to provide LMH-Lane (through MBTA) with services, guidance, expertise, advice, and consulting information necessary for LMH-Lane to make informed decisions about the Project.

126. HNTB made representations of material facts to LMH-Lane that HNTB knew LMH-Lane would use in bidding the Project and performing its work in accordance with the Contract documents.

127. Those representations were made with the intention of inducing LMH-Lane to rely upon those representations to construct the Project in accordance with the factual information provided by HNTB.

128. LMH-Lane reasonably relied upon HNTB's professionalism, expertise, advice, and its material representations regarding the Project.

129. HNTB knew when it made these representations of fact, including representations

regarding subsurface conditions, that they were in error.

130. The design documents prepared by HNTB and provided by MBTA contained material misrepresentations and omissions regarding the work on the Project.

131. HNTB failed to disclose the inadequacies of its geotechnical investigation knowing that LMH-Lane would rely upon the representations of material facts made by HNTB.

132. HNTB had superior and inherent knowledge regarding the existing structural and physical conditions, and existing subsurface conditions on the Project, which was willfully and knowingly withheld from prospective bidders and not properly depicted in the bidding documents.

133. HNTB knew, based upon its inherent and superior knowledge of the Project, that the plans and specifications were deficient, inaccurate, and wholly inadequate for LMH-Lane to perform its work on the Project.

134. The intentional misrepresentations in the plans and specifications prepared by HNTB materially delayed and impacted LMH-Lane's performance causing LMH-Lane to incur additional time and additional expense on the Project.

135. As a result of HNTB's intentional misrepresentations, LMH-Lane has incurred loss and/or damage.

COUNT III
(G.L. c. 93A - HNTB)

136. LMH-Lane incorporates by reference the allegations set forth in Paragraphs 1 through 135 above as though fully set forth herein.

137. HNTB is engaged in trade and/or commerce as defined by G.L. c. 93A.

138. HNTB has acted unfairly and deceptively in dealing with LMH-Lane on the Project regarding the aforementioned acts and/or omissions, which include, but are not limited to

willfully and knowingly: (a) failing to conduct a proper geotechnical investigation; (b) failing to disclose the inadequacy of its geotechnical investigation; (c) providing LMH-Lane (through MBTA) design documents based upon its insufficient geotechnical investigation; (d) making material negligent and intentional misrepresentations and omissions regarding the work on the Project knowing LMH-Lane would reasonably rely upon those misrepresentations; and (v) actively interfering with LMH-Lane's performance.

139. As a result of the aforementioned acts and/or omissions, LMH-Lane has suffered loss and damage.

140. Pursuant to G.L. c. 93A, LMH-Lane is entitled to entry of judgment against HNTB in an amount of three (3) times LMH-Lane's actual damages, plus interest, costs, and attorneys' fees.

COUNT IV
(Negligent Misrepresentation - Jacobs)

141. LMH-Lane incorporates by reference the allegations set forth in Paragraphs 1 through 110 above as though fully set forth herein.

142. As Design Engineer, Jacobs was contractually required to provide LMH-Lane (through MBTA) with services, guidance, expertise, advice, and consulting information necessary for LMH-Lane to make informed decisions about the Project.

143. Jacobs agreed to act in a prompt and professional manner and in accordance with the standard of care of a similarly situated professional in the Commonwealth of Massachusetts.

144. Jacobs owed a duty to LMH-Lane to act promptly, professionally, and in accordance with the standard of care of a similarly situated professional in the Commonwealth of Massachusetts.

145. Jacobs made representations of material facts to LMH-Lane that Jacobs knew or should have known LMH-Lane would use in bidding the Project and performing work in accordance with the Contract documents.

146. LMH-Lane reasonably relied upon Jacobs' professionalism, expertise, advice, and its material representations regarding the Project.

147. Jacobs, with the exercise of reasonable care, should have known at the time it made these representations of fact that they were in error.

148. The design documents prepared by Jacobs and provided by MBTA contained material negligent misrepresentations and material negligent omissions regarding LMH-Lane's work on the Project.

149. Jacobs failed to disclose the inadequacies of its geotechnical investigation knowing that LMH-Lane would rely upon the representations of material facts made by Jacobs.

150. Jacobs had superior and inherent knowledge regarding the existing structural and physical conditions, and existing subsurface conditions on the Project, which was withheld from prospective bidders and not properly depicted in the bidding documents.

151. Jacobs knew, or reasonably should have known, based upon its inherent and superior knowledge of the Project, that the plans and specifications were deficient, inaccurate, and wholly inadequate for LMH-Lane to perform its work on the Project.

152. Jacobs breached the standard of care by, among other things, negligently, carelessly, and improperly performing certain of its services for or in connection with the Project and providing LMH-Lane with deficient plans and specifications, consultation, advice, reporting, guidance, professional opinions, and professional investigations related to LMH-Lane's performance of its work on the Project.

153. The plans and specifications negligently prepared by Jacobs materially delayed and impacted LMH-Lane's performance causing LMH-Lane to incur additional time and additional expense on the Project.

154. As a result of Jacobs' negligent misrepresentations, LMH-Lane has incurred loss and/or damage.

COUNT V
(Intentional Misrepresentation - Jacobs)

155. LMH-Lane incorporates by reference the allegations set forth in Paragraphs 1 through 110 above as though fully set forth herein.

156. As Design Engineer, Jacobs was contractually required to provide LMH-Lane (through MBTA) with services, guidance, expertise, advice, and consulting information necessary for LMH-Lane to make informed decisions about the Project.

157. Jacobs made representations of material facts to LMH-Lane that Jacobs knew LMH-Lane would use in bidding the Project and performing its work in accordance with the Contract documents.

158. Those representations were made with the intention of inducing LMH-Lane to rely upon those representations to construct the Project in accordance with the factual information provided by Jacobs.

159. LMH-Lane reasonably relied upon Jacobs' professionalism, expertise, advice, and its material representations regarding the Project.

160. Jacobs knew when it made these representations of fact, including representations regarding subsurface conditions, that they were in error.

161. The design documents prepared by Jacobs and provided by MBTA contained material misrepresentations and omissions regarding LMH-Lane's work on the Project.

162. Jacobs failed to disclose the inadequacies of its geotechnical investigation knowing that LMH-Lane would rely upon the representations of material facts made by Jacobs.

163. Jacobs had superior and inherent knowledge regarding the existing structural and physical conditions, and existing subsurface conditions on the Project, which was willfully and knowingly withheld from prospective bidders and not properly depicted in the bidding documents.

164. Jacobs knew, based upon its inherent and superior knowledge of the Project, that the plans and specifications were deficient, inaccurate, and wholly inadequate for LMH-Lane to perform its work on the Project.

165. The intentional misrepresentations in the plans and specifications prepared by Jacobs materially delayed and impacted LMH-Lane's performance causing LMH-Lane to incur additional time and additional expense on the Project.

166. As a result of Jacobs' intentional misrepresentations, LMH-Lane has incurred loss and/or damage.

COUNT VI
(G.L. c. 93A - Jacobs)

167. LMH-Lane incorporates by reference the allegations set forth in Paragraphs 1 through 110 and 141 through 166 above as though fully set forth herein.

168. Jacobs is engaged in trade and/or commerce as defined by G.L. c. 93A.

169. Jacobs has acted unfairly and deceptively in dealing with LMH-Lane on the Project regarding the aforementioned acts and/or omissions, which include, but are not limited to willfully and knowingly: (a) failing to conduct a proper geotechnical investigation; (b) failing to disclose the inadequacy of its geotechnical investigation; (c) providing LMH-Lane (through MBTA) design documents based upon its insufficient geotechnical investigation; (d) making

material negligent and intentional misrepresentations and omissions regarding the work on the Project knowing LMH-Lane would reasonably rely upon those misrepresentations; and (e) actively interfering with LMH-Lane's performance.

170. As a result of the aforementioned acts and/or omissions, LMH-Lane has suffered loss and damage.

171. Pursuant to G.L. c. 93A, LMH-Lane is entitled to entry of judgment against Jacobs, in an amount of three (3) times LMH-Lane's actual damages, plus interest, costs, and attorneys' fees.

WHEREFORE, LMH-Lane prays the following relief against Defendants:

A. On Count I, that judgment be entered in favor of LMH-Lane and against HNTB in the amount of all damages and costs incurred as a result of HNTB's negligent misrepresentation;

B. On Count II, that judgment be entered in favor of LMH-Lane and against HNTB in the amount of all damages and costs incurred as a result of HNTB's intentional misrepresentation;

C. On Count III, that judgment be entered in favor of LMH-Lane and against HNTB in the amount of all damages and costs incurred as a result of HNTB's violations of G.L. c. 93A, plus up to three (3) times LMH-Lane's actual damages plus interest, costs, and attorneys' fees;

D. On Count IV, that judgment be entered in favor of LMH-Lane and against Jacobs in the amount of all damages and costs incurred as a result of Jacobs' negligent misrepresentation;

E. On Count V, that judgment be entered in favor of LMH-Lane and against Jacobs in the amount of all damages and costs incurred as a result of Jacobs' intentional misrepresentation;

F. On Count VI, that judgment be entered in favor of LMH-Lane and against Jacobs in the amount of all damages and costs incurred as a result of Jacobs' violations of G.L. c. 93A, plus up to three (3) times LMH-Lane's actual damages plus interest, costs, and attorneys' fees; and

G. That this Honorable Court grant LMH-Lane such other and further relief that this Court deems equitable and just.

**LMH-LANE DEMANDS TRIAL BY JURY
PURSUANT TO MASS. R. CIV. P. 38(b)**

Dated: June 14, 2022

Respectfully submitted,

**LMH-LANE CABOT YARD JOINT
VENTURE,**

By its counsel,

/s/ John J. McNamara

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