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Jan 23, 2023

Via email: dep.waterways@state.ma.us

MassDEP Waterways Regulation Program,
100 Cambridge Street, 9th Floor
Boston, MA 02114

Re: Institute of Contemporary Art (ICA) Chapter 91 Draft Management Plan

Dear Mr. Padien,

Boston Harbor Now respectfully submits the following comments on the *Chapter 91 Draft Management Plan* prepared by the Institute of Contemporary Art (ICA). Boston Harbor Now has been involved in past discussions with the ICA and the Massachusetts Department of Environmental Protection (MassDEP) regarding their site, as the site itself and the surrounding Harborwalk have been built, closed, reopened, and reimagined. Last spring, we were involved in policy discussions about ticketing and fencing for the Red Bull Cliff Diving's return to Boston in June 2022. We continue to remain invested in the activation of this and other parts of the waterfront. Members of our organization recently attended the January 9th, 2023, Public Meeting held by the MassDEP regarding this management plan.

As longtime stewards of the Boston Harborwalk, Boston Harbor Now is committed to ensuring that the waterfront we build today is designed for a more resilient and inclusive future. We use the term "Harborwalk 2.0" to capture the aspirations of this work to ensure the waterfront is accessible and welcoming, is prepared for the coastal impacts of climate change, and centers equity and inclusion in the development of its design, construction, and programming. An accessible Harborwalk should have both linear and lateral connections between the city and the water, as well as numerous activation strategies to serve all Bostonians. A resilient Harborwalk includes a variety of climate adaptation strategies to protect and serve Boston at a district scale. To center equity in Harborwalk design is to focus on strategies that make the waterfront feel safe and inclusive through lighting, signage (preferably multi-lingual), full ADA accommodations, and the elimination of features that make users feel unwelcome or excluded.

Over the past seventeen years, the ICA has gone from being one of the few buildings in the Seaport to one of many, but it remains the only free-standing non-profit cultural institution on the water here, with the Children's Museum as its closest neighbor, over on the Fort Point Channel. The building offers a rare form of outdoor public space with the covered Grandstand offering a unique area to sit and look out at the harbor with protection from the elements. Since arriving



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in the Seaport, the ICA has built its reputation as a destination both for tourists *and* the Boston community, providing a wide range of entertainment that draws crowds to the museum and the waterfront. By offering a wide range of free and reduced-cost programming and developing targeted community partnerships, the museum and its waterfront spaces have attracted an audience that is noticeably racially, economically, and culturally diverse. However, in order to subsidize these offerings, the ICA has generated funding through private event rentals that limit public access to protected tidelands.

We believe that the ICA has proven itself to be a highly conscientious waterfront steward, and therefore, we have made suggestions in the following sections that balance regulatory policy and the continuation of some previously permitted but exceptional uses. We leave it at MassDEP's discretion to determine which uses are ultimately allowed in the management plan.

Where this decision may set precedents for other property owners, we want to highlight several key elements of this plan that should be held as standards everywhere: the twelve foot right of way along the water shall remain open at all times, the funds collected by private closures go directly towards supporting free programs hosted at the cultural institution, and the draft management plan has gone through a public process to collect feedback. We hope to see more innovative and welcoming waterfront activation around the harbor; we believe it should not occur at the expense of free public waterfront access.

Public Ticketed Events

The ICA has outlined several events where FPA spaces will be closed to the general public. Both First Fridays and Summer Friday Programming will require the public to purchase tickets in order to attend. First Fridays will shut down the full ICA Grandstand, Plaza, and Cut-out on the First Friday of June, July, August, and September, while the Summer Friday Programming is expected to only close a portion of the Grandstand for the other seven Fridays in July and August. Both First Fridays and Summer Friday Programming will span six hours.

First Fridays are a long-standing tradition that we think is worthy of preservation in this and future management plans. It is clear that the intentionality put into curating inclusive performances has resulted in a welcoming environment that fosters diverse attendance. 60% of First Friday visitors identified as BIPOC, as did 33% of Summer Friday Programming attendees. Despite the limited access to some of the Harborwalk amenities during these events, ticketed events open to the public meet FPA requirements in the same way restaurants or hotels require reservations but allow anyone to book in advance. Donating 50 tickets per event for community partners makes these events more accessible to those not able to pay. Furthermore, the setup for these events has evolved to ensure that the public walkway along the water remains open at all times.

Should other waterfront entities host public ticketed events along the waterfront, they should follow a similar model of systematically offering a portion of the



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tickets for free to community members, or via a partner organization, to provide access to people who may otherwise have financial barriers to attending events. Preserving a 12-foot clearance for anyone walking by remains essential.

Private Events

The ICA has proposed 25 outdoor private rental events in which a portion of the Grandstand and Cut-out will be closed to the public for one hour, and the entirety of the Plaza will be closed for four hours. Of the private events, 15 are designated for weekends, and the remaining 10 are set for Monday, Tuesday, or Wednesday. Although the most recently updated management plan from January 19 indicates that a maximum of three outdoor weekend event rentals can take place per month (May to October) and event rentals cannot take place on consecutive weekend days, we are concerned by the carryover effects of this level of privatization, particularly for the grandstand. Of the 46 weekend dates available from May to October, nearly a third will be used for private events. When factoring both ticketed public events and private events together, some portion of the grandstands and the public space in front of it would be closed at some point for 36 days over those five months.

Although it is not explicitly stated that some private events will be weddings, the ICA has clarified that only weddings result in grandstand closure. After winning *Boston Magazine's 2018 Best Wedding Venue, Museum* award, the space has been in high demand. Weddings, while joyous occasions, are intimate and not conducive to facilitating a welcoming waterfront for members of the public. Even with the Harborwalk pathway and portions of the Grandstand and Cut-out remaining open, social cues deter people who feel like they are “crashing” the wedding by lingering too long or too close. While the grandstands are formally reopened after the ceremony, people turned away during that time are unlikely to return and the area retains an exclusive feel.

We appreciate that funding free high-quality public events can be costly and understand that private event rentals can help to underwrite them. None-the-less, the proposed level of closures for private events is concerningly frequent when compounded with the Friday closures. We also do not want leniencies afforded to the ICA to set a precedent for other waterfront owners who will expect similar treatment. Further, we know that waterfront views and wedding celebrations are available in the Barbara Lee Family Foundation Theater. Therefore, we recommend allowing the proposed schedule for private event rentals (weddings and otherwise) in the Plaza but eliminating the Grandstand closures entirely.

Should DEP choose to allow grandstand closures for weddings between the first week of May and the first week of October, we expect to see clear signage about when the grandstands will reopen and signage reaffirming that they are open to the public after the ceremony as described below. We also believe that any quantitative allowances for closures should be made on a per month basis so as to distribute closures across the season.



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Re-Activating the Site

In all instances where parts of the Chapter 91 open space and amenities on site, like the Grandstand, are unavailable to the general public, we would like to see clear signage that indicates when the space will reopen or when it is usually open and that welcomes people back into the space after the closures. Once members of the public have been turned away from a private closure, they are unlikely to return. Similarly, we suggest that the ICA create signage explaining what amenities are available to all people during partial closings of Harborwalk amenities. When possible, private events should have standardized closure and reopening times to make the process as predictable as possible. It is the responsibility of the ICA to ensure that everyone visiting the waterfront understands their rights here and feels welcome, and we hope that they can continue to be a model for inclusivity that others can emulate.

We appreciate the opportunity to comment on the ICA's management plan and are grateful for the transparency and communicativeness of their staff throughout this process. We would be happy to speak with you or the proponent further if there are additional questions.

Sincerely,

A handwritten signature in black ink that reads "Katherine F. Abbott".

Katherine F. Abbott
President and CEO
Boston Harbor Now