

AIRD & BERLIS LLP

Barristers and Solicitors

Scott Stoll
Direct: 416.865.4703
E-mail: ssoll@airdberlis.com

June 4, 2013

EMAIL, COURIER AND RESS

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th Floor, Box 2329
Toronto, ON
M4P 1E4

Dear Ms. Walli:

**Re: Wainfleet Wind Energy Inc. ("Wainfleet")
Reply Submissions
Board File No: EB-2013-0031**

Please find attached Wainfleet's Reply to Board Staff Submissions issued May 27th, 2013.

As per Procedural Order No. 1, dated April 26th, 2013, an electronic copy has been filed on RESS and two hard copies are being couriered to the Board Secretary.

If you have any questions, please feel free to contact the undersigned.

Yours truly,

AIRD & BERLIS LLP



Scott Stoll

SAS/hm

cc: Harold Loeffen, the Applicant
Tom Rankin, Rankin Construction
Donald C. DeLorenzo, Counsel for the Township of Wainfleet
Rudra Mukherji, Ontario Energy Board

14792363.1

EB-2013-0031
Filed: February 4, 2013
Exhibit B
Tab 3
Schedule 1

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998,
S.O. 1998, c. 15 (Schedule B);

AND IN THE MATTER OF an application by Wainfleet Wind
Energy Inc. for a n Order or Orders pursuant to section
41(9) of the *Electricity Act* 1998, S.O. 1998, c. 15, Schedule
A, as amended, establishing the location of Wainfleet Wind
Energy Inc.'s distribution facilities within certain public right-
of-way and street owned by the Township of Wainfleet,
Regional Municipality of Niagara.

REPLY SUBMISSIONS OF
Wainfleet Wind Energy Inc.
EB-2013-0031

Overview

1. The Applicant is Wainfleet Wind Energy Inc. ("**Wainfleet Wind**" or the "**Applicant**"), an Ontario corporation formed by the Loeffen family and located in the Township of Wainfleet, Ontario ("**Township**"). Wainfleet Wind is a corporation which carries on the business of developing renewable wind energy generation projects and the associated distribution facilities in the Township. It has partnered with Rankin Construction Inc., a local contractor which carries on the business of building renewable infrastructure, including wind projects.
2. Wainfleet Wind applied to the Ontario Energy Board (the "**Board**") pursuant to section 41(9) of the *Electricity Act*, 1998, S.O. 1998, c. 15 (Sched. A), as amended (the "**Electricity Act**") for an order or orders establishing the location of Wainfleet Wind's

EB-2013-0031
Filed: February 4, 2013

Exhibit B

Tab 3

Schedule 1

Appendix A

2

installation of high voltage power cables, associated ducts and communications cable along and across Concession 1 Road and across the unopened Sideroad 22 road allowance at the municipal drain more particularly identified in Exhibit B, Tab 3, Schedule 1, Appendix B (collectively referred to as the "**Road Allowances**") owned by the Township, all substantially in accordance with the Applicant's plans as set out in Exhibit B, Tab 3, Schedule 1, Appendix A. A copy of the plans has been provided as an attachment to these submissions.

3. The distribution system is necessary to convey electricity from the wind turbines to the distribution system. Wainfleet Wind has a contract to sell all of the electricity from the project to the Ontario Power Authority under the FIT Program.
4. Wainfleet Wind is a distributor within the meaning of section 41 of the *Electricity Act* and has the right to seek the determination of the Board where it is unable to obtain agreement with the Township in respect of the distribution system.
5. The Township was named as a party to these proceedings by the Board but did not participate.
6. The proposed location advanced by Wainfleet Wind has been developed in consultation with Township Staff and no issues or alterations have been requested.
7. The Distribution System will use three different construction approaches in various sections, as detailed in the drawings:

- (i) Direct buried cables across private land and along Concession 1 Rd. and north portions of Station Rd.;

- (ii) Concrete encased duct bank for the crossing of Concession 1 Rd.
(optional directional bore);
 - (iii) Directional bored ducts for south portion along Station Rd. and for
crossing Station Rd.
8. The proposed cable installation meets or exceeds the requirements of the Ontario
Electrical Safety Code and CSA Standard C22.3-#7, Underground Systems.
9. Permanent Buried Cable Markers will be installed at either end of road crossings and are
recommended by CSA for identifying the trench location in rural locations.
10. Board Staff support Wainfleet Wind's Application.
11. Approval is required for Wainfleet Wind to fulfill its obligations to the Ontario Power
Authority under the FIT Program and therefore, the approval is in the public interest.
12. Wainfleet Wind submits there are no outstanding issues and that its Application should
be approved.

Costs

13. Wainfleet Wind requests the Board consider an award of costs against the Township.
While such a request is unusual, the Applicant feels it is appropriate in the
circumstances.
14. In particular, Wainfleet Wind is of the view that Rule 3.07 of the Board's Practice
Direction on Cost Awards is appropriate in the circumstances. Wainfleet Wind was
forced to apply to the Board because of the Township's general opposition to wind

projects not because of any specific concern regarding proposal regarding the distribution system. This is reinforced by the Township's lack of meaningful participation in this Application.

15. In the present circumstance, Wainfleet Wind has been put to significant expense in preparing and prosecuting this application including costs for publishing the Notice of Application of \$3,500.00. Other costs include costs of counsel, expenses related to the hearings (e.g. courier, Board) and the diverting of resources from other tasks. A copy of the invoices for the publication of the Notice are appended to these submissions.
16. In addition, the Board had to use scarce resources to process this Application. Board Staff noted the Township's behaviour seems to be based upon a disagreement with the provincial policy regarding green energy rather than any issue with the Applicant or the proposed project.
17. The Township, while forcing the Applicant to pursue a decision of the Board, did not consider the request for municipal consent and then failed to participate in the OEB proceeding.
18. Wainfleet Wind infers from this conduct that the Township wished to inflict unnecessary costs and inconvenience on Wainfleet Wind. Further, this behaviour impacts other entities that are regulated by the Board as resources are diverted to deal with this Application. This type of behaviour should be strongly discouraged.
19. The Board has considerable discretion to award costs and Wainfleet Wind feels it is appropriate for the Board to exercise its discretion to award costs against the Township

in favour of Wainfleet Wind in the amount of \$3,500.00 plus the Board's cost of the Application. The request for costs covers the publishing costs only and not the other expenses incurred by Wainfleet Wind.

Conclusion

20. Wainfleet Wind requests an order or order(s) granting it the right to construct and install the proposed distribution system as requested.
21. Wainfleet Wind requests the Board issue a decision at its earliest opportunity. Further, Wainfleet Wind does not wish any consideration of the costs to delay a decision and order regarding the ability to install the proposed distribution system.

DATED June 4th, 2013 at Toronto, Ontario.

Wainfleet Wind Energy Inc.

By its counsel

AIRD & BERLIS LLP



Scott Stoll

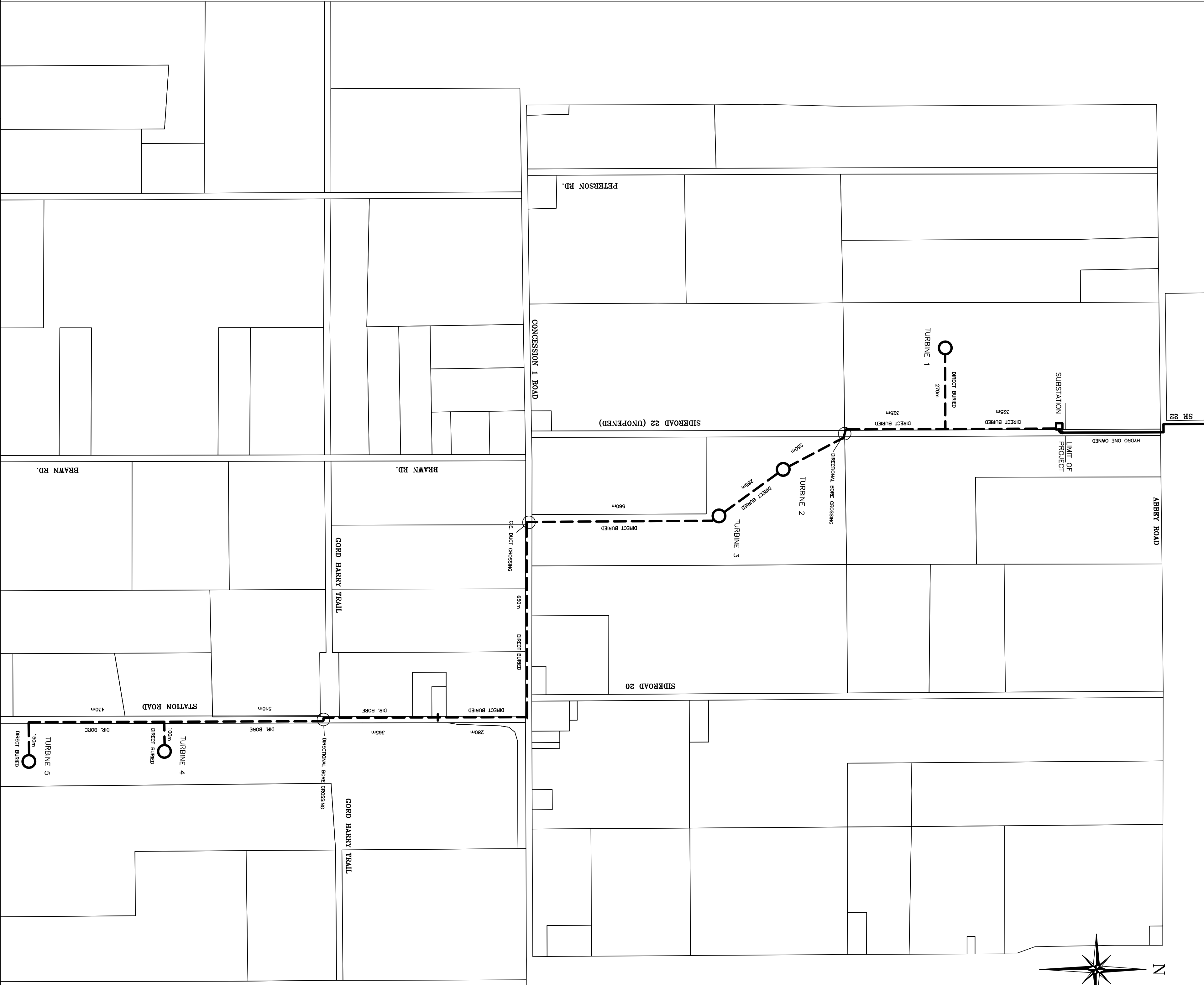
14703047.2

LIST OF DRAWINGS – MAINFLEET WIND PROJECT

DWG. #	DRAWING TITLE
123901C1.0	COLLECTOR SYSTEM OVERALL LAYOUT AND CONSTRUCTION NOTES
123901C1.1	COLLECTOR SYSTEM CROSS SECTION DETAIL & PLAN & PROFILE CONC. 1 RD STA. 0+000 TO STA. 0+120
123901C1.2	COLLECTOR SYSTEM PLAN AND PROFILE CONCESSION 1 ROAD STA. 0+120 TO STA. 0+310
123901C1.3	COLLECTOR SYSTEM PLAN AND PROFILE CONCESSION 1 ROAD STA. 0+310 TO STA. 0+500
123901C1.4	COLLECTOR SYSTEM PLAN AND PROFILE CONCESSION 1 ROAD STA. 0+500 TO STA. 0+650
123901C1.5	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+000 TO STA. 0+180
123901C1.6	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+180 TO STA. 0+370
123901C1.7	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+370 TO STA. 0+560
123901C1.8	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+560 TO STA. 0+750
123901C1.9	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+750 TO STA. 0+940
123901C1.10	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 0+940 TO STA. 1+130
123901C1.11	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 1+130 TO STA. 1+320
123901C1.12	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 1+320 TO STA. 1+510
123901C1.13	COLLECTOR SYSTEM PLAN AND PROFILE STATION ROAD STA. 1+510 TO STA. 1+600
123901C1.14	COLLECTOR SYSTEM PLAN – SIDEROAD 22 CROSSING
123901C1.15	COLLECTOR SYSTEM ROAD CROSSING SECTION DETAILS STATION RD, CONCESSION 1 RD, SIDEROAD 22.

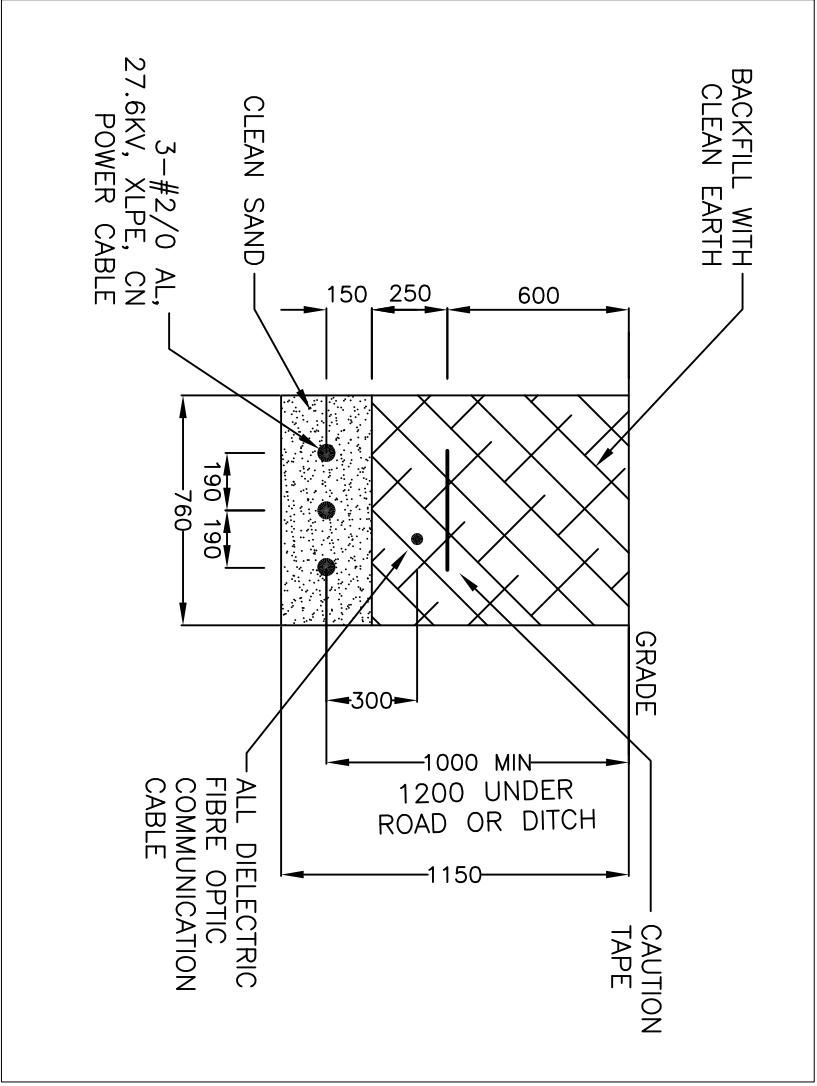
CONSTRUCTION NOTES:

- ALL DIMENSIONS ARE METRIC AND SHOWN IN mm, UNLESS OTHERWISE NOTED.
- TO ENSURE VISIBILITY, CABLES SHOWN IN CROSS SECTIONS ARE SHOWN LARGER THAN SCALE.
- ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE ONTARIO ELECTRICAL SAFETY CODE, AND CSA C22.3--#10 UNDERGROUND SYSTEMS.
- UTILITIES SHOWN ON THESE PLANS ARE FOR DESIGN REFERENCE ONLY. EXCAVATOR TO OBTAIN LOCATES PRIOR TO ANY EXCAVATION. UTILITY CONFLICTS TO BE RESOLVED ON SITE WITH UTILITY OWNERS).
- MAINTAIN AT LEAST 1.0m HORIZONTAL CLEARANCE FROM ALL UTILITIES RUNNING PARALLEL TO TRENCH LINE.
- MAINTAIN AT LEAST 0.3m VERTICAL CLEARANCE FROM OTHER UTILITIES WHERE CROSSINGS OCCUR. IF 0.3m CLEARANCE CANNOT BE MAINTAINED THEN ADDITIONAL MECHANICAL PROTECTION IS REQUIRED TO PREVENT FUTURE CONTACT.
- DO NOT OPEN CUT STATION RD. – CROSSING SHALL BE DIRECTIONAL BORE ONLY.
- CAUTION – SAMPLING WELLS NEAR LANDFILL SITE – WEST SIDE OF STATION RD. SOUTH OF GORD HARRY RECREATIONAL TRAIL.
- FOR CONCRETE ENCASED DUCT BANK ALL DUCTS, FITTINGS AND BENDS SHALL BE PVC TYPE DB2/ES2 AS PER CSA C22.2-#211.1 SOLID WALL ONLY. APPROVED SOLVENT CEMENT SHALL BE USED TO JOIN ALL DUCTS, FITTINGS AND BENDS A MINIMUM OF 30 MINUTES PRIOR TO COVERING OF THE TRENCH.
- CONCRETE ENCASED DUCTS TO BE SUPPORTED WITH IPEX MONOBLOC OR EQUIVALENT SPACERS AND SUITABLY ANCHORED TO PREVENT FLOATING DURING CONCRETE POURING.
- CONCRETE ENCASED DUCT BANK TO BE REINFORCED WITH NON PRE-STRESSED 19mm (5/8”) DEFORMED STEEL REINFORCING BARS, GRADE 400 AND IN ACCORDANCE WITH CSA G30.12. STEEL REINFORCING BARS SHALL BE INSTALLED CONTINUOUSLY, MINIMUM 300mm OVERLAP AND TIED, LOCATED AT THE BOTTOM OF THE DUCT BANK AS SHOWN IN DETAIL 4. DUCTS TO BE ENCASED IN 20MPa CONCRETE WITH 10mm AGGREGATE, 4” SLUMP.
- DUCT BENDS SHALL HAVE A MINIMUM 1.5m RADIUS.
- DUCTS TO BE CLEANED, PROVEN AND ROPED WITH 10mm (3/8”) POLYPROPYLENE PULLING ROPE.
- SAND FILL TO BE UNIFORMLY GRADED CLEAN SAND WITH MAXIMUM AGGREGATE SIZE OF 2mm AND MAXIMUM OF 8% PASSING NUMBER 200 SIEVE.
- INSTALL RED CAUTION TAPE IN OPEN CUT TRENCH AS SHOWN IN DETAILS.
- ROAD AND DRIVEWAY CROSSINGS SHALL BE BACKFILLED WITH GRANULAR “A” AND COMPACTED TO 100% STANDARD PROCTOR DENSITY, WITH SURFACE RESTORATION TO MATCH EXISTING, IN ACCORDANCE WITH THE MUNICIPAL OR REGIONAL AUTHORITY.
- TRENCH RESTORATION IN BOULEVARD AND LAWN AREAS SHALL INCLUDE CLEAN BACKFILL WITH SURFACE RESTORATION TO MATCH EXISTING, IN ACCORDANCE WITH THE MUNICIPAL OR REGIONAL AUTHORITY.
- AS-BUILT TRENCH LOCATION TO BE RECORDED WITH OFFSET DIMENSIONS FROM PROPERTY BARS, ROAD CENTRE LINE, FENCE LINES, ETC.
- TRENCH LINE ALONG ROAD ALLOWANCE TO BE MARKED WITH PERMANENT, ABOVE GROUND, RED COLOURED MARKERS – “CAUTION – BURIED HIGH VOLTAGE CABLES”. TRENCH MARKERS NOT TO BE INSTALLED WITHIN ___m OF TRAVELLED ROAD SURFACE TO AVOID CONFLICT WITH SNOW PLOWING AND ROAD MAINTENANCE.

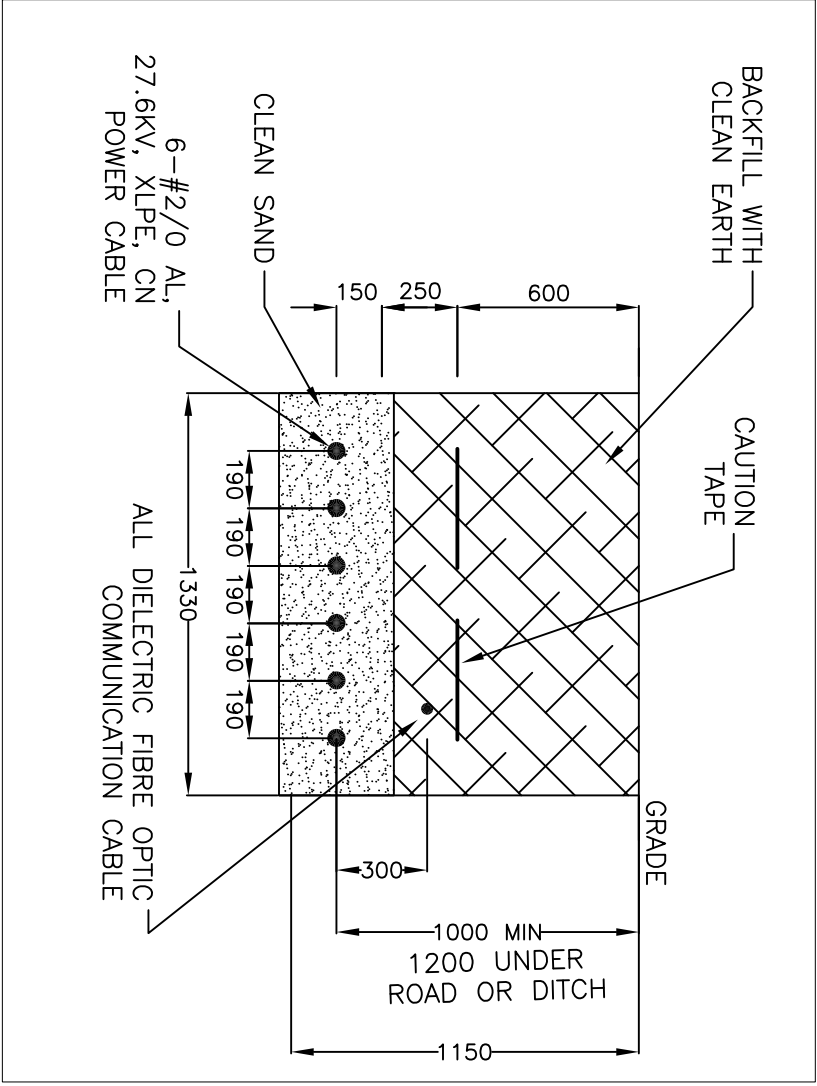


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#		REVISION		M/D/Y							

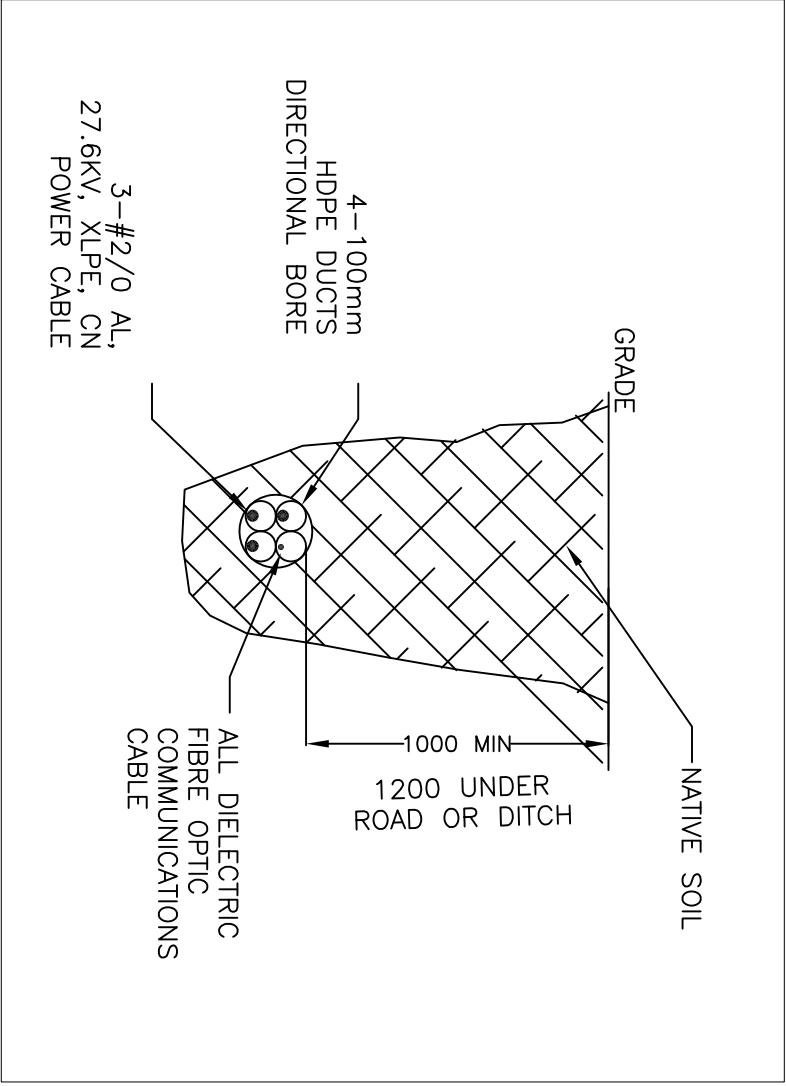
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TYPICAL TRENCH – DIRECT BURIED
27.6KV COLLECTOR CABLES
ONE CIRCUIT
SCALE 1:25



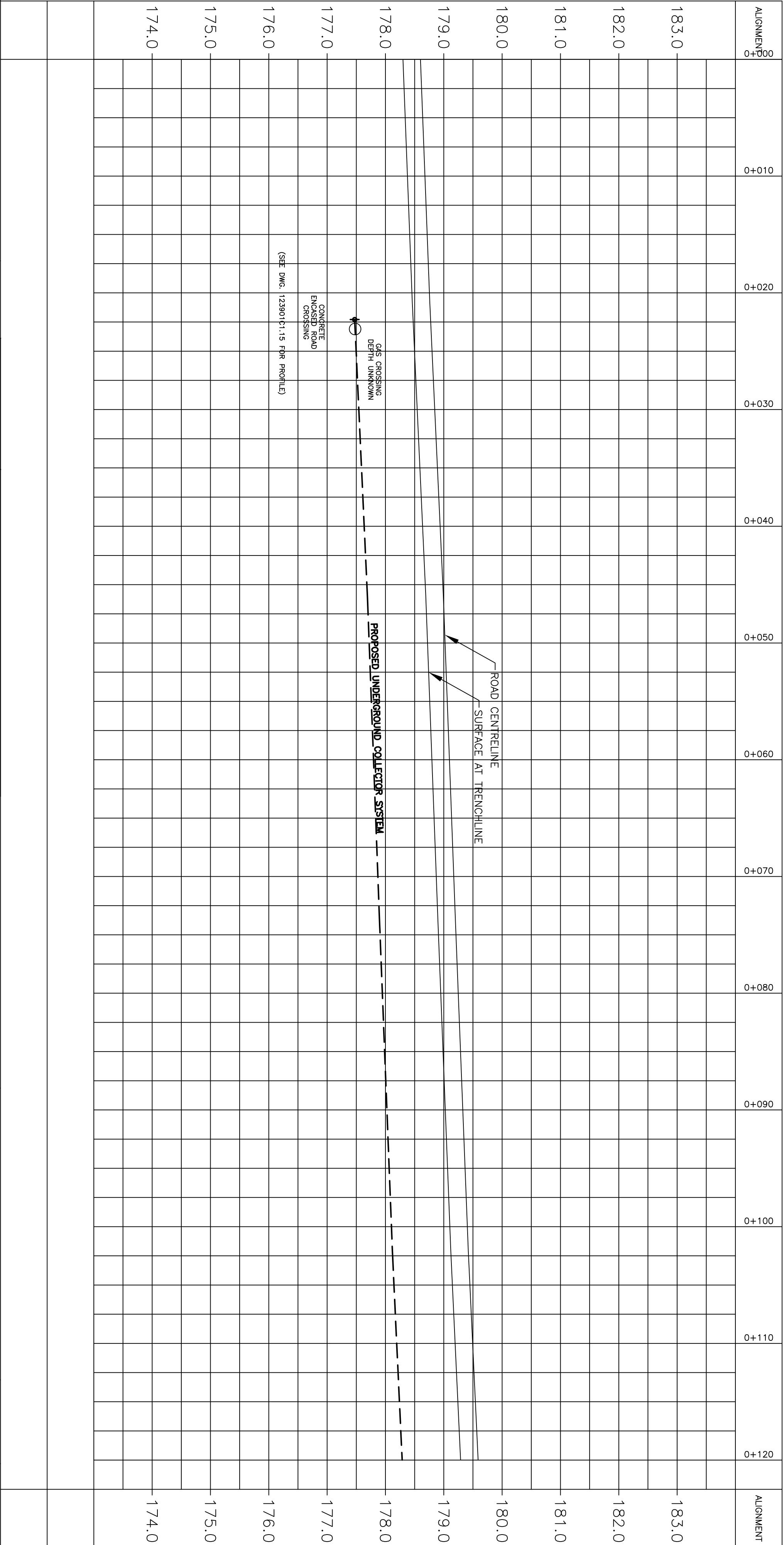
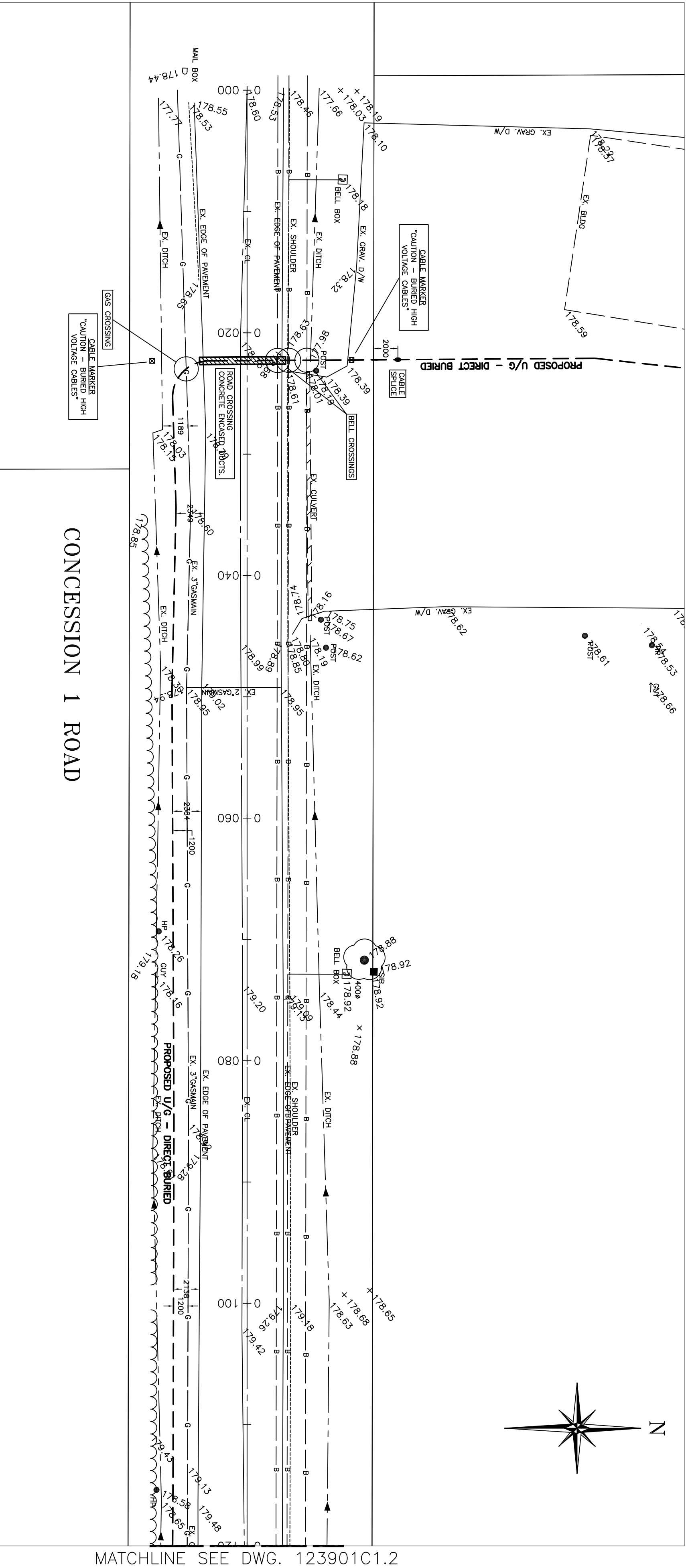
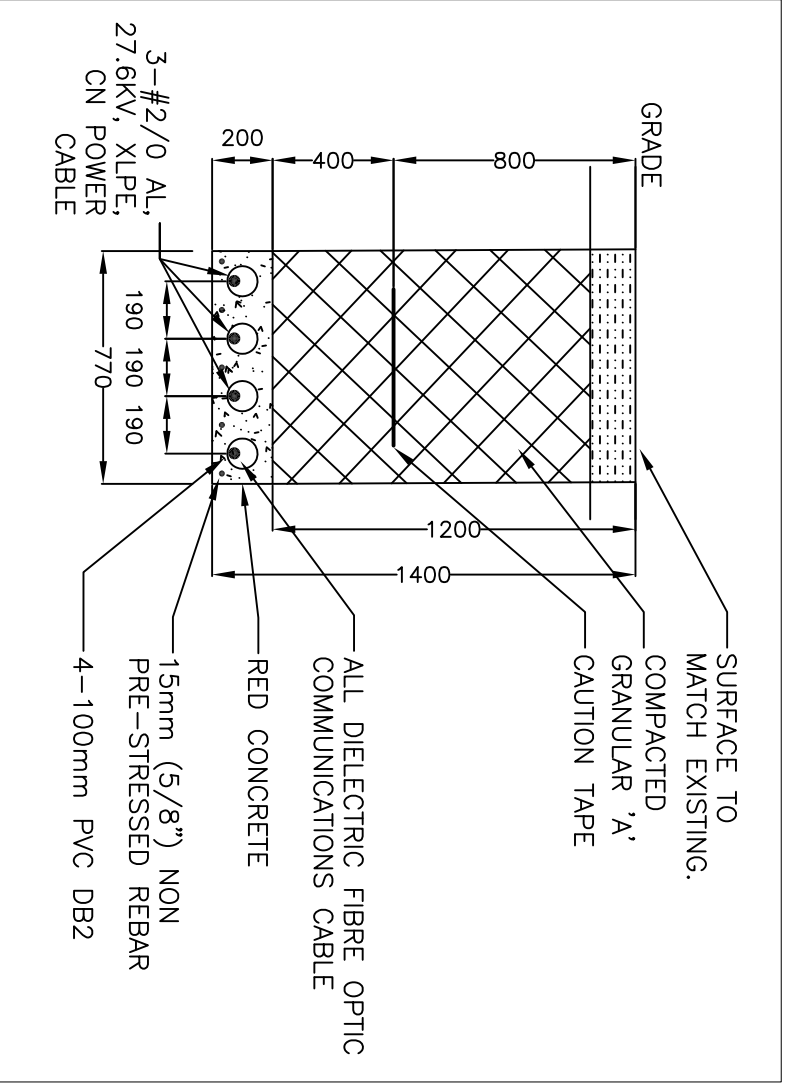
DETAIL 2
TYPICAL TRENCH – DIRECT BURIED
27.6KV COLLECTOR CABLES
TWO CIRCUITS
SCALE 1:25



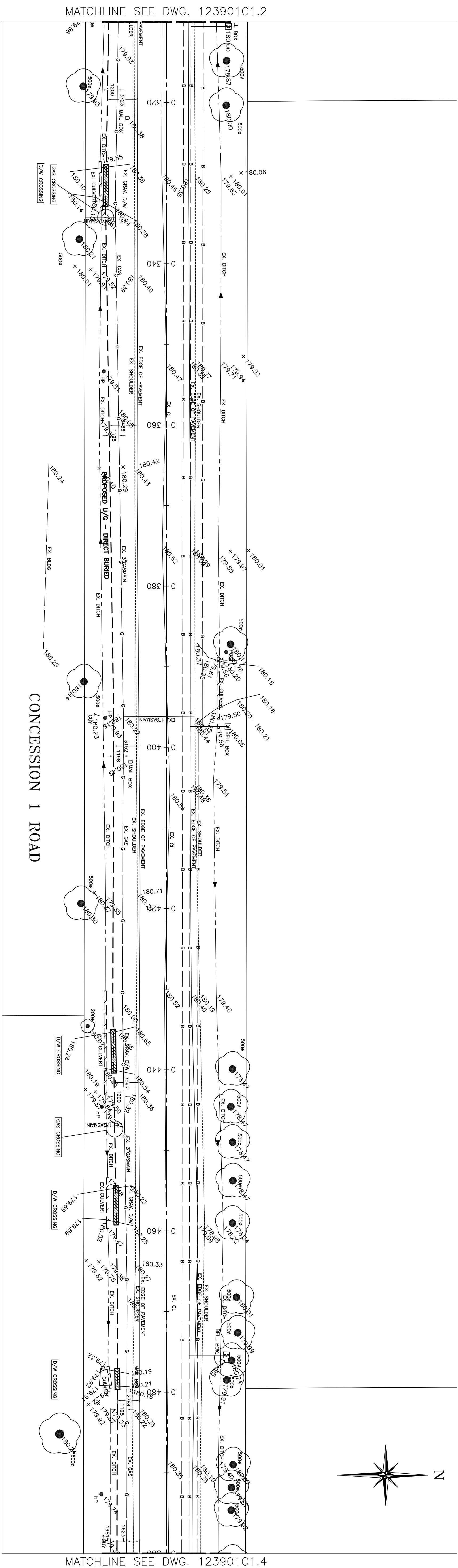
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TYPICAL TRENCH – DIRECTIONAL BORE
HDPE DUCTS
27.6KV COLLECTOR CABLES
SCALE 1:25

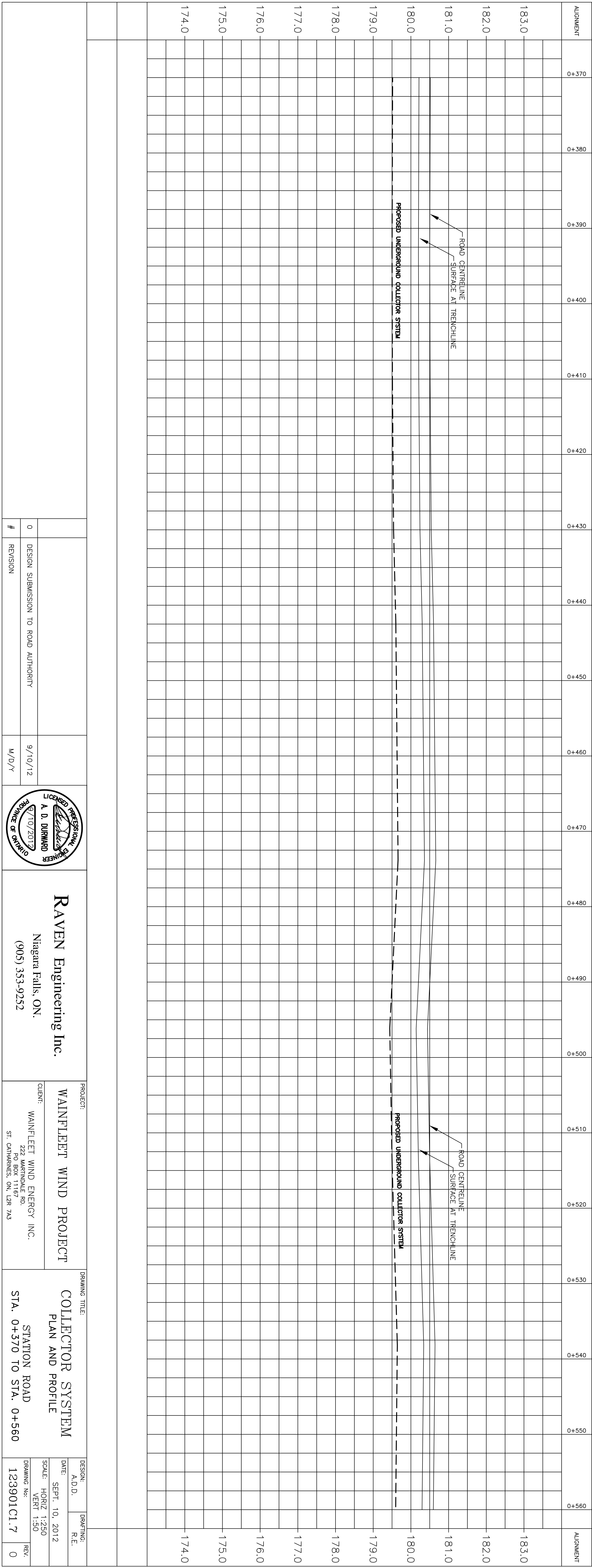
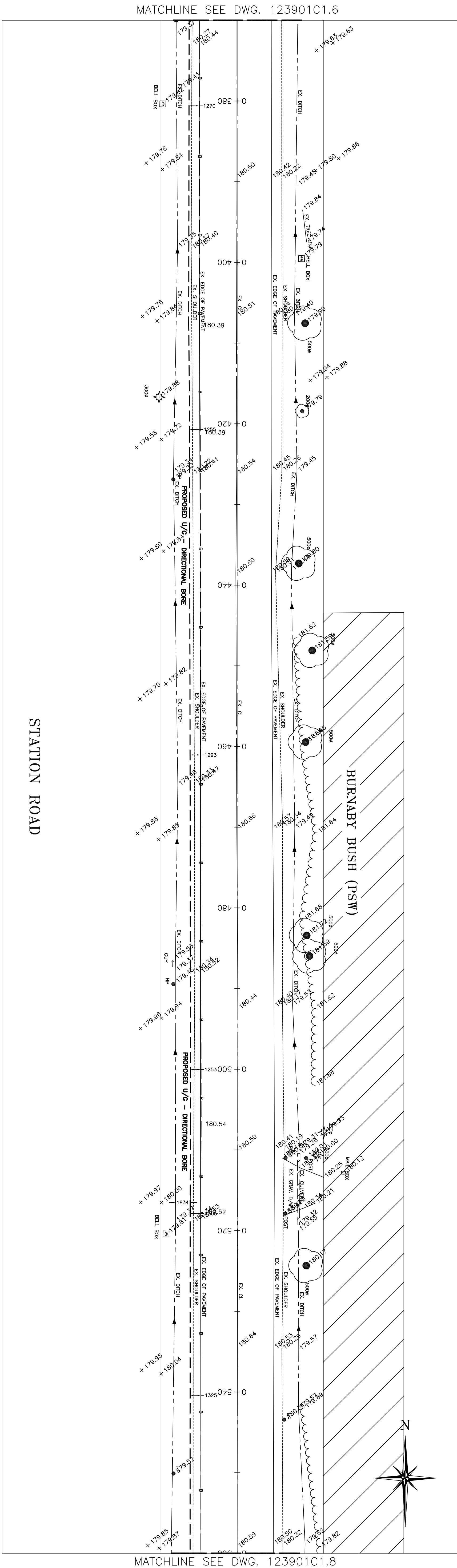


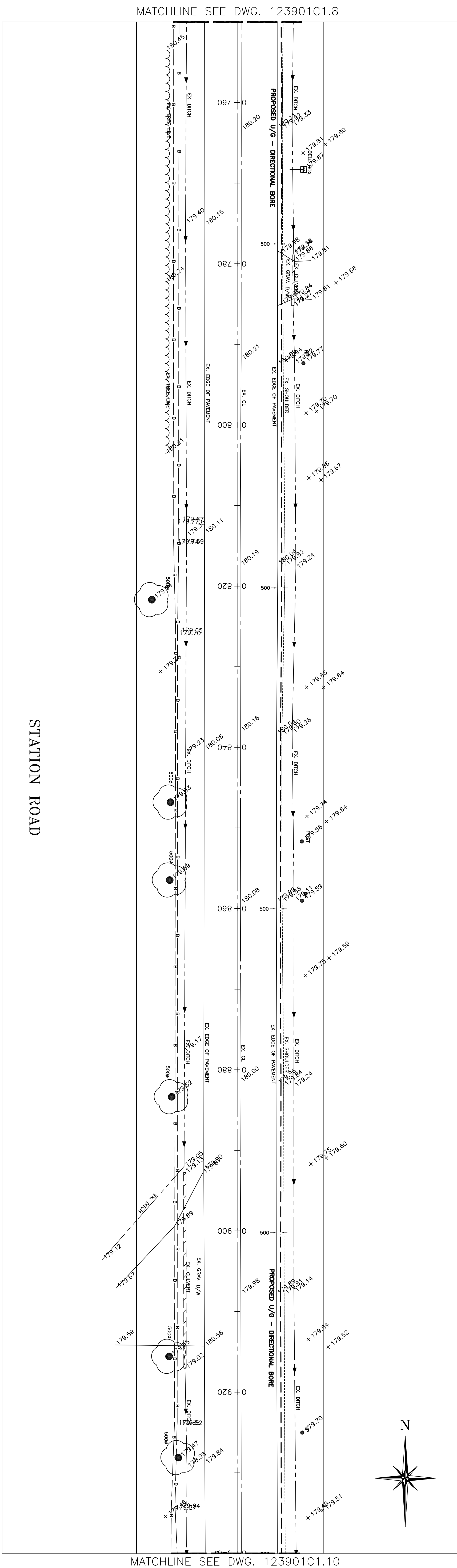
DETAIL 4
TYPICAL TRENCH – ROAD CROSSING
AND DRIVEWAY CROSSING
CONCRETE ENCASED DUCT BANK
27.6KV COLLECTOR CABLES
SCALE 1:25

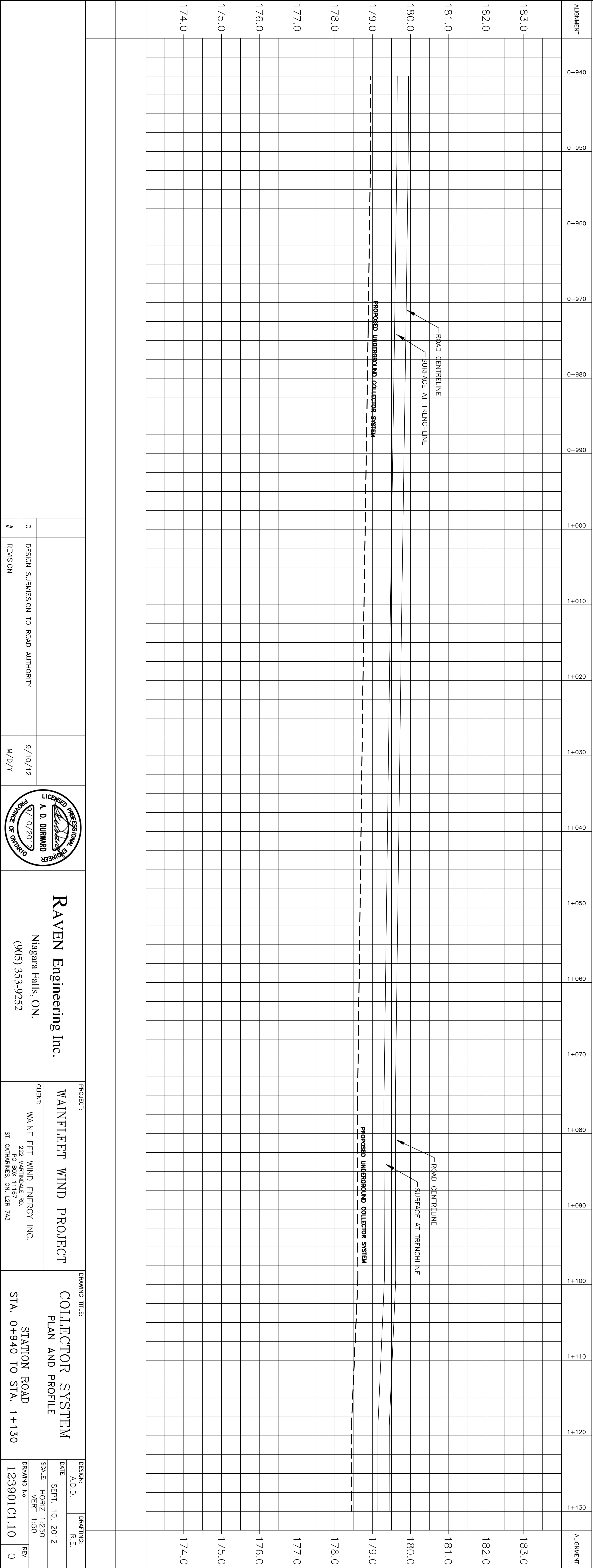
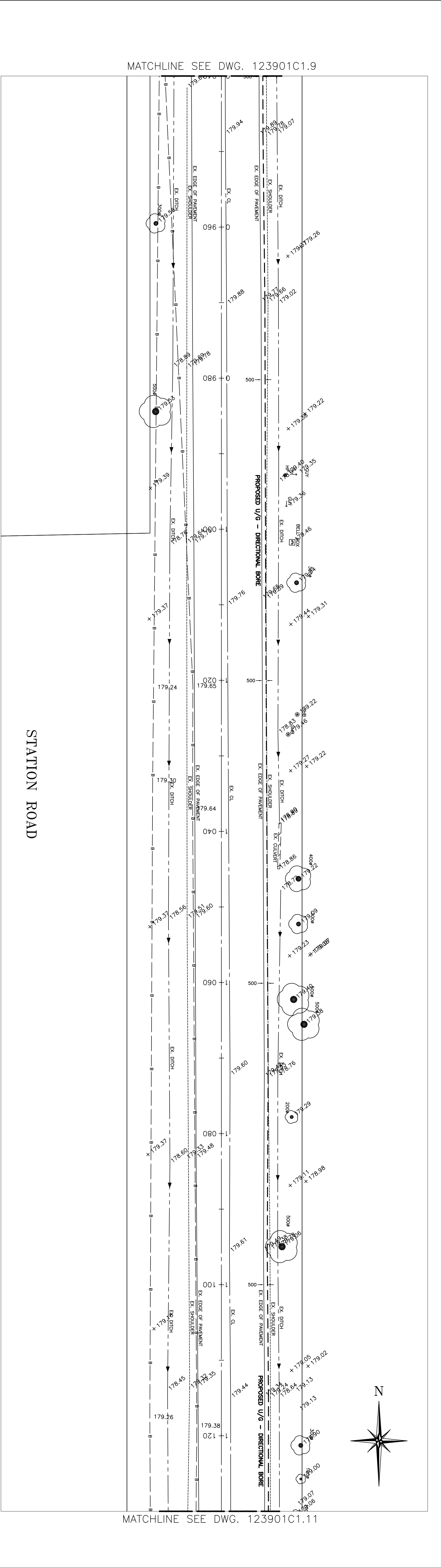


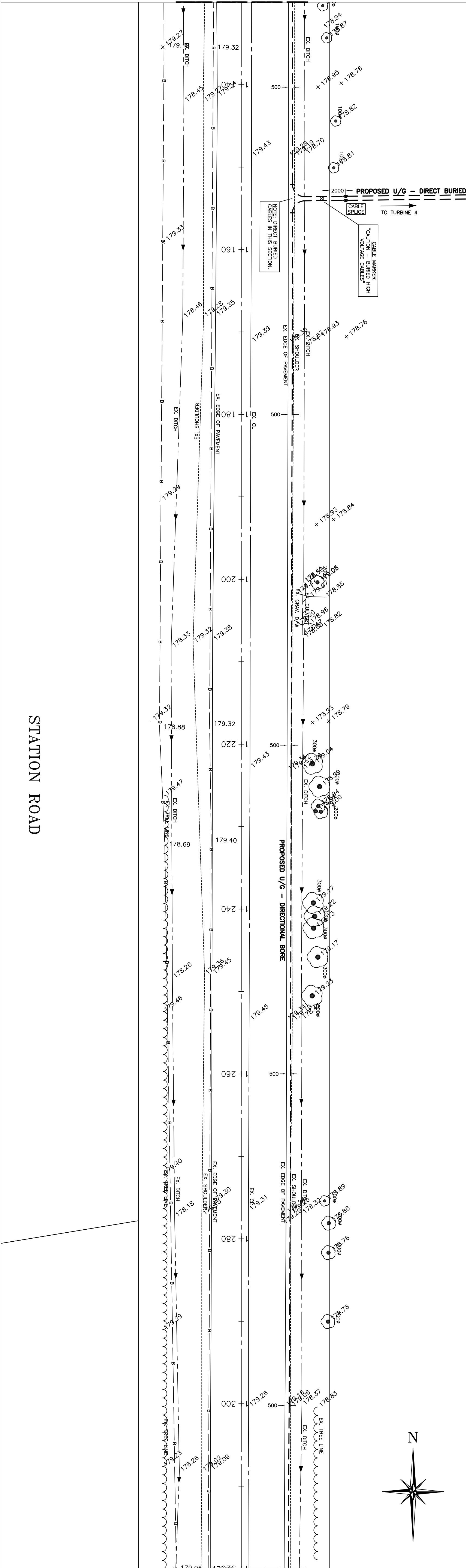
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CLIENT: WAINFLEET WIND ENERGY INC.			
222 WAINFLEET RD.			
ST. CATHARINES, ON, L2R 7A3			
PROJECT: RAVEN Engineering Inc.			
Niagara Falls, ON.			
(905) 353-9252			
DESIGN SUBMISSION TO ROAD AUTHORITY			
0			
#			
REVISION			
M/D/Y			

[illegible]



[illegible]





ALIGNMENT	1+130	1+140	1+150	1+160	1+170	1+180	1+190	1+200	1+210	1+220	1+230	1+240	1+250	1+260	1+270	1+280	1+290	1+300	1+310	1+320	ALIGNMENT
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ROAD CENTRELINE

SURFACE AT TRENCHLINE

PROPOSED UNDERGROUND COLLECTOR SYSTEM

ROAD CENTRELINE

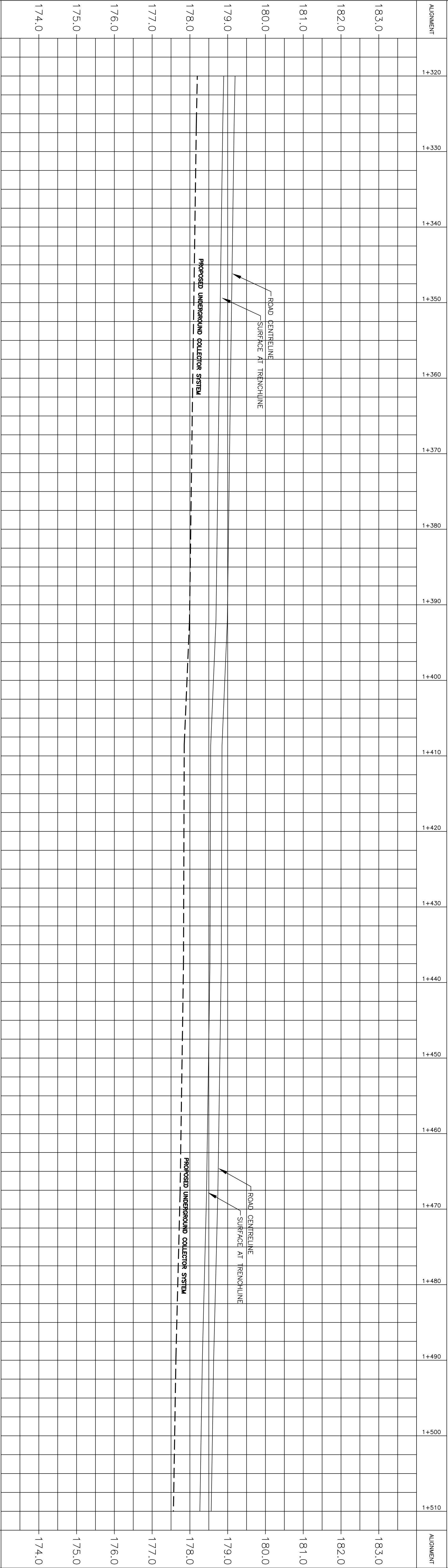
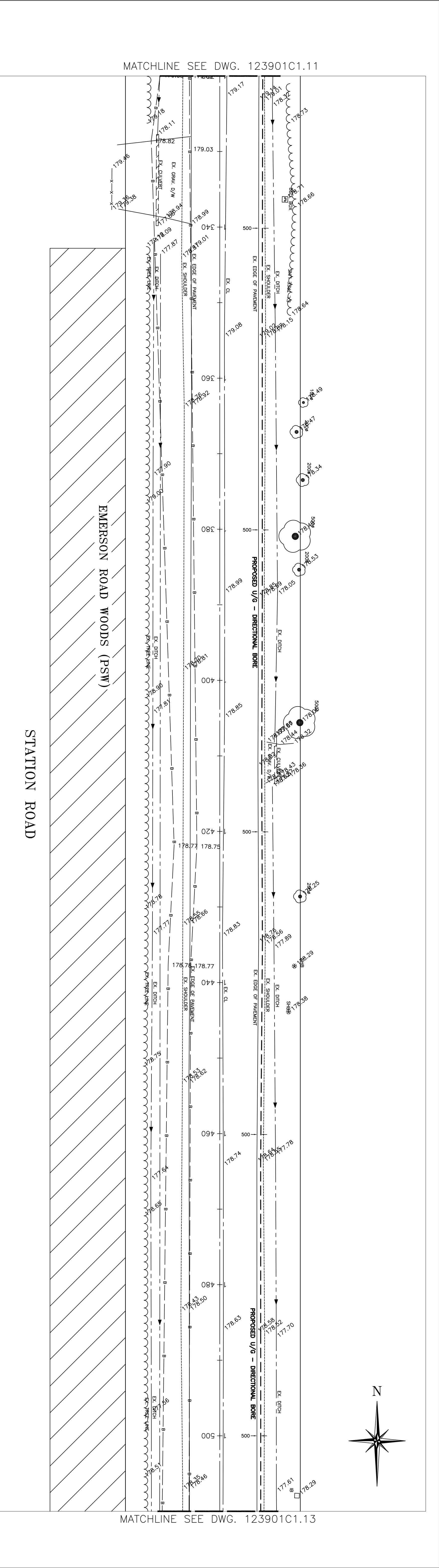
SURFACE AT TRENCHLINE

PROPOSED UNDERGROUND COLLECTOR SYSTEM

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# REVISION	

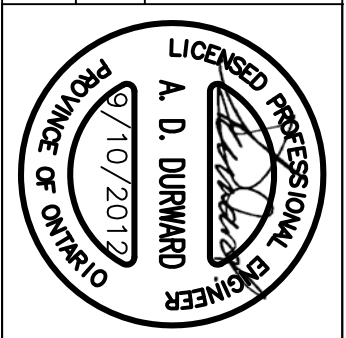
PROFESSIONAL ENGINEER
A. D. DURWARD
9/10/2012
Stamp of Ontario

RAVEN Engineering Inc.
Niagara Falls, ON.
(905) 353-9252

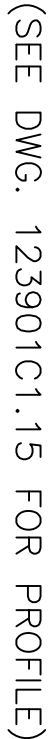


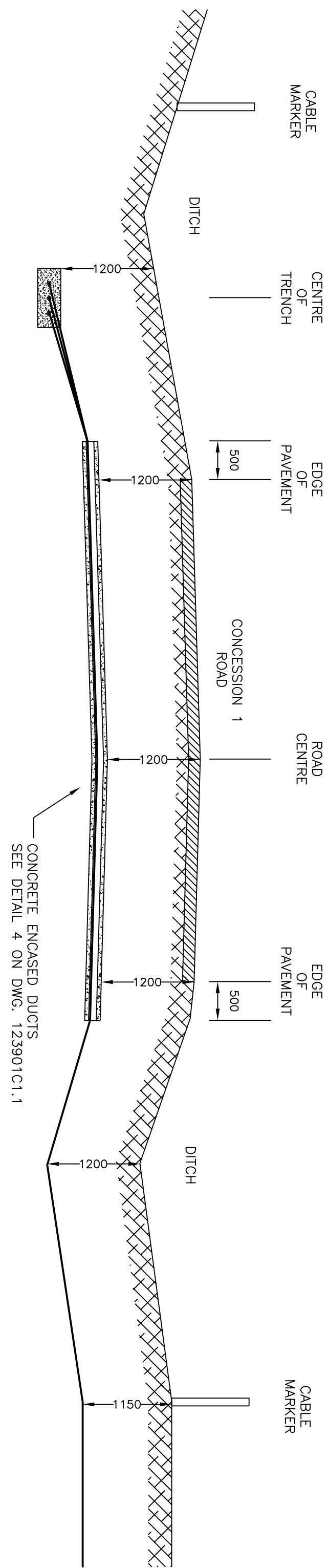
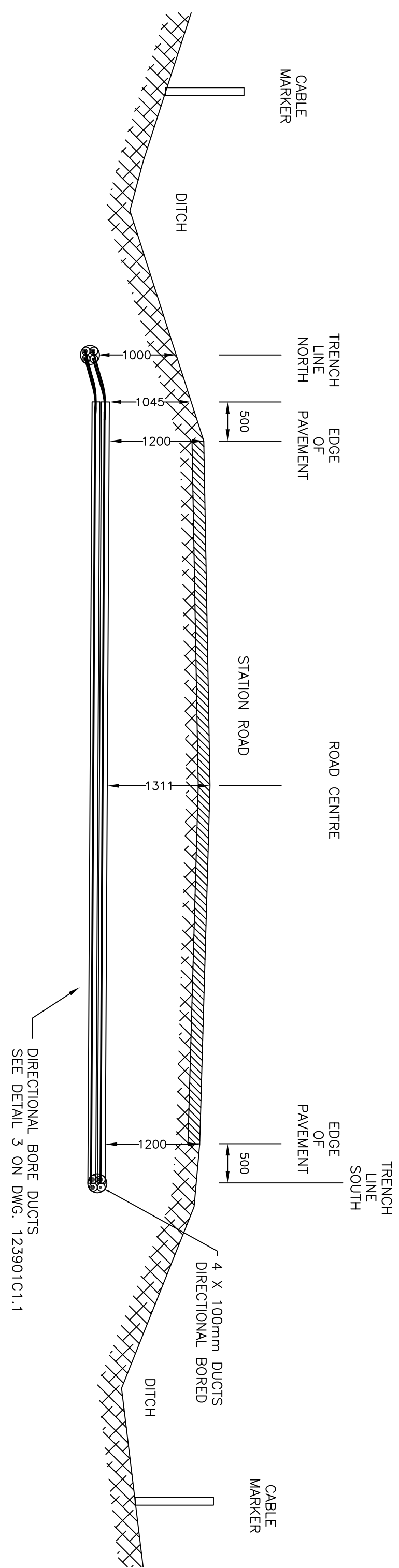
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WAINFLEET WIND ENERGY INC. 222 MARINDALE RD. ST. CATHARINES, ON, L2R 7A3				SEPT. 10, 2012	
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				REV:	
				0	

DESIGN SUBMISSION TO ROAD AUTHORITY		9/10/12	
#		M/D/Y	



RAVEN Engineering Inc.
Niagara Falls, ON.
(905) 353-9252

1.14

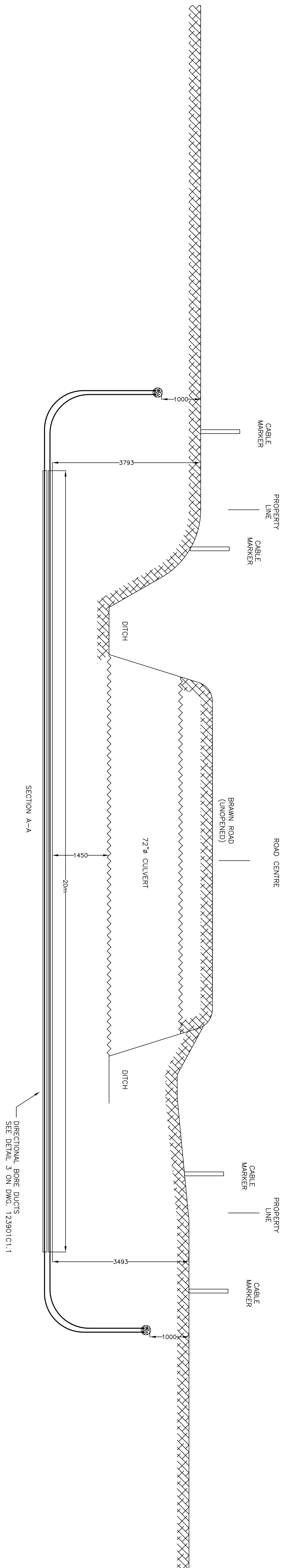


STATION ROAD CROSSING

SEE DWG. 123901C1.8 FOR PLAN VIEW

CONCESSION 1 ROAD CROSSING

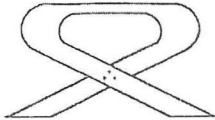
SEE DWG. 123901C1.1 FOR PLAN VIEW



SIDEROAD 22 CROSSING

SEE DWG. 123901C1.14 FOR PLAN VIEW

[illegible]

**Rankin Construction Inc.**

222 Martindale Rd. P.O. Box 1116
St. Catharines, ON L2R 7A3
Tel: (905) 684-1111 Fax: (905) 684-2260
Hamilton Office: Tel: (905) 525-5153 Fax: (905) 525-9110

Purchase Order No.

1395

Reference
Wainfleet Wind Energy Inc.

Date: March 15, 2013

PURCHASE ORDER**Vendor Info**

Company Name: Sun Media

Address:

Phone: 905-931-5711

Contact: Trevor Beattie Email: trevor.beattie@sunmedia.ca

Delivery Info

Delivery Date:

F.O.B.:

Item	Description	Quantity	Units	Unit Price	TOTAL
1	Ontario Energy Board Notice of Application and Hearing Run on Monday March 18, 2013 in the Standard Tribune and Review				\$3,500.00

Total \$3,500.00

General Notes

- 1) As per attached quotation
- 2) Ontario Energy Board name and logo heading up the ad and project map incl.

☐ P.S.T. EXEMPT G.S.T. Extra
☐ P.S.T. INCLUDED G.S.T. # R105015200
☐ P.S.T. EXTRA

Jordan Beekhuis P.Eng.

DTI
MediaPlus - Display

Production Ticket
SEE JOB NUMBER(S) BELOW

User: TBEATT Date: 03/15/2013
Time: 9:39 AM

Order #: 1217213
Advertiser: AMA0362900 RANKIN CONSTRUCTION INC
Placed by:
Sold by: PN70 Trevor Beattie
Creation: 03/15/2013 08:42 AM
Reference #:
P.O. #: N/A
Agency/Client: AMA0362900 RANKIN CONSTRUCTION INC
Contact: ACCOUNTS PAYABLE
Address: 222 MARTINDALE Road
PO BOX 1116 ST CATHARINES, ON L2R 7A3
Caption: NOTICE OF APPLICATION
Product: RETL Retail
Brand:
Position: N
Coupon: No
Reversed: No

Total Ad/Order Cost: \$3,500.00

Date	Job #	Pub.	Units	Supplement- Section	Class.	Ad #	Line Rate	Flat Charge	Color	Spot	Spot	Spot
Mon Mar 18 2013	TS2249916	NRPR	5.0 x 230.0	NEWS-ANYW		2249916		\$1,100.00	B&W			
Mon Mar 18 2013	TS2249917	SCPR	5.0 x 230.0	NEWS-ANYW		2249917		\$1,300.00	B&W			
Mon Mar 18 2013	TS2249920	WTPR	5.0 x 230.0	NEWS-ANYW		2249920		\$1,100.00	B&W			