



# CITY OF NEW BEDFORD

## CITY COUNCIL

April 28, 2016

**Ordered,** that in consideration of the sum of Five Hundred Eighty-Seven Thousand Five Hundred Dollars (\$587,500.00) set forth in an Offer to Sell Easement between the City of New Bedford and the United States of America, the Mayor is hereby authorized on behalf of the City to execute 1) the Offer to Sell Easement and 2) is further authorized to execute an Easement to be recorded at the Registry of Deeds in a form acceptable to the City Solicitor for the completion of any work necessary and incident to design and construction of the New Bedford Harbor Superfund remedy on a portion of City owned property located at 103 Sawyer Street and shown on City Assessor's Map 93, Lot 120. A copy of the proposed Offer to Sell Easement is attached hereto and made a part hereof.

## OFFER TO SELL EASEMENT

Project: EPA  
New Bedford Harbor Superfund Site

Tract No(s). 104E

Contract No. DACW33-6-16-023

*The undersigned, hereinafter called the Vendor, in consideration of the mutual covenants and agreements herein set forth, offers to sell and convey to the United States of America and its assigns, easements as set forth in Exhibit "B", in, upon, over, and across that certain tract of land described in Exhibit "A" attached hereto and made a part hereof.*

*The terms and conditions of this offer are as follows:*

*(1) The Vendor hereby agrees that this offer may be accepted by the United States, through any duly authorized representative, by delivering, mailing, or telegraphing a notice of acceptance to the Vendor at the address stated below, at any time within two (2) months from the date hereof whereupon this offer and the acceptance thereof become a binding contract.*

*(2) The United States agrees to pay to the Vendor for said easement and rights, the sum of Five Hundred Eighty-Seven Thousand Five Hundred Dollars (\$587,500.00), payable upon acceptance of this offer and approval of the Vendor's title; provided the Vendor can execute and deliver a good and sufficient easement deed with warranty of title conveying said easement and rights to the United States of America and its assigns, free and clear from all liens and encumbrances, said conveyance to be subject only to the existing easement and rights set forth in said Exhibit "B".*

*(3) The Vendor agrees that he/she will satisfy of record at or before conveying said easement and rights, all encumbrances and special assessments which are a lien against the land, as the United States may require, and that he/she will pay the pro rata portion of all taxes on the property which are allocable to a period prior to and including the date of vesting title in the United States, or the effective date of possession of such easement and rights by the United States, whichever is the earlier, and, if the Vendor fails to do so, the United States may pay any taxes, assessments, and encumbrances which are a lien against the land; that the amount of any such payments by the United States shall be deducted from the purchase price of the easement; and that the Vendor will, at the request of the United States and without prior payment or tender of the purchase price, execute and deliver an easement deed to the United States conveying the easement and rights herein described and obtain and record such other curative evidence of title as may be required by the United States.*

*(4) The Vendor agrees that the United States may, notwithstanding the prior acceptance of this offer, acquire title to said easement and rights by condemnation or other judicial proceedings, in which event the Vendor agrees to cooperate with the United States in the prosecution of such proceedings; agrees that the consideration hereinabove stated shall be the full amount of just compensation, inclusive of interest, for the taking of said easement and rights; agrees that the consideration recited in paragraph 2 hereof constitutes the full amount of the purchase price for the easement and rights and shall be prorated among all persons having an interest in this property as their respective interests may appear; and agrees that the said consideration shall be in full satisfaction of any and all claims of the Vendor for payment for the right of occupancy and use hereinafter provided for in paragraph (6).*

(5) *As additional consideration for the payment of the purchase price hereinabove set forth, the Vendor hereby grants to the United States the right of occupancy and use of the land in which said easement is to be granted for the purpose of exercising any of the rights described in said Exhibit B from and after acceptance by the United States of this offer until such time as said easement is conveyed to the United States.*

(6) *It is agreed that the spouse, if any, of the Vendor, by signing below, agrees to join in and execute the easement deed to the United States.*

(7) *The Vendor represents and it is a condition of acceptance of this offer that no member of or delegate to Congress, or resident commissioner, shall be admitted to or share any part of this agreement, or to any benefits that may arise therefrom; but this provision shall not be construed to extend to any contract if made with a corporation for its general benefit.*

(8) *The terms and conditions aforesaid are to apply to and bind the heirs, executors, administrators, successors, and assigns of the Vendor.*

(9) *All terms and conditions with respect to this offer are expressly contained herein and the Vendor agrees that no representative or agent of the United States had made any representation or promise with respect to this offer not expressly contained herein.*

SIGNED, SEALED, AND DELIVERED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF NEW BEDFORD, MASSACHUSETTS

APPROVED AS TO FORM AND  
LEGALITY

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Jonathan F. Mitchell, Mayor

(continued on following page)

*NOTICE OF ACCEPTANCE OF THIS OFFER IS TO BE SENT TO:*

*City of New Bedford, 133 William Street, New Bedford, MA 02740*

*ACCEPTANCE OF OFFER TO SELL EASEMENT*

*Date:*

*The offer of the Vendor contained herein is hereby accepted for and on behalf of the UNITED STATES OF AMERICA.*

*WITNESS:* \_\_\_\_\_

\_\_\_\_\_  
Anne L. Kosel  
Chief, Real Estate Division  
Real Estate Contracting Officer

*Approved for sufficiency of funds \$* \_\_\_\_\_

\_\_\_\_\_  
*Name and signature*

\_\_\_\_\_  
*date*

## EXHIBIT A

Tract No. 104E  
(AP 93 Lot 120)

A certain parcel of land situated in the City of New Bedford, County of Bristol, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point in the north line of Sawyer Street, said point being at the southeasterly corner of land now or formerly of John E. Rugges and the southwesterly corner of the herein described parcel; thence

N 08°52'44" W for a distance of four hundred forty-six and 60/100 (446.60) feet to a point, bounded westerly by land now or formerly of John E Ruggles, and land now or formerly of the City of New Bedford; thence

N 69°05'16" E for a distance of four hundred forty-nine and 61/100 (449.61) feet to a point; thence

N 08°57'38" W for a distance of twenty-two and 40/100 (22.40) feet to a point; thence

N 81°02'22" E for a distance of one hundred eighty-five and 35/100 (185.35) feet to a point; thence

S 08°52'44" E for a distance of three and 00/100 (3.00) feet to a point; thence

N 81°07'16" E for a distance of twenty-one and 95/100 (21.95) feet to a point for a corner of a proposed bulkhead line established by the Harbor and Land Commission; thence

S 08°52'45" E along the so-called proposed bulkhead for a distance of five hundred sixty and 00/100 (560.00) feet to the north line of Sawyer Street; thence

S 81°07'16" W along the northerly line of Sawyer Street for a distance of six hundred forty-seven and 00/100 (647.00) feet to the point of beginning.

Containing 333,595 square feet (7.66 ± acres) and being all or a portion of the land affected by Tax Sale Decree recorded with Bristol County Registry of Deeds in Book 912, Page 389. Shown as AP93 Lot 120 on the plan entitled "Easement Plan over Land Known As Assessor's Plat 93 ~ Lot 120, Sawyer Street, New Bedford, Massachusetts for Foster Wheeler Environmental Corporation", Scale: 1" = 50', Dated: January 27, 2000, Revised/Submitted: 4/27/01, prepared by SAI Surveying Corporation, dated and signed May 15,

2001 and recorded in the Bristol County Registry of Deeds in Plan Book 147 Page 56. Said survey is missing a Boundary Line Table to identify the bearings and distances of three lines: L1 is N 08° 57' 38" W for a distance of 22.40 feet; L2 is S 08° 52' 44" E for a distance of 3.00 feet; and L3 is N 81° 07' 16" E for a distance of 21.95 feet.

## **EXHIBIT B**

The easement and rights over Tract No. 104E consist of an easement and right-of-way for design and construction in, on, over and across the entire parcel for a period not to exceed ten (10) years, beginning May 16, 2016, for use by the United States, its representatives, agents and contractors as a work area including the right to park vehicles, the right to move, store and remove equipment and supplies and erect temporary structures on the land including buildings, water treatment plants, de-sanding facilities, and fencing, and to perform any other work necessary and incident to design and construction of the New Bedford Harbor Superfund remedy; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowner and its assigns, all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired.

Subject to existing easements for public roads and highways, public utilities, railroads and pipelines.