



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

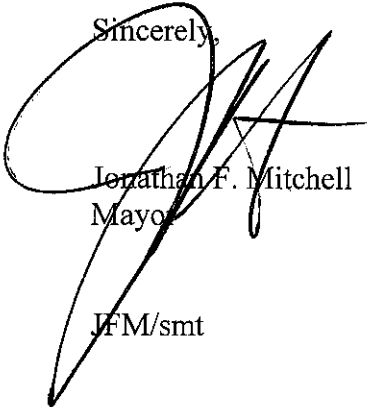
February 2, 2017

City Council President Joseph P. Lopes, and
Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

Dear Council President Lopes and Honorable Members of the City Council:

I am submitting for your approval an ORDER regarding proceeds from the sale of bonds and disposition of premiums as required by the Municipal Modernization Act.

Sincerely,



Jonathan F. Mitchell
Mayor

JFM/smt



CITY OF NEW BEDFORD

CITY COUNCIL

February 9, 2017

AN ORDER SUPPLEMENTING ALL PREVIOUS LOAN ORDERS TO PROVIDE THAT ANY PREMIUM ON BONDS AND NOTES, LESS COSTS OF ISSUANCE, MAY BE APPLIED TO THE PROJECT FOR WHICH SUCH BONDS OR NOTES ARE ISSUED AND THAT THE BORROWING AUTHORITY SHALL BE REDUCED ACCORDINGLY AS PERMITTED BY THE MUNICIPAL MODERNIZATION ACT.

BE IT ORDERED, BY THE CITY COUNCIL OF THE CITY OF NEW BEDFORD AS FOLLOWS: That each prior order of the City Council that authorizes the borrowing of money to pay costs of capital projects is hereby supplemented to provide that, in accordance with Chapter 44, Section 20 of the General Laws, the premium received by the City upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to pay project costs and the amount authorized to be borrowed for each such project shall be reduced by the amount of any such premium so applied.



CITY OF NEW BEDFORD

MASSACHUSETTS

OFFICE OF THE TREASURER


R. Renee Fernandes
Treasurer/Collector

Mark P. Fuller
Assistant Treasurer

Blair S. Bailey
Tax Title Attorney

TO: Honorable Mayor Jon Mitchell

THROUGH: Ari Sky, CFO

FROM: R. Renee Fernandes, Treasurer 

DATE: January 30, 2017

RE: Municipal Modernization Act (MGL, Chapter 44, Section 20)
Restriction on Use; Disposition of Premiums
Supplemental Order Affecting All Previous Loan Orders

The Municipal Modernization Act, effective November 7, 2016, promulgated new regulations on the use/disposition of premium proceeds. Primarily, any proceeds remaining after paying the costs of preparing, issuing and marketing bonds or notes shall be used to pay project costs and to reduce the amount authorized to be borrowed.

The attached order would bring all previous loan orders voted by the City Council prior to November 7, 2016, in compliance with the state regulations.

Passage of this order requires one reading. It neither requires publication nor a public hearing.

If you have any questions, please do not hesitate to contact me.

Thank you for your consideration.

Part I ADMINISTRATION OF THE GOVERNMENT (/Laws/GeneralLaws/PartI) »
Title VII CITIES, TOWNS AND DISTRICTS (/Laws/GeneralLaws/PartI/TitleVII) »
Chapter 44 MUNICIPAL FINANCE
(/Laws/GeneralLaws/PartI/TitleVII/Chapter44) »
Section 20 Proceeds from sale of bonds; restrictions on use; disposition of
premiums »

SECTION 20

[Text of section effective until November 7, 2016. For text effective November 7, 2016, see below.]

Section 20. The proceeds of any sale of bonds or notes, except premiums and accrued interest, shall be used only for the purposes specified in the authorization of the loan, and may also be used for costs of preparing, issuing and marketing such bonds or notes, except as otherwise authorized by this section. If a balance remains after the completion of the project for which the loan was authorized, such balance may at any time be appropriated by a city, town or district for any purposes for which a loan may be incurred for an equal or longer period of time than that for which the original loan, including temporary debt, was issued. Any such balance not in excess of one thousand dollars may be appropriated for the payment of the principal of such loan. If a loan has been issued for a specified purpose but the project for which the loan was authorized has not been completed and no liability remains outstanding and unpaid on account thereof, a city by a two-thirds vote of all of the members of the city council, or a town or district, by a two-thirds vote of the voters present and voting thereon at an annual town or district meeting, may vote to abandon or discontinue the project and the unexpended proceeds of the loan may thereupon be appropriated for any purpose for which a loan may be authorized for an equal or longer period of time than that for which the original loan, including temporary debt, was issued. Any premium received upon such bonds or notes, less the cost of preparing, issuing and marketing them, and any accrued interest received upon the delivery of said bonds or notes shall be paid to the city, town or district treasury. Notwithstanding the provisions of this section, no appropriation from a loan or balance thereof shall be made which would increase the amount available from borrowed money for any purpose to an amount in excess of any limit imposed by general law or special act for such purpose. Effective with the fiscal year 2005 tax rate approval process, additions to the levy limit for a debt exclusion are restricted to the true interest cost incurred to finance the excluded project. Premiums received at the time of sale shall be offset against the stated interest cost in computing the debt exclusion. The provisions of the preceding 2 sentences shall not apply to bond premiums received on or before July 31, 2003.

Chapter 44: Section 20. Proceeds from sale of bonds; restrictions on use; disposition of premiums

[Text of section as amended by 2016, 218, Sec. 67 effective November 7, 2016. For text effective until November 7, 2016, see above.]

Section 20. The proceeds of any sale of bonds or notes shall be used only for the purposes specified in the authorization of the loan; provided, however, that such proceeds may also be used for costs of preparing, issuing and marketing the bonds or notes, except as otherwise authorized by this section. If a balance remains after the completion of the project for which the loan was authorized, the balance may at any time be appropriated by a city, town or district for any purposes for which a loan may be incurred for an equal or longer period of time than that for which the original loan, including temporary debt, was issued. Any balance not in excess of \$50,000 may be applied, with the approval of the chief executive officer, for the payment of indebtedness. If a loan has been issued for a specified purpose but the project for which the loan was authorized has not been completed and no liability remains outstanding and unpaid on account thereof, a city, by a two-thirds vote of all of the members of the city council, or a town or district, by a two-thirds vote of the voters present and voting thereon at an annual town or district meeting, may vote to abandon or discontinue the project and the unexpended proceeds of the loan may be appropriated for any purpose for which a loan may be authorized for an equal or longer period of time than that for which the original loan, including temporary debt, was issued. Any premium received upon the sale of the bonds or notes, less the cost of preparing, issuing and marketing them, and any accrued interest received upon the delivery of the bonds or notes shall be: (i) applied, if so provided in the loan authorization, to the costs of the project being financed by the bonds or notes and to reduce the amount authorized to be borrowed for the project by like amount; or (ii) appropriated for a project for which the city, town or district has authorized a borrowing, or may authorize a borrowing, for an equal or longer period of time than the original loan, including any temporary debt, was issued, thereby reducing the amount of any bonds or notes authorized to be issued for the project by like amount. Notwithstanding this section, no appropriation from a loan or balance thereof shall be made that would increase the amount available from borrowed money for any purpose to an amount in excess of any limit imposed by general law or special act for that purpose. Additions to the levy limit for a debt exclusion are restricted to the true interest cost incurred to finance the excluded project.