



**CITY OF NEW BEDFORD**  
JONATHAN F. MITCHELL, MAYOR

April 5, 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 a LOAN ORDER in the amount of \$6,499,000 authorizing the borrowing of funds to pay costs of environmental cleanup and remediation projects for the Parker Street Waste site, including assessment, planning, design, permitting, settlement or remediation project costs at the New Bedford High School mechanical room, Keith Middle School wetland, Nemakset Street lots, certain acquired residential properties and private properties and the cost of the EPA settlement.

Sincerely,

Jonathan F. Mitchell  
Mayor

JFM/smt

CITY CLERKS OFFICE  
NEW BEDFORD, MA  
2017 APR -5 A 11:47  
CITY CLERK



# CITY OF NEW BEDFORD

## CITY COUNCIL

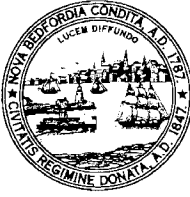
April 12, 2017

A BOND ORDER TO AUTHORIZE THE BORROWING OF FUNDS TO PAY COSTS OF ENVIRONMENTAL CLEANUP AND REMEDIATION PROJECTS FOR THE PARKER STREET WASTE SITE, INCLUDING ASSESSMENT, PLANNING, DESIGN, PERMITTING, SETTLEMENT OR REMEDIATION PROJECT COSTS AT THE NEW BEDFORD HIGH SCHOOL MECHANICAL ROOM, KEITH MIDDLE SCHOOL WETLAND, NEMASKET STREET LOTS, CERTAIN ACQUIRED RESIDENTIAL PROPERTIES AND PRIVATE PROPERTIES AND THE COST OF THE EPA SETTLEMENT

BE IT ORDERED, BY THE CITY COUNCIL OF THE CITY OF NEW BEDFORD AS FOLLOWS:

ORDERED that \$6,499,000 is appropriated to pay the costs of environmental cleanup and remediation projects for the Parker Street Waste Site, including but not limited to environmental assessment, planning, design, permitting or remediation project costs, and all other costs incidental or related thereto at the New Bedford High School mechanical room, Keith Middle School wetland, Nemasket Street lots, certain acquired residential properties, and private properties, and for the costs of the Environmental Protection Agency settlement (the "Project"); that to meet this appropriation the Treasurer with the approval of the Mayor and the Committee on Finance is authorized to borrow \$6,499,000 under Chapter 44 of the General Laws or any other enabling authority; that the amount authorized to be borrowed for this project by this order shall be reduced to the extent of the proceeds of any related environmental litigation received prior to the issuance of bonds or notes under this order; that the premium received by the City upon the sale of any bonds or notes hereunder, 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 hereunder shall be reduced by the amount of any such premium so applied; and that the Mayor is authorized to take any other action necessary to carry out this project; provided, however, that the Chief Financial Officer shall approve the amount and timing of the borrowing for each of the three phases of the Project.

FURTHER ORDERED: That the Treasurer is authorized to file an application with the appropriate officials of The Commonwealth of Massachusetts (the "Commonwealth") to qualify under Chapter 44A of the General Laws any and all bonds of the City authorized by this Order, and to provide such information and execute such documents as such officials of the Commonwealth may require in connection therewith.



OFFICE OF THE CFO


ARI J. SKY  
CHIEF FINANCIAL OFFICER

CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

April 4, 2017

TO: Mayor Jonathan F. Mitchell

FROM: Ari J. Sky, Chief Financial Officer 

SUBJECT: Parker Street Waste Site Project

The FY 2017-2021 Capital Improvement Program includes a three-year project to complete remediation activities and develop a final use for the Nemasket Street lots and acquired residential properties located adjacent to Keith Middle School. Over the past several years, staff has been working to address outstanding litigation issues and to develop a plan to resolve the outstanding environmental conditions.

Accompanying this correspondence are memoranda from the City Solicitor and the Director of Environmental Stewardship, which provide an overview of settlement action to date and the proposed three-year program to complete clean up activities at the site. Also attached are a summary of the proceeds activity and a loan order to fund regulatory closure activities and the proposed settlement with the U.S. EPA. It should be noted that the \$6,499,000 appropriation would be funded by at least \$3,160,903 in settlement proceeds which are currently in the City's possession. In addition, the loan order is structured to direct all future proceeds related to the Parker Street Waste Site toward this project. Therefore, the amount of long-term indebtedness will not exceed \$3,338,097, an amount which was included in the CIP debt model.

I respectfully request the inclusion of the proposed loan order in the Mayor's Papers for the April 12, 2017, City Council meeting. Thank you for your consideration.

*Attachments*

Cc: M. McDermott  
M. Paul  
R. Fernandes

**FY 2017-2019 Parker Street Waste Site Proceeds Summary**

<b>Environmental Litigation Proceeds</b>		
<b><u>AVX</u></b>		
PSWS Litigation		\$2,500,000
	DaRosa:	\$1,725,000
	EPA:	775,000
Railyard Defeasance		\$3,500,000
HDC/NBRA		250,000
Riverwalk Escrow		250,000
AVX Total:		\$6,500,000
<b><u>CDE</u></b>		
PSWS Litigation		\$919,219
Railyard Debt Service		494,964
CDE Total:		\$1,414,183
<b><u>Anticipated FY 2017 Payments</u></b>		
Additional PSWS Litigation Proceeds		\$860,000
	DaRosa:	\$593,000
	EPA:	267,000
<b><u>Other Payments</u></b>		
School Building Materials Litigation		\$40,000
Wetlands Litigation		60,000
Total, Other Payments:		\$100,000
<b>Total, All Proceeds:</b>		<b>\$8,874,183</b>

<b>Disposition of Proceeds</b>		
Railyard		\$3,994,964
PSWS Proceeds		\$4,279,219
	Available for Immediate Appropriation:	\$2,732,846
	Reserve for MSBA (City likely to receive 26%, or \$402,057):	1,546,373
School Building/Wetlands		\$100,000
	Available for Immediate Appropriation:	\$0
	Reserve for MSBA (City likely to receive 26%, or \$26,000):	100,000
HDC/NBRA		\$250,000
Riverwalk Escrow		250,000
<b>Total:</b>		<b>\$8,874,183</b>

<b>Total Eventually Available for Appropriation (approximate):</b>	<b>\$3,160,903</b>
	EPA Settlement: \$1,600,000
	Capital Program: 1,560,903

<b>Anticipated Timing</b>	
	EPA Settlement (Spring 2017): \$1,600,000
	FY 2017 Available: 1,132,846
	FY 2018 Available (Projected): 428,057



CITY OF NEW BEDFORD  
JONATHAN F. MITCHELL, MAYOR

MEMORANDUM

To: Mayor Jon Mitchell

CC: Ari Sky, Robert Ekstrom, Renee Fernandes, Mikaela McDermott

From: Michele Paul

Date: 2/1/17

Subject: Parker Street Waste Site Activities Required for Regulatory Closure

---

The MCP requires that the City file a Permanent Solution Statement and/or Temporary Solution Statement for the PSWS on or before April 17, 2019. This will achieve regulatory closure for the site. The Department of Environmental Stewardship has worked with TRC, its consultant, to prepare a comprehensive summary of costs required to complete response actions and meet the April 2019 deadline. The following summarizes the status of each PSWS area, remaining actions to be taken, and the costs projected to be spent to maintain regulatory compliance:

- *New Bedford High School Campus (not including the Mechanical Room) ..... \$26,000*  
TRC has prepared a "Permanent Solution Statement with Conditions" that has been issued for public comment and input. We have received comments *and are in the* process of finalizing the document, which will require that an Activity and Use Limitation (AUL) be filed for the campus. The AUL allows for all current uses, including outdoor play, recreation, and team sports areas, to continue. The primary reason for the AUL on the campus is to ensure that any excavation on the property for construction, utility installation, or other purposes, will be documented and will be implemented with appropriate soil management measures in place.

- New Bedford High School Mechanical Room* .....*Not included in request*

The hazardous material beneath the mechanical room has been determined to be separate and distinct from the material typically found throughout the PSWS. Impact beneath the mechanical room included chlorinated solvents in groundwater which is relatively isolated and is not present much beyond the mechanical room itself. As such, MassDEP issued a separate Release Tracking Number (RTN) for the tracking and management of the area beneath the mechanical room. The City installed and operated a groundwater treatment system to address groundwater in this area which was successful in reducing the concentrations of chlorinated solvents in groundwater. A Permanent Solution for this release area would require removal of the slab floor, relocation of numerous utilities essential to the operation of the high school building, and treatment or replacement of impacted soil with clean soil. Work to achieve a Permanent Solution is considered infeasible until physical demolition of the school occurs. The City has recently transferred financial responsibility of activity related to the mechanical room to the New Bedford Public School Department. Although TRC has projected a cost of \$94,000 to prepare a Temporary Solution Statement, this cost is anticipated to be borne by the school department and is ***not included in this request.***

- Keith Middle School Wetland* ..... ***\$785,000***

Cleanup of the wetland sediments behind Keith Middle School (to the west) is incomplete. Prior to the realization that additional cleanup was necessary to address residual impact, the City had restricted access to the wetland to prevent trespassing and to protect the habitat resource. After the discovery of remaining impacted sediment in the wetland, the presence of restricted access allowed the City to focus its attention on other areas of the PSWS before completing additional wetland response actions. Since future development of the area is prevented by the presence of the wetland resource, continued restriction to the area is appropriate to ensure long-term habitat protection. The City and TRC have developed a strategy to achieve a permanent solution in this area of the PSWS that is consistent with its ongoing use as a restricted wetland habitat. This approach would rely on limited sediment removal, and placement of a hydrophobic capping system. TRC estimates that the cost to prepare design documentation and permits for EPA, MassDEP, and the New Bedford

Conservation Commission, obtain necessary approvals, implement the remedial action, and document completion and compliance is \$785,000, anticipated to be expended during 2018 and 2019. Long-term monitoring of the wetland, already in place as part of the existing Long-Term Monitoring and Maintenance Implementation Plan (LTMMIP) for the KMS campus will be required to remain in place. The cost of the LTMMIP is an annual operating cost in the NBPS budget.

- *Nemasket Street Lots*..... **\$2,600,000**  
The cleanup approach will rely on limited spot removal of impacted soil, and placement of an engineered barrier over the area. MassDEP has recognized artificial turf field installations as a legitimate engineered barrier application. We propose to employ this approach on the Nemasket Lots to provide KMS with a regulation-sized soccer field. This field would also serve the larger community as the Department of Parks, Recreation, and Beaches can issue permits for use outside school hours. TRC estimates that the cost to prepare design documentation and permits for EPA, MassDEP, and the New Bedford Conservation Commission, obtain necessary approvals, implement the remedial action, and document completion and compliance is \$2.6M, anticipated to be expended during 2017 and 2018. As the field will be incorporated into the KMS campus, required long-term monitoring of the cap will be added to the LTMMIP.
- *Acquired Residential Properties*..... **\$50,000**  
The City and TRC have completed assessment and physical response actions on the acquired residential properties, undergoing design for long-term use as a dog park. Design and construction of the dog park has been and will be funded through a grant obtained by the Department of Parks, Recreation, and Beaches. Outstanding activity remaining to be complete to achieve regulatory closure includes filing of an AUL and submission of the Permanent Solution Statement with Conditions. This documentation will be prepared once the dog park installation is complete, as it will include documentation of compliance with the conditions of the AUL. The cost to complete regulatory closure documentation for this area is \$50,000

- Private Properties* ..... **\$417,000**

Three residential properties located at 284 and 288 Durfee Street, 128 Ruggles Street, Corner Sports located at 319 Hathaway Boulevard, the Evangelical Church of Nations at 129 Hathaway Boulevard, and the Commonwealth of Massachusetts’ Division of Conservation and Recreation (DCR)-owned Hetland Skating Rink at 310 Hathaway Boulevard are partially within the PSWS boundary. The City and TRC have been developing strategies at each of these properties uniquely based on current use and zoning. We believe that any residential property should be addressed in a manner that does not impose any restrictions on continued use and enjoyment as residential property. We have therefore evaluated the need for response actions that would achieve this outcome. In June, 2016, the City and TRC completed excavation of residually-impacted material at 284 Durfee Street and have filed a Permanent Solution Statement without an AUL for this property. We have also evaluated conditions at 288 Durfee Street and have determined that a Permanent Solution Statement without an AUL can be completed without the need to complete additional response actions. Additional assessment at 128 Ruggles Street supports a Permanent Solution Statement without an AUL at this location as well, and we are in the process of filing. We anticipate that work remaining and in progress on these residential properties, including can be completed for a total of \$122,000.

Regarding the non-residential properties, projected costs herein are *based on the assumption of successfully agreeing to AUL conditions with property owners*. We have evaluated the need for additional response actions at each of these properties considering current uses as well as foreseeable future uses based on zoning. Planned expansion at the Church property (based on conversation with Pastor Rosevarte DeSouza) would require response actions including limited soil excavation and replacement, as well as soil management during construction. TRC has estimated the cost of site activities and closure documentation (including an AUL) for the church property at \$250,000. A permanent solution with an AUL can be prepared for Corner Sports without precluding expansion or any uses allowed under current zoning. Assuming the City can successfully execute an AUL with the owner, we anticipate the



cost to complete closure documentation for Corner Sports at \$25,000. TRC has identified the need for substantial additional response actions at the Hetland Ice Arena and has projected costs between \$500,000 to over \$2M to implement depending upon the approach. In the case of Hetland Ice Arena, we recommend that the cost to complete additional response actions to achieve a permanent solution should be borne by the Commonwealth of Massachusetts. We intend to pursue this avenue and expect to meet with DCR and MassDEP to discuss this matter and *this request therefore only includes costs required to support this argument, estimated at \$20,000.*

- *Durfee Street Wetland*..... **\$500,000**

Previous data support the presence of limited impact to a portion of the wetland area north of Durfee Street. Similar to the KMS wetland, future development of the area would be limited by the presence of the wetland resource. TRC has therefore developed a proposed assessment and remedial approach that would provide a permanent solution to include an AUL that merely mirrors existing physical constraints. This property is not owned by the City and we have assumed that we will be able to successfully obtain access to complete the proposed response actions, as well as execute the AUL. We anticipate that response actions to include additional assessment, limited sediment removal, and closure documentation will cost \$500,000.

- *Comprehensive Site-Wide Activities* ..... **\$371,000**

We have summarized activity required to support a site-wide permanent solution in addition to the specific site areas outlined above and to maintain regulatory compliance as follows:

- Continued General Support  
TRC will continue to provide support for public involvement meetings, ad hoc response to issues, miscellaneous risk assessment and technical support, and other required services as they arise. We have estimated these costs at \$50,000 annually.
- Comprehensive Site Assessment and Data Gap Identification  
A site-wide Phase II C to omprehensive Site Assessment is due to MassDEP in April 2017, at which time the boundaries of the PSWS will be formally submitted, and the need complete additional response actions identified. We

are confident that we have already identified substantial response actions to be completed in the areas described above, but may need to collect additional data to support this conclusion. We anticipate this task to cost \$136,000.

- **Closure Documentation**

PSWS closure documentation is due to be submitted in April 2019. We anticipate the cost at \$135,000.

**Request Summary:**

The following table summarizes the overall schedule of costs described herein based on the assumptions provided:

Area	Year 1	Year 2	Year 3	Area Total
NBHS Exterior				
KMS Wetland	\$ 500,000.00	\$ 285,000.00		\$ 785,000.00
Nemasket Lots				
Acquired Residential	\$ 50,000.00			\$ 50,000.00
Private properties				
Durfee Wetlands			\$ 300,000.00	\$ 300,000.00
Comp. Site-Wide				
Legal Contingency <sup>1</sup>	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 150,000.00
<b>Totals</b>				

Funding would be provided by a combination of litigation proceeds and debt issuance. The amount of debt required may be less, depending on the outcome of pending settlements.

Funding Sources	Year 1	Year 2	Year 3	Area Total
Litigation Proceeds				
Debt Issuance	\$ 810,154.00	\$ 1,557,943.00	\$ 970,000.00	\$ 3,338,097.00
<b>Total</b>				

<sup>1</sup> Legal costs are for any remaining litigation regarding the pending settlement and acquisition of releases from private property owners.