



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

January 4, 2022

City Council President Pro Tempore Linda M. Morad and
Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

RE: Activity and Use Limitations (AULs) for Nemasket Street Lots

Dear Council President Pro Tempore Morad and Honorable Members of the City Council:

Enclosed, please find a proposed Order authorizing the Mayor to execute, on behalf of the City of New Bedford, an Activity and Use Limitation (AUL) for the Nemasket Street Lots.

Based upon a Method 3 Risk Assessment performed by the City's Licensed Site Professional, it has been determined that with the restrictions limiting exposure to soil on the site, as set forth in the enclosed AUL, the site poses "No Significant Risk to health, safety, public welfare or the environment under current conditions in which exposure to the soil is prevented". The obligations set forth in the AUL must be undertaken and/or maintained at the property in order to maintain a condition of "No Significant Risk".

I respectfully request that prompt attention be given to this matter.

Sincerely,

Jonathan F. Mitchell
JFM/jf



CITY OF NEW BEDFORD

CITY COUNCIL

January 13, 2022

ORDERED that, the Mayor is hereby authorized to execute, on behalf of the City of New Bedford, an Activities and Use Limitation (AUL) for the Nemasket Lots, in substantially the same form as the attached draft. The Nemasket Lots contains 85,797 +/- square feet or 1.970 +/- acres and is shown on a plan entitled: "Activity And Use Limitation Plan Of Land Located At Nemasket Street Lots New Bedford, Massachusetts" dated: November 11, 2020; Prepared by Land Planning, Inc.; to be recorded at the Bristol County Registry of Deeds Southern District.

**NOTICE OF ACTIVITY AND USE LIMITATION
NEMASKET STREET LOTS
NEW BEDFORD, MASSACHUSETTS**

Release Tracking Number 4-15685

Submitted to:

Massachusetts Department of Environmental Protection
Southeast Region Main Office
20 Riverside Drive
Lakeville, Massachusetts 02347

Prepared by:

TRC Companies, Inc.
Wannalancit Mills
650 Suffolk Street
Lowell, Massachusetts 01854

On behalf of:

City of New Bedford
Department of Environmental Stewardship
133 William Street
New Bedford, Massachusetts 02740

January 2021

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FORM 1075

FORM 1075

Form 1075

Note: Pursuant to 310 CMR 40.1074(5), upon transfer of any interest in or a right to use the property or a portion thereof that is subject to this Notice of Activity and Use Limitation, the Notice of Activity and Use Limitation shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer. Within 30 days of so incorporating the Notice of Activity and Use Limitation in a deed that is recorded or registered, a copy of such deed shall be submitted to the Department of Environmental Protection.

NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Parker Street Waste Site

DEP Release Tracking No.(s): 4-15685

This Notice of Activity and Use Limitation ("Notice") is made as of this ____ day of _____, 2021, by the City of New Bedford, 133 Williams Street, New Bedford, Bristol County, Massachusetts, together with his/her/its/their successors and assigns (collectively "Owner").

W I T N E S S E T H:

WHEREAS, the City of New Bedford, is the owner(s) in fee simple of those certain parcel(s) of vacant land located in New Bedford, Bristol County, Massachusetts, pursuant to deeds recorded with the Bristol Registry of Deeds in Book 9479 Page 311, and Book 3805 Page 244;

WHEREAS, said parcel(s) of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on a plan recorded in the Bristol Registry of Deeds in Plan Book 154, Plan 24;

WHEREAS, the Property comprises part of a disposal site as the result of release(s) of oil and/or hazardous material.

Exhibit B is a sketch plan showing the relationship of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for the Disposal Site in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or (b) the restriction of certain activities occurring in, on, through, over or under the Property. A description of the basis for such restrictions, and the oil and/or hazardous material release event(s) or site history that resulted in the contaminated media subject to the Notice of Activity and Use Limitation is attached hereto as Exhibit C and made a part hereof;

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in this Notice of Activity and Use Limitation are as follows:

1. Activities and Uses Consistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are consistent with maintaining a Permanent Solution and a condition of No Significant Risk and, as such, may occur on the Property pursuant to 310 CMR 40.0000:

- (i) Use for commercial and/or industrial uses, including but not limited to: banking and retail; business, professional, or governmental offices; manufacturing, automotive, or industrial uses; restaurants; municipal government facilities; public utilities facilities; and pedestrian and/or vehicle traffic and vehicle parking that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located beneath existing exposure barriers;
- (ii) Use for recreational uses including but not limited to parks, playgrounds, and entertainment facilities that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located beneath existing exposure barriers;
- (iii) Emergency repair and maintenance of existing utilities;
- (iv) Construction / excavation work provided that a site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk, can occur prior to undertaking the construction / excavation work;
- (v) Installation of new utilities where such utilities are laid in corridors with imported backfill;
- (vi) Such other activities or uses which, in the Opinion of a Licensed Site Professional (LSP), licensed by the Commonwealth of Massachusetts Board of Registration of Hazardous Waste Site Cleanup Professionals, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Section; and
- (vii) Such other activities and uses not identified in Section 2 below as being Activities and Uses Inconsistent with the AUL.

2. Activities and Uses Inconsistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk pursuant to 310 CMR 40.0000, and, as such, may not occur on the Property:

- (i) Single- and multi-family residential use;
- (ii) Gardening of agricultural crops for human consumption using Site soil;
- (iii) Relocation of any fill/soil located beneath existing exposure barriers from the Site to another location without LSP review and approval; and
- (iv) Other private, public, commercial, industrial or construction activities or uses not permitted by Section 1 of this Notice that result in the direct contact with, or disturbance of, the soil/fill from depths greater than three feet or directly below exposure barriers from the Site without supervision of an LSP and consistent with the Massachusetts Contingency Plan (310 CMR 40.0000).

3. Obligations and Conditions. The following obligations and/or conditions are necessary and shall be undertaken and/or maintained at the Property to maintain a Permanent Solution and a condition of No Significant Risk:

- (i) Maintain the physical integrity of the existing exposure barriers;
- (ii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist (CIH) or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any planned (non-emergency) activity that is likely to disturb soil/fill. Activities with the potential to disturb soil/fill should also be planned with an LSP. The HASP should specify the chemicals at the Site, the types of media present, the extent of impacts, the potential routes of exposure, the appropriate level of personal protective equipment, the type of monitoring required, worker safety monitoring, and hazard communication. Workers must be informed of the requirements of the HASP, and the plan must be available on-Site throughout the course of the project;
- (iii) Excavation/disturbance of soil/fill beneath existing exposure barriers requires site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk; and
- (iv) No fill/soil is to be relocated from the Site to an off-site location without LSP review and approval.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by a Licensed Site Professional who shall render an Opinion, in accordance with 310 CMR 40.1080, as to whether the proposed changes are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Permanent or Temporary Solution. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by a Licensed Site Professional in accordance with 310 CMR 40.1080, and without additional response actions, if necessary, to maintain a condition of No Significant Risk.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by a Licensed Site Professional in accordance with 310 CMR 40.1080, the owner or operator of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed in accordance with 310 CMR 40.1074(5).

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned Licensed Site Professional, and recorded and/or registered with the appropriate Registry(ies) of Deeds and/or Land Registration Office(s).

WITNESS the execution hereof under seal this _____ day of _____, 2021.

Mayor Jonathan F. Mitchell

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss _____, 2021

On this ____ day of _____, 2021, before me, the undersigned notary public, personally appeared Jonathan F. Mitchell, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

as Mayor of the City of New Bedford

_____ (official signature and seal of notary)

Form 1075: continued

The undersigned Licensed Site Professional hereby certifies that in his Opinion this Notice of Activity and Use Limitation is consistent with a Permanent Solution and maintaining a condition of No Significant Risk.

Date: _____

David M. Sullivan
[LSP SEAL]

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

_____, 2021

On this ____ day of _____, 2021, before me, the undersigned notary public, personally appeared David M. Sullivan, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

_____ (official signature and seal of notary)

Upon recording, return to:

City of New Bedford
133 William Street
New Bedford, MA 0274

EXHIBIT A

Legal Description of Property

LEGAL DESCRIPTION
Nemasket Street Lots
NEW BEDFORD, MASSACHUSETTS

Beginning at a point at the southeasterly corner of Lot 123, land of Reynolds and said point being the northwesterly corner of the area herein described;

THENCE: N 82° 25' 56" E a distance of 403.59' to a point;

THENCE: S 07° 44' 30" E a distance of 136.41' to a point;

THENCE: S 07° 28' 03" E a distance of 44.52' to a point;

THENCE: S 06° 34' 46" E a distance of 20.37' to a point;

THENCE: Southwesterly on a non-tangent curve to the right, with a radius of 30.31', a length of 27.16', a chord of S 56° 30' 59" W 26.26' to a point;

THENCE: S 82° 35' 19" W a distance of 80.39' to a point;

THENCE: S 82° 14' 57" W a distance of 84.83' to a point;

THENCE: S 82° 33' 36" W a distance of 98.09' to a point;

THENCE: S 81° 25' 18" W a distance of 23.28' to a point;

THENCE: S 82° 54' 27" W a distance of 90.48' to a point;

THENCE: N 28° 41' 25" W a distance of 8.03' to a point;

THENCE: N 07° 34' 04" E a distance of 205.00' to the point of beginning.

Said area contains 85,797 +/- square feet or 1.970 +/- acres and is shown on a plan entitled: "Activity And Use Limitation Plan Of Land Located At Nemasket Street Lots New Bedford, Massachusetts" dated: November 11, 2020; Prepared by Land Planning, Inc.; to be recorded at the Bristol County Registry of Deeds Southern District.

EXHIBIT B

Sketch Plan Showing AUL Area

SUMMIT STREET (PUBLIC - 50' WIDE)

LEGEND

--- UNIT OF THE AREA OF ACTIVITY AND USE LIMITATION
--- UNIT OF THE SITE BOUNDARY
--- EXISTING LOT LINES AND STREET LINES
--- POINT OF BEGINNING
--- CONCRETE WALL, ROAD ETC.

GENERAL NOTES:

1 LOT SUBDIVISION
MAP 69 LOT 125
69 86.60 AC CITY OF NEW BEDFORD BK 3479 PG 111
41.86-100
69 92 CITY OF NEW BEDFORD BK 3405 PG 244
2 PLAT REFERENCE PL BK 154 PG 24
3 FIRST OF COUNTY RECORDS OF DEEDS (SOUTHERN DISTRICT)



RUGGLES

(PUBLIC - 50' WIDE)

STREET

SITE BOUNDARY

HATHAWAY BOULEVARD (PUBLIC - 80' WIDE)

NEMASKET

(NOT CONSTRUCTED)

STREET EASEMENT

AREA OF ACTIVITY
AND USE LIMITATION
85,797± S.F.
OR
1,970± AC

EXISTING TURF SOCCER FIELD

FOR RECORDARY OF DEEDS USE ONLY

1. CERTIFY THAT THE INFORMATION ON THIS PLAN CONFORMS TO THE RECORDS OF THE RECORDARY OF DEEDS.

2. I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES SHOWN ON THE RECORDS OF THE RECORDARY OF DEEDS.

3. I HEREBY CERTIFY THAT THE LINES SHOWN ON THIS PLAN ARE THE LINES SHOWN ON THE RECORDS OF THE RECORDARY OF DEEDS.

4. I HEREBY CERTIFY THAT THE LINES SHOWN ON THIS PLAN ARE THE LINES SHOWN ON THE RECORDS OF THE RECORDARY OF DEEDS.

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10. I HEREBY CERTIFY THAT THE LINES SHOWN ON THIS PLAN ARE THE LINES SHOWN ON THE RECORDS OF THE RECORDARY OF DEEDS.

ACTIVITY AND USE LIMITATION

PLAN OF LAND
LOCATED AT
NEMASKET STREET LOTS
NEW BEDFORD, MASSACHUSETTS
OWNED BY
CITY OF NEW BEDFORD
NOVEMBER 11, 2020

LAND PLANNING, INC.

HANSON 1118 MAIN STREET 02341 (781) 284-4144
BEDFORD 187 HARTFORD AVE 02016 (508) 446-4126
K. GILBERT 214 WORCESTER ST 01506 (508) 850-8256

DATE: 11/11/20
DRAWN BY: J. GILBERT
CHECKED BY: J. GILBERT
SCALE: 1" = 50' H, 1" = 100' V

EXHIBIT C

Activity and Use Limitation Opinion

Activity and Use Limitation Opinion Nemasket Street Lots, RTN 4-15685

Introduction

In accordance with the requirements of 310 CMR 40.1074, this Activity and Use Limitation (AUL) Opinion has been prepared for the following Nemasket Street parcels: map 69, blocks 86, 88 through 93, and blocks 96 through 100 (hereinafter “Nemasket Street Lots” and/or “the Site”). The Site is located on the eastern end of Ruggles Street at or near the intersection of Hathaway Boulevard in New Bedford, Massachusetts (the Property), and owned by the City of New Bedford, 133 William Street, Bristol County, New Bedford, Massachusetts. As of the date of this Activity and Use Limitation Opinion, the Property is the location of a soccer field.

This property is owned by:

The City of New Bedford
133 William Street
New Bedford, Massachusetts 02740
Contact: Mayor Jonathan F. Mitchell
(508) 979-1410

The purpose of this AUL Opinion is to support a Permanent Solution Statement (PSS). ***This AUL applies to the Nemasket Street Lots (hereinafter the Site).***

Site Description

The Site is located on the eastern end of Ruggles Street at or near the intersection of Hathaway Boulevard in New Bedford, Massachusetts. The Site occupies approximately 1.6 acres and is currently developed as a soccer field. The Site is bordered to the north by the KMS, to the east by the New Bedford High School campus, to the south by a dog park and residential properties, and to the west by residential properties.

Site History

Based on review of historical USGS topographic maps from 1941 and 1949, the Parker Street Waste Site (PSWS) was the location of a wetland area prior to activity associated with the PSWS. In the 1942 (1936 survey data) map and 1949 (1948 survey data) map, the PSWS is illustrated as a wetland.

Based on review of historical aerial photographs, the PSWS was subject to land disturbance or disposal activities between the 1940s and late 1960s. The chemical profile of fill materials found at some locations of the Site are similar to those of industrial landfills indicating that the fill material is associated with dumping from industrial sources. The New Bedford High School was constructed between 1970 and 1972. Soils displaced for construction of the building's foundation were reportedly transported across Hathaway Boulevard to what was then vacant land (the present-day location of the Keith Middle School [KMS] and the Site). In 1994, at the current location of the KMS, much of the stockpiled soil was used for grading to create the Former Andrea McCoy

Soccer Field across Hathaway Boulevard (McCoy Field PCB Approval Tech Support Document, EPA dated August 24, 2005). During an environmental investigation of the KMS property as a possible location for a middle school in 2000, concentrations of PCBs above regulatory reporting criteria were detected, which led to a reporting condition to MassDEP. MassDEP assigned RTN 4-15685 to the PSWS.

Following the detection of PCBs at KMS, additional investigations of the surrounding area (NBHS, Walsh Field, several residential properties along Ruggles Street, and the Site) were initiated by BETA on behalf of the City relating to a conditional approval issued by the United States Environmental Protection Agency (EPA) (PCB Risk-Based Cleanup and Disposal Approval, McCoy Field [New Keith Middle School], New Bedford, MA, USEPA August 24, 2005).

Environmental Investigations

The following includes a summary of environmental investigations. A detailed description of investigative activities was included in the *Phase II Comprehensive Site Assessment, Acquired Residential Properties and Nemasket Street Lots Portion of the Parker Street Waste Site*, submitted in January 2012 (Phase II Report) report prepared by TRC for the Site which was submitted to MassDEP by the City in January 2012.

Site Investigations Conducted by Others

BETA conducted subsurface environmental investigations at the Site between September 2004 and August 2005. Soil samples were analyzed for PCBs, 8 metals regulated under the Resource Conservation and Recovery Act (RCRA 8 metals, i.e., arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver), semi-volatile organic compounds (SVOCs), polycyclic aromatic hydrocarbons (PAHs), and dibenzofuran. Analytical results indicated chemical concentrations above MCP Method 1 S-1 soil standards in several samples. During that time, BETA advanced 10 soil borings at the Site.

Following the completion of remedial activities conducted by the EPA at the two residential properties immediately to the west of the Site in December 2010, 139 Ruggles Street and Lot 69-94 on Summit Street, EPA collected three confirmatory sidewall samples over the 0 to 3-foot depth interval. The samples were analyzed for PAHs, PCBs, and metals (arsenic, barium, cadmium, chromium, and lead).

Site Investigations Conducted by TRC

TRC subsequently advanced 47 borings, including surface soil sampling, and excavated 23 test pits at the Site in 2010 and 2011. Soil samples collected from ten borings had total PCB concentrations exceeding 100 milligrams per kilogram (mg/kg).

Two rounds of groundwater sampling were conducted in 2011. The results indicate MCP Method 1 Standards were not exceeded for any of the analytes.

Pre-characterization sampling to characterize soil targeted for off-site disposal or potential on-

site reuse during the proposed remedy was conducted at the Site on April 21 and 22, 2016. Boring locations were surveyed and marked in advance by a licensed surveyor, Land Planning, Incorporated of Hansen, Massachusetts.

Soil borings were advanced to vertically delineate the extent of PCB-impacted soil at two historical boring locations that were targeted for removal and off-site disposal during the remedy. Borings were also advanced at the other eight targeted PCB excavation locations to facilitate the collection of soil samples from horizons with concentrations equal to or greater than 20 times the regulatory limits listed in 310 CMR 30.125 Table 1 (i.e., “the 20X rule-of-thumb”) for toxicity characteristic leaching procedure (TCLP) testing. In addition, twelve other historical boring locations with concentrations equal to or greater than 20 times the regulatory limits listed in 310 CMR 30.125 Table 1 were revisited and surficial soil samples were collected for TCLP and/or waste characterization analyses to further assess surficial soil proposed for reuse or disposal during the remedy.

Additional sampling was performed to further characterize the vertical extent of PCBs at selected locations. The PCB results for the soil samples collected from 3 to 5 feet below grade at locations Bethel-3 and Bethel-4 were 26 mg/kg and 11 mg/kg total PCBs, respectively. The target concentration for soil removal was 100 mg/kg total PCBs. Because total PCB concentrations in the shallower samples (0.5 to 3 feet) at these locations exceeded 100 mg/kg, to be conservative and ensure that soils exceeding 100 mg/kg were removed, soils were excavated to a depth of 4 feet below grade at these two locations during RAM activities.

As part of removal actions in other portions of the Parker Street Waste Site, soils have been relocated to the Site. Soils have been relocated from 284 Durfee Street and from the NBHS campus. Both locations are included in the same disposal site as the Nemasket Street Property (i.e. RTN 4-15685). This soil relocation was made to support response actions at the noted properties and facilitate reuse of the soil during redevelopment of the Site.

Nature of Site Conditions

Environmental site investigations were performed to characterize the nature and extent of impacts at the Site. This section describes the horizontal and vertical extent of impacts for chemicals of concern identified during subsurface investigations, conducted by TRC and others.

Groundwater samples were collected from three monitoring wells (MW-37, MW-38, and MW-39) at the Site in January and December 2011. All Site groundwater samples were submitted for laboratory analysis for PAHs, PCBs, and both total and dissolved MCP Metals and mercury to evaluate the potential for groundwater impacts from identified Site soil chemicals of concern. The samples submitted on December 1, 2011 were also analyzed for VOCs. Chemical concentrations in all groundwater monitoring wells were less than applicable MCP Method 1 groundwater standards.

Soil samples were analyzed for one or more of the following; VOCs, VPH, EPH, SVOCs, PCB Aroclors and congeners, chlorinated dioxins/furans, and metals.

Chemicals detected in soil samples collected from the Site at concentrations above corresponding

MCP Method 1 S-1 soil cleanup standards include four metals (arsenic, barium, chromium, and lead), PCBs, Toxicity Equivalents (TEQs) Summation (the sum of dioxin-like PCB Congeners TEQs and dioxin TEQs), and several PAHs. PCB concentrations in soils remaining within the Site have been reduced to less than 100 mg/kg total PCBs. Exposure Point Concentrations (EPCs) do not exceed their respective MCP Upper Concentration Limits (UCLs), although there were point exceedances of MCP UCLs for lead and the total TEQ.

Conceptual Site Model

The following presents a summary of the Conceptual Site Model. The PSWS was the location of a wetland area prior to activity associated with the PSWS. Based on review of historical aerial photographs, the PSWS was subject to land disturbance correlated with disposal activities between the 1930s and early 1970s. The chemical profile of fill materials found at some locations of the PSWS are similar to those of industrial landfills indicating that the fill material is associated with dumping from industrial sources. The New Bedford High School was constructed between 1970 and 1972. Soils displaced for construction of the building's foundation were reportedly transported across Hathaway Boulevard to what was then vacant land (the present-day location of the KMS and the Site). In 1994, at the current location of the KMS, much of the stockpiled soil was used for grading to create the Former Andrea McCoy Soccer Field across Hathaway Boulevard (McCoy Field PCB Approval Tech Support Document, EPA dated August 24, 2005). During an environmental investigation of the KMS property as a possible location for a middle school in 2000, concentrations of PCBs above regulatory reporting criteria were detected, which led to a reporting condition to MassDEP. MassDEP assigned RTN 4-15685 to the PSWS.

Following the detection of PCBs at the KMS, additional investigations of the surrounding area (NBHS, Walsh Field, and the Site) were undertaken by the BETA Group, Incorporated (BETA) on behalf of the City in connection with a conditional approval issued by the United States Environmental Protection Agency (EPA) (PCB Risk-Based Cleanup and Disposal Approval, McCoy Field (New Keith Middle School), New Bedford, MA, USEPA August 24, 2005).

Site investigations completed by TRC and others were consistent with the above summarized CSM and detected chemicals of concern.

Summary of Remedy

To bring the PSS-P Site remedial activities to closure, the potential risks associated with PSS-P Site soils were mitigated by remediation activities performed in accordance with the *Release Abatement Measure (RAM) Plan Soil Removal in Support of Risk Reduction, Residential Property, 284 Durfee Street, New Bedford MA* dated May, 2016, the *Phase IV Remedy Implementation Plan, Nemasket Street Lots Portion of Parker Street Waste, New Bedford, Massachusetts*, dated April 2018, and the *Release Abatement Measure Plan, Soil Removal in Support of Concrete Pad Construction, New Bedford High School, 230 Hathaway Boulevard, New Bedford Massachusetts* dated May 2016. Approximately 330 cubic yards of impacted soil were removed as part of the remedial activities. Additionally, approximately 712 cubic yards of material was imported to the Site that was deemed to be suitable for reuse under the exposure barrier including approximately 212 cubic yards of material from 284 Durfee Street and the New

Bedford High School, and approximately 500 cubic yards of material from the New Bedford City Yard.

Phase IV activities also included the construction of exposure barriers including a synthetic turf system, pavement, concrete, and soil, in support of re-development of the Site as an athletic complex that includes a synthetic turf soccer field.

Reason for Activity and Use Limitation

TRC performed a Method 2 Risk Characterization to evaluate the potential risk posed by conditions at the Site. The Method 2 Risk Characterization, which assumed that future residential use would be prohibited by the AUL, concluded that a Condition of No Significant Risk has been achieved for soil under current use conditions due to the presence of exposure barriers across the entire Site. In addition, no groundwater EPC exceed applicable MCP Method 1 groundwater standards, indicating that a condition of No Significant Risk has also been achieved for groundwater. However, the comparison of MCP Method 1/Method 2 soil standards to soil EPCs indicates that a Condition of Significant Risk exists for soil at the Site under future use conditions due to both S-2 and S-3 exceedances. Because a condition of Significant Risk exists for soil under assumed future use conditions, an AUL is necessary for the Site to maintain a Condition of No Significant Risk in the future.

Activities and Uses Consistent with the AUL Opinion

- (i) Use for commercial and/or industrial uses, including but not limited to: banking and retail; business, professional, or governmental offices; manufacturing, automotive, or industrial uses; restaurants; municipal government facilities; public utilities facilities; and pedestrian and/or vehicle traffic and vehicle parking that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located beneath existing exposure barriers;
- (ii) Use for recreational uses including but not limited to parks, playgrounds, and entertainment facilities that do not cause and/or result in direct contact with, disturbance of, and/or relocation of the soil/fill located beneath existing exposure barriers;
- (iii) Emergency repair and maintenance of existing utilities;
- (iv) Construction / excavation work provided that a site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk, can occurred prior to undertaking the construction / excavation work;
- (v) Installation of new utilities where such utilities are laid in corridors with imported backfill.
- (vi) Such other activities or uses which, in the Opinion of a Licensed Site Professional (LSP), licensed by the Commonwealth of Massachusetts Board of Registration of Hazardous Waste Site Cleanup Professionals, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Section; and

- (vii) Such other activities and uses not identified in the section below as being Activities and Uses Inconsistent with the AUL.

Activities and Uses Inconsistent with the AUL Opinion

- (i) Single- and multi-family residential use;
- (ii) Gardening of agricultural crops for human consumption using Site soil;
- (iii) Relocation of any fill/soil located beneath existing exposure barriers from the Site to another location without LSP review and approval; and
- (iv) Other private, public, commercial, industrial or construction activities or uses not permitted by Section 1 of this Notice that result in the direct contact with, or disturbance of, the soil/fill from depths greater than three feet or directly below exposure barriers from the Site without supervision of an LSP and the Massachusetts Contingency Plan (310 CMR 40.0000) of MCP.

Obligations and Conditions

- (i) Maintain the physical integrity of the existing exposure barriers;
- (ii) A Health and Safety Plan (HASP) must be prepared by a Certified Industrial Hygienist (CIH) or other qualified individual sufficiently trained in worker health and safety requirements and implemented prior to the commencement of any planned (non-emergency) activity that is likely to disturb soil/fill. Activities with the potential to disturb soil/fill should also be planned with an LSP. The HASP should specify the chemicals at the Site, the types of media present, the extent of impacts, the potential routes of exposure, the appropriate level of personal protective equipment, the type of monitoring required, worker safety monitoring, and hazard communication. Workers must be informed of the requirements of the HASP, and the plan must be available on-Site throughout the course of the project;
- (iii) Excavation/disturbance of soil/fill beneath existing exposure barriers requires site-specific evaluation by an LSP, who will evaluate if such activity can proceed and maintain a condition of No Significant Risk; and
- (iv) No fill/soil is to be relocated from the Site to an off-site location without LSP review and approval.

Agreement to Reference Notice of AUL

In accordance with 310 CMR 40.1074(2)(h), the City of New Bedford and its successors and assigns agree to reference the AUL in all deeds, easements, mortgages, leases, licenses, occupancy agreements, or any other agreements which convey an interest in and/or a right to use the property subject to the AUL.

Procedures for Changing Permitted Site Activities and Uses

In accordance with 310 CMR 40.1074(2)(i), a description of the procedures to be followed to ensure that changes in permitted activities and/or uses meet the objectives of the AUL is provided below:

Any proposed changes in activities and/or uses within the AUL boundaries that may result in higher levels of exposure to oil and/or hazardous material than currently exist must be evaluated by an LSP. The LSP will render an Opinion, consistent with 310 CMR 40.1080, as to whether the proposed changes will result in a significant risk of harm to human health, safety, public welfare, or the environment. Any and all requirements set forth above to meet the objective of the AUL will be satisfied before any proposed changes in activity and/or use are initiated.

Prepared by:

TRC Environmental Corporation

A handwritten signature in blue ink, appearing to read "David M. Sullivan".

David M. Sullivan, LSP

Licensed Site Professional No. 1488

EXHIBIT D

Documentation of Signatory Authority

DOCUMENTATION OF SIGNATORY AUTHORITY

I, Jonathan F. Mitchell, do hereby certify that I am the Mayor of the City of New Bedford having a principal office at 133 William Street, New Bedford, Massachusetts, and that I have been duly authorized and am presently serving in that capacity in accordance with the laws of the Commonwealth of Massachusetts.

In Witness Whereof, I have hereunto set my hand and seal of the City on this ____ day of _____, 2021.

Mayor of the City of New Bedford

THE COMMONWEALTH OF MASSACHUSETTS

_____, ss

On this ____ day of _____, 2021 before me, the undersigned notary public, personally appeared Jonathan F. Mitchell, proved to me though satisfactory evidence of identification, which was photographic identification with a signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached documents in my presence.

(Official seal)

_____, Notary Public
My Commission Expires: