



Environmental Notification Form

Cannon Street Station

SUBMITTED TO

Massachusetts Executive
Office of Energy and
Environmental Affairs
MEPA Office

SUBMITTED BY

KG New Bedford, LLC
125 Park Avenue
New York, NY 10012



PREPARED BY

VHB
99 High Street, 10th Floor
Boston, MA 02110



May 15, 2015



May 15, 2015

Ref: 13082.00

Matthew Beaton Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Environmental Notification Form, Cannon Street Station

Dear Secretary Beaton,

On behalf of KG New Bedford, LLC (the Proponent), VHB is pleased to submit the enclosed Environmental Notification Form (ENF) for Cannon Street Station (the "Project"), a waterfront casino and resort to be built on 30 acres of land at 180 MacArthur Drive, along the New Bedford Harbor.

The Proponent plans to build a \$650 million waterfront casino and resort that capitalizes on New Bedford's waterfront location and history at the former Cannon Street Station power plant. The Project Site is an obsolete industrial site that includes a former Manufactured Gas Plant, and a core element of the Project is the remediation of extensive environmental contamination at a cost estimated at approximately \$50 million. The Project will also create an approximately 155,000 square foot Harborwalk and publicly accessible open space, estimated to cost \$10 million.

A portion of the approximately 659,000 square foot Project will be contained within existing preserved historical buildings. The proposed Project includes a casino gaming floor with a total of 3,190 gaming positions located in a new glass-enclosed waterfront facility overlooking the Acushnet River.

Please publish a notice of availability of the ENF for public review in the May 20, 2015 edition of *The Environmental Monitor*. We have extended the Public comment period more than two weeks to accommodate a robust public review. Comments are due June 30, 2015 and a Certificate is due July 10, 2015. We look forward to your review of this Project. Please contact me at (617) 607-2942 if you have any questions.

Very truly yours,


Elizabeth Grob
Director of Urban Permitting Services
egrob@vhb.com

Engineers | Scientists | Planners | Designers

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Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
Massachusetts Environmental Policy Act (MEPA) Office

Environmental Notification Form

For Office Use Only

EEA#: _____

MEPA Analyst: _____

The information requested on this form must be completed in order to submit a document electronically for review under the Massachusetts Environmental Policy Act, 301 CMR 11.00.

Project Name: Cannon Street Station		
Street Address: 180 MacArthur Drive		
Municipality: New Bedford	Watershed: Buzzards Bay	
Universal Transverse Mercator Coordinates: UTM Zone 19T- N: 15121330.72 E: 1116512.06	Latitude: 41.629566	Longitude: -70.921669
Estimated commencement date: Upon issuance of gaming license	Estimated completion date: 24 months from issuance of gaming license	
Project Type: Waterfront Resort Casino	Status of project design: 10 %complete	
Proponent: KG New Bedford, LLC		
Street Address: 125 Park Avenue		
Municipality: New York	State: NY	Zip Code: 10012
Name of Contact Person: Andrew M. Stern		
Firm/Agency: KG Urban Enterprises	Street Address: 125 Park Avenue	
Municipality: New York	State: NY	Zip Code: 10012
Phone: 646-673-5310	Fax: N/A	E-mail: astern@kgurban.com

Does this project meet or exceed a mandatory EIR threshold (see 301 CMR 11.03)?
 Yes No

If this is an Expanded Environmental Notification Form (ENF) (see 301 CMR 11.05(7)) or a Notice of Project Change (NPC), are you requesting:

a Single EIR? (see 301 CMR 11.06(8)) Yes No
a Special Review Procedure? (see 301CMR 11.09) Yes No
a Waiver of mandatory EIR? (see 301 CMR 11.11) Yes No
a Phase I Waiver? (see 301 CMR 11.11) Yes No
(Note: Greenhouse Gas Emissions analysis must be included in the Expanded ENF.)

Which MEPA review threshold(s) does the project meet or exceed (see 301 CMR 11.03)?

(3)(a)5. Provided that a Chapter 91 License is required, new non-water dependent use or expansion of an existing non-water dependent structure, provided the use or structure occupies one or more acres of waterways or tidelands.

(5)(b)4. a. New discharge or Expansion in discharge to a sewer system of 100,000 or more gpd of sewage, industrial waste water or untreated stormwater.

(6)(a)6. Generation of 3,000 or more new adt on roadways providing access to a single location.

(10)(b)1. Demolition of all or any exterior part of any Historic Structure listed in or located in any Historic District listed in the State Register of Historic Places or the Inventory of Historic and Archaeological Assets of the Commonwealth.

Which State Agency Permits will the project require?

- Massachusetts Gaming Commission: Category 1 Gaming License
- Massachusetts Department of Environmental Protection: Chapter 91 License, Public Benefit Determination, Demolition Permit, 401 Water Quality Certification (if required), Asbestos Removal Permit
- Massachusetts Office of Coastal Zone Management: Federal Consistency Certification
- Massachusetts Historical Commission: State Register Review, Section 106 Review
- To be determined: Massachusetts Department of Transportation: Highway Division: Vehicular Access Permit

In addition, some or all of the following regulatory procedures may be required: a Designated Port Area (DPA) boundary review, a Municipal Harbor Plan (MHP) amendment; and a DPA Master Plan (CZM).

Identify any financial assistance or land transfer from an Agency of the Commonwealth, including the Agency name and the amount of funding or land area in acres:

Not Applicable

Summary of Project Size & Environmental Impacts	Existing	Change	Total
LAND			
Total site acreage	30 ¹		
New acres of land altered		0	
Acres of impervious area	27	-1.7	25.3
Square feet of new bordering vegetated wetlands alteration		0	
Square feet of new other wetland alteration		0	
Acres of new non-water dependent use of tidelands or waterways		18.2	
STRUCTURES			
Gross square footage	213,910	445,090	659,000
Number of housing units	0	0	0
Maximum height (feet)	100'	57'	157'0" ²
TRANSPORTATION			
Vehicle trips per day	N/A ³	10,600	10,600
Parking spaces	548	1,840	2,388
WASTEWATER			
Water Use (Gallons per day)	533	212,867	213,400

1 The 30 acre Project Site is part of a larger 44 acre site, which also includes 14 acres of watershed.

2 This does not include the existing power plant smoke stack, which stands at approximately 200', and will remain in place.

3 Current activities on the existing Project Site are limited to utility-related uses for which specific daily vehicle trip counts are not available.

Water withdrawal (GPD)	0	0	0
Wastewater generation/treatment (GPD)	533	193,467	194,000
Length of water mains (miles)	0.2 miles	0	0.2 miles
Length of sewer mains (miles)	0	0	0
Has this project been filed with MEPA before? <input type="checkbox"/> Yes (EEA # _____) <input checked="" type="checkbox"/> No			
Has any project on this site been filed with MEPA before? <input checked="" type="checkbox"/> Yes (EEA # <u>12492¹, 11174² 13067³)</u> <input type="checkbox"/> No			
<p>1 ENF Filed by the New Bedford Aquarium Corporation for the New Bedford Oceanarium Project, subsequently withdrawn.</p> <p>2 ENF Filed by Commonwealth Electric Company for a linear electric transmission line associated with the Pine Street Substation.</p> <p>3 ENF Filed by NSTAR for the filling of an existing boat slip.</p>			

GENERAL PROJECT INFORMATION – all proponents must fill out this section

PROJECT DESCRIPTION:

Existing Conditions

The Project Site is an environmentally degraded and obsolete industrial site on the New Bedford waterfront. The 30 acre Site is part of a larger 44 acre area that includes 14 acres of watersheet. It contains two parcels known as the NSTAR⁴ parcel and the Sprague Oil parcel. The Site is bounded to the east by New Bedford Harbor; to the north by Leonard’s Wharf and MacArthur Drive; to the west by MacArthur Drive; and to the South by Cape Street and numerous parcels of land predominantly utilized for industrial purposes. Pine Street, a public way, intersects the site on the west. Please refer to Figures 1, 2 and 3 for site location, context and existing conditions.

The Cannon Street Station Site is a former Manufactured Gas Plant (MGP) site, and a core element of the project is the remediation of extensive environmental contamination at a cost estimated at approximately \$50 million. This work will include remediation of environmental contamination, abatement of hazardous materials in the former power plant, and decommissioning of various site buildings and infrastructure. The nature and extent of contamination, the status of compliance pursuant to M.G.L. c.21E and the Massachusetts Contingency Plan (MCP), and remediation activities are described in Attachment A, Chapter 3 and Figure 5

Approximately 60% of the upland portion of the Site consists of lawfully filled tidelands of New Bedford Harbor (Figure 7). With the exception of a small parcel (approximately 0.4 acres) located in the northwest corner of the Site, the entire site is located within the New Bedford – Fairhaven Designated Port Area (DPA), and a portion of the Site is within Chapter 91 licensing jurisdiction (see Attachment A, Chapter 4 for more details). The Project Site contains protected Wetland Resource Areas including Land Subject to Coastal Storm Flowage and the 100-foot buffer zone to Coastal Bank and Land Under Ocean (Figure 8). No rare plants, wildlife, or exemplary natural communities exist on the Site.

4 NSTAR is now known as Eversource.

The Site was previously developed in its entirety, and contains the New Bedford Gas and Edison Light Complex National Register District, established in 2002 (Figure 9). The district contains four contributing structures (The Canon Street Power Station, The Taber & Grinnell Iron Foundry Building, Eddy’s Wharf and a Filtering Station) and one non-contributing structure (the NSTAR service facility). Numerous other structures exist on the Site including oil storage tanks, fuel transfer piping and associated control structures and granite and stone piers and sea walls. A portion of the Site is now used by NSTAR for electric crew operations, while other portions currently operate as bulk fuel oil terminals.

Currently, the Project Site is served by two primary vehicle access points located on MacArthur Drive on the north side of the Site and on JFK Memorial highway at Pine Street on the west side of the Site. In addition, there is a secondary vehicle access on the south side of the Site via Cape Street.

Proposed Project

KG New Bedford, LLC, the “Proponent,” plans to build a waterfront casino and resort that capitalizes on New Bedford’s waterfront location and history at the former Cannon Street Station power plant (Figure 3). The \$650 million facility will provide 10.4 acres of public open space, including a new 155,000 square foot (3,300 linear feet) Harborwalk that will be integrated with the City of New Bedford’s long-term effort to open the waterfront to the public. The Project will total approximately 659,000 square feet, a portion of which will be contained within existing preserved historical buildings, and includes the following program of uses:

Building Program	Gross Square Feet
Casino Gaming Floor	120,000
Retail	25,000
Restaurants (seating areas)	35,000
Kitchens	25,000
Night Clubs/Lounges	23,000
Meeting & Conference Space	40,000
Hotel Guestrooms (300 keys)	192,000
Hotel Amenities	37,000
Back of House	120,000
Office (Foundry Building)	42,000
Total Building Program	659,000

Additional Project Elements	
Parking Spaces (1,038 surface; 1,350 structured)	2,388 spaces
Roadways	160,180 sf
Open Space*	453,220 sf/10.4 acres
Building Footprint	423,400 sf

*Includes Harborwalk and pedestrian access

The proposed Project includes a casino gaming floor with a total of 3,190 gaming positions (2,500 slot/video poker machines and 690 gaming table positions (105 gaming tables)) located in a new sunlit waterfront facility on historic Eddy’s Wharf. The existing power plant will be remediated and renovated to house retail and dining, as well as additional entertainment areas

such as bars, lounges, and nightclubs. It will also contain kitchen facilities, meeting and conference areas, and back of house facilities. A new full-service eleven-story hotel will be constructed with 300 guestrooms, pool and spa facilities, and additional dining. A 25,000 square foot waterfront conference center with a 2,000 person capacity will serve as a destination for regional and national events. Space for a waterfront café will be located adjacent to Leonard's Wharf, while traditional New England and local Portuguese food purveyors will be provided with space in semi-enclosed glass and steel structures on MacArthur Drive. Finally, the existing historic Foundry building will continue to support office uses.

The concept site plan anticipates two primary parking facilities, comprised of a 5 level parking structure with 1,350 spaces and surface parking lots containing 1,038 spaces. The on-site circulation will include drop-off/pick-up at the casino, hotel and conference center lobbies, and will allow for valet or self-parking operations. Areas for taxi and bus/coach drop-off will be designated within the parking areas. Service and loading areas for the Project will be contained in dedicated, screened areas to separate truck activity from other vehicle and pedestrian traffic circulation. Generous pedestrian accommodations will be provided throughout the site, with strong connections to the off-site pedestrian network and the proposed new Harborwalk along the Site's harbor edge. Appropriate modifications to the existing site access will be developed in close coordination with the City of Bedford based on ongoing traffic analysis and consistent with the City's proposed improvements for JFK Memorial Highway.

The Proponent has entered into a Host Community Agreement (Attachment F) with the City of New Bedford setting forth the conditions that must be met in order to establish a gaming facility within the municipality. The agreement includes many special protections to ensure the future vitality of the City's downtown and historic district, and specifies the provision of numerous public benefits, including:

- Environmental Remediation
- Waterfront Access & Open Space
- Design Coordination
- Defined Payments and Taxes to the City of New Bedford
- New Jobs
- Support for Local Vendors, Businesses and the Zeiterion Theatre

For details on the Host Community Agreement as well as Public Benefits, see Chapter 1 in Appendix B.

Direct & Indirect Impacts

The principle direct project impact will be the addition of new vehicle traffic on the local and regional roadway system. Additional details of potential transportation impacts are presented in Attachment A, Chapter 2 and Figures 10-1 through 10-5. Other direct impacts include environmental remediation and improved quality of stormwater runoff.

Infrastructure Requirements

The project site is serviced by existing major utility infrastructure (wastewater, water, gas, electric, and telephone) in MacArthur Drive, JFK Memorial Highway and throughout the project site. Initial conversations with the City have suggested that sufficient water supply capacity to support the proposed development program is available. The City also indicated that they are completing a comprehensive Capital Improvement Plan to complete a series of upgrades to the wastewater system to address existing combined sewer overflows, eliminate unauthorized connections,

upgrade obsolete pump stations and remove existing sources of inflow and infiltration. Upon completion of localized upgrades to existing pump stations and inflow and infiltration mitigation, adequate facilities for wastewater collection and treatment will be available. Proposed infrastructure to support the development program will include new dedicated connections and separate systems to be connected to existing facilities located in the surrounding public streets or on the project site. All public infrastructure will be designed and implemented in coordination with the City of New Bedford Department of Public Infrastructure.

Alternatives

The Proponent has examined a number of development alternatives, including the no-build and multiple on-site and off-site alternatives.

No-Build Alternative

Under the No-Build alternative the Project would not be developed. The Site is a contaminated and closed off former MGP site with multiple unresolved Release Tracking Numbers. Without this Project, the Site would remain contaminated and underutilized. The Site is expected to remain in this condition for the foreseeable future if not redeveloped for the Project. The historic power station would not be rehabilitated and would fall into further disrepair (ultimately requiring demolition). The No-Build alternative would also deny the community the many public benefits that will be provided by the proposed Project, including significant tourism and employment opportunities, tax revenues and other payments to the City of New Bedford, clean-up of an environmental hazard, and public access to the waterfront including the new Harborwalk.

Off-Site Alternatives

The Proponent has conducted extensive economic feasibility studies and alternative siting evaluations for the Project, and numerous discussions and consultations with representatives of the City of New Bedford over the past eight years.

The Proponent considered and rejected sites in the Hicks-Logan-Sawyer (HLS) District and Golf Course sites. The HLS site is located near the waterfront at the I-195/Route 18 interchange. The Golf Course is a greenfield site located near the I-195/Route 140 interchange and includes Article 97 lands. A critical factor leading to the elimination of off-site alternatives for project development was their remote location relative to Downtown. Unlike the Project Site, these other locations were a mile or more from Downtown New Bedford, and would have drawn patrons away from Downtown eating establishments and other businesses, undermining rather than supporting the economic revitalization of that district. In addition, these alternative off-site locations would likely result in increased traffic volumes and congestion on secondary roads. The proposed Site is well-situated just 0.4 miles from Route 18 and Route 6 and 1.2 miles from Interstate 195. The main entrance will provide direct vehicular access to JFK Memorial Highway via a new intersection in the vicinity of Pine Street. This new intersection, which will be designed in coordination with the City of New Bedford's proposed improvements for JFK Memorial Highway, will minimize adverse impacts from traffic generation to and from the Project Site. The Site will also be accessible on the north side via an improved entrance on MacArthur Drive. Please refer to Attachment A, Chapter 2 for the transportation study conducted for the Project.

Development of the Project at the proposed Project Site has been determined the most practical, feasible, and beneficial alternative for many reasons. As stated above, the Project will help revitalize this area of the New Bedford waterfront, providing a world-class urban entertainment and conference facility and many valuable community and public benefits. A highly

contaminated and closed-off waterfront site will be restored, made accessible to the public and reconnected to Downtown New Bedford. The City fully supports the development of the Project on the Proposed Site, and is actively supporting the Project through City planning efforts. See the Land Section of this application for details on consistency with municipal planning documents.

Current Zoning Alternative

The Project Site is within the Waterfront Industrial District (WI), which was established to accommodate waterfront related uses, such as fish processing and other industrial uses reliant upon a waterfront location. It also allows non-industrial uses such as hotel, motor vehicle repair, restaurant, office, bank, and indoor commercial recreation. Due to the level of contamination and cost of remediation at the Site, it has not been possible for these non-industrial uses to be established on the Site.

Recently the New Bedford City Council unanimously adopted a Waterfront Economic Development & Revitalization Overlay District (WEDROD) as an Overlay District including and surrounding the Project Site. Some of the objectives of the overlay are to remediate environmental contamination, activate the waterfront, enhance access between Downtown and the Waterfront, preserve or reuse historic structures, and promote neighborhood retail, restaurant and entertainment businesses. In order to meet these objectives, a project similar in scope to the proposed project would need to be built.

Alternative On-Site Plan

The Proponent initially considered a project with a much higher intensity of use including 40,000 square feet of lifestyle retail, two 24-story hotels, 114,600 square feet of retail/dining/entertainment, and a 40,000 square foot conference center (see Figure 11. Alternative Site Plan). Through numerous discussions and consultations with representatives of the City of New Bedford, and as memorialized in the Host Community Agreement, it was determined that a development of that size would compete with the developing Downtown district. Therefore a limit of 25,000 sf was placed on retail establishments and the conference center to minimize competition with Downtown businesses; the number of hotels was reduced from two (994 rooms) to one (300 rooms), and from 24 stories to 11 stories in order to reduce the visual impacts to the waterfront; and indoor food service was limited to 35,000 sf. Originally 3,370 parking spaces were proposed. With the reduction in overall development size, parking spaces have been reduced to 2,388. In addition to reduced transportation impacts, the reduction in intensity allows the potential for more pervious area, as well as more area to be developed as open space.

Mitigation Measures

Potential transportation impacts will be evaluated based on a detailed analysis of the Project being performed in close coordination with the City of New Bedford and MassDOT. Projections of project vehicle trips on the local and regional roadway network are presented in Chapter 2 of Attachment A, along with a proposed study area for the EIR transportation analysis. Appropriate off-site mitigation will be developed in coordination with the City of New Bedford and MassDOT. Improvements are expected to include, but not be limited to, new or modified traffic signals, safety improvements, new travel lanes, roadway striping, signage and pedestrian and bicycle accommodations. In addition, a comprehensive Travel Demand Management (TDM) plan will be developed for the Project to minimize single occupancy vehicle (SOV) travel and encourage use of alternative modes.

Redevelopment work on this obsolete and environmentally degraded industrial site will include remediation of environmental contamination, abatement of hazardous materials in the former power plant, and decommissioning of various site buildings and infrastructure.

The Project aims not only to take all feasible measures to avoid, minimize, or mitigate damage to the environment, but to also assess and mitigate the risks and vulnerabilities that are likely to result from climate change impacts. Attachment A, Chapter 5 details the sustainability and resiliency measures that will be incorporated into building and site design.

Project Phasing

The Project will be constructed in one phase.

AREAS OF CRITICAL ENVIRONMENTAL CONCERN:

Is the project within or adjacent to an Area of Critical Environmental Concern?

Yes (Specify _____)

No

if yes, does the ACEC have an approved Resource Management Plan? ___ Yes ___ No;

If yes, describe how the project complies with this plan.

Will there be stormwater runoff or discharge to the designated ACEC? ___ Yes ___ No;

If yes, describe and assess the potential impacts of such stormwater runoff/discharge to the designated ACEC.

RARE SPECIES:

Does the project site include Estimated and/or Priority Habitat of State-Listed Rare Species? (see http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/priority_habitat/priority_habitat_home.htm)

Yes (Specify _____) No

HISTORICAL /ARCHAEOLOGICAL RESOURCES:

Does the project site include any structure, site or district listed in the State Register of Historic Places or the inventory of Historic and Archaeological Assets of the Commonwealth?

Yes (Specify: **See below**) No

The New Bedford Gas and Edison Light Complex, located at 180 MacArthur Drive in New Bedford, MA, is listed on the National and State Registers of Historic Places (NR/SR). The Site is also known as The Cannon Street Power Station and the Taber & Grinnell Iron Foundry. The Classical Revival/Art Modern style industrial complex meets Criteria A and C according to the area of significance for engineering, industry and architecture. The complex features four (4) contributing structures, listed below:

- The Cannon Street Power Station features the original 1916 power station, with 1917, 1920, 1922, 1941, 1945, and 1950 additions. Constructed of red brick with stone detailing, the building has an area of approximately 125,000 square feet over four floors.
- The Taber & Grinnell Iron Foundry Building is a mid-19th century granite ashlar building, with later extensions. The building is approximately 42,000 square feet over three stories.

- Eddy's Wharf (a.k.a. Russell's Coal Wharf) is a man-made wharfage constructed in 1856. It features a concrete capped seawall decking over granite substrate with a surface area of approximately 120,000 square feet.
- Filtering Station is a one-story brick filtering station, constructed circa 1940s.

In addition the National Register site contains two (2) non-contributing structures, namely, the NSTAR operations facility and a workman's shed. The NSTAR facility is a 1-story concrete block building constructed in the 1970s. The workman's shed was a 1-story, corrugated metal structure whose construction date is unknown. The workman's shed was previously demolished.

If yes, does the project involve any demolition or destruction of any listed or inventoried historic or archaeological resources? Yes (Specify: **See below**) No

The Workman's Shed, a non-contributing structure, was previously demolished. Demolition of the following buildings in the historic district is proposed:

- Cannon Street Power Station (in part): Extensions added (1945-1951) at the northeast corner of the building are proposed to be demolished
- Filtering Station
- NSTAR operations facility – non-contributing structure

The following structure (a wharf) in the historic district is proposed to include development:

- The new casino building is proposed to be constructed on Eddy's Wharf.

WATER RESOURCES:

Is there an Outstanding Resource Water (ORW) on or within a half-mile radius of the project site? ___ Yes No; if yes, identify the ORW and its location.

(NOTE: Outstanding Resource Waters include Class A public water supplies, their tributaries, and bordering wetlands; active and inactive reservoirs approved by MassDEP; certain waters within Areas of Critical Environmental Concern, and certified vernal pools. Outstanding resource waters are listed in the Surface Water Quality Standards, 314 CMR 4.00.)

Are there any impaired water bodies on or within a half-mile radius of the project site? Yes ___ No; if yes, identify the water body and pollutant(s) causing the impairment:

New Bedford Inner Harbor: Debris/Floatables/Trash, Dissolved Oxygen, Fecal Coliform, Nitrogen, Oil and Grease, Other cause, PCB(s) in Fish Tissue, Biphenyles (PCBs), Taste and Odor.

Is the project within a medium or high stress basin, as established by the Massachusetts Water Resources Commission? ___ Yes No

STORMWATER MANAGEMENT:

Generally describe the project's stormwater impacts and measures that the project will take to comply with the standards found in MassDEP's Stormwater Management Regulations:_____

The Project will employ Best Management Practices (BMP) to treat stormwater runoff, protect receiving waterbody and associated wetland resource areas and enhance the water quality of stormwater runoff. Stormwater controls will include, but will not be limited to, deep sump catch basins and oil/water separators and low impact development BMPs. Site maintenance will also include periodic sweeping of the paved surfaces and cleaning of catch basins. The Project will further demonstrate consistency with MassDEP Stormwater Management Policies to the maximum extent practicable during review of the Project by the New Bedford Conservation Commission and the MassDEP pursuant to the Massachusetts Wetlands Protection Act.

MASSACHUSETTS CONTINGENCY PLAN:

Has the project site been, or is it currently being, regulated under M.G.L.c.21E or the Massachusetts Contingency Plan? Yes No ; if yes, please describe the current status of the site (including Release Tracking Number (RTN), cleanup phase, and Response Action Outcome classification):_

A number of petroleum and/or hazardous materials releases were previously reported to MassDEP pursuant to the Massachusetts Contingency Plan and received Release Tracking Numbers. These releases are detailed in Attachment A, Chapter 3.

Is there an Activity and Use Limitation (AUL) on any portion of the project site? Yes No ; if yes, describe which portion of the site and how the project will be consistent with the AUL:

Please see Chapter 3 for a detailed discussion of the AUL's associated with the Project.

Are you aware of any Reportable Conditions at the property that have not yet been assigned an RTN? Yes No ; if yes, please describe:_____

SOLID AND HAZARDOUS WASTE:

If the project will generate solid waste during demolition or construction, describe alternatives considered for re-use, recycling, and disposal of, e.g., asphalt, brick, concrete, gypsum, metal, wood:_____

The Proponent will prepare a plan targeting an 85 percent recyclable rate for waste material generated by tear down activities, and a 10 percent recycling rate for general debris disposal from new construction activities. Materials that are recyclable will be separated from those that cannot be reused, reducing the actual waste from construction and demolition that is sent to landfills.

(NOTE: Asphalt pavement, brick, concrete and metal are banned from disposal at Massachusetts landfills and waste combustion facilities and wood is banned from disposal at Massachusetts landfills. See 310 CMR 19.017 for the complete list of banned materials.)

Will your project disturb asbestos containing materials? Yes No ; if yes, please consult state asbestos requirements at <http://mass.gov/MassDEP/air/asbhom01.htm>

Describe anti-idling and other measures to limit emissions from construction equipment:

The Project will implement an outdoor construction management plan that includes

provisions for wheel washing, street sweeping, dust control and truck covers. The Commonwealth of Massachusetts' anti-idling law will be enforced during the construction phase of the Project with the installation of on-site anti-idling signage. Oxidation catalysts and catalyzed particulate filters will be utilized on all construction vehicles and equipment to reduce air quality degradation caused by emissions from heavy-duty, diesel-powered construction equipment. All pre-2007 diesel construction vehicles working on the Project will be retrofitted using retrofit technologies approved by the United States Environmental Protection Agency (EPA). Additionally, ultra-low sulfur diesel fuel will be used for all off-road diesel equipment.

DESIGNATED WILD AND SCENIC RIVER:

Is this project site located wholly or partially within a defined river corridor of a federally designated Wild and Scenic River or a state designated Scenic River? Yes ___ **No** **X** ;
if yes, specify name of river and designation:

If yes, does the project have the potential to impact any of the "outstandingly remarkable" resources of a federally Wild and Scenic River or the stated purpose of a state designated Scenic River?

Yes ___ No ___ ; if yes, specify name of river and designation: _____;

if yes, will the project will result in any impacts to any of the designated "outstandingly remarkable" resources of the Wild and Scenic River or the stated purposes of a Scenic River.

Yes ___ No ___ ;

if yes, describe the potential impacts to one or more of the "outstandingly remarkable" resources or stated purposes and mitigation measures proposed.

ATTACHMENTS:

A. Narrative:

1. Project Overview
2. Transportation
3. 21E/Hazardous Materials
4. Chapter 91 & DPA
5. Sustainability/Resilience

B. Figures:

1. Site Location: U.S.G.S. map
2. Context Plan
3. Proposed Site Plan
4. Existing Conditions
5. Hazardous Material: Impacted Areas of Site
6. Existing Conditions Photos
7. Chapter 91 & DPA
8. Floodplain and Wetland Resource Areas
9. Historic & Cultural Resources Plan
10. Transportation Study
11. Alternative Site Plan
12. Project Rendering

C. Distribution List: List of all agencies and persons to whom the Proponent circulated the ENF, in accordance with 301 CMR 11.16(2).

D. Permit List: List of municipal and federal permits and reviews required by the project, as applicable.

E. Massachusetts Historical Commission Correspondence

F. Host Community Agreement

LAND SECTION – all proponents must fill out this section

I. Thresholds / Permits

A. Does the project meet or exceed any review thresholds related to **land** (see 301 CMR 11.03(1) ___ Yes **X** **No**; if yes, specify each threshold:

II. Impacts and Permits

A. Describe, in acres, the current and proposed character of the project site, as follows:

	<u>Existing</u>	<u>Change</u>	<u>Total</u>
Footprint of buildings	5.5	4.2	9.7
Internal roadways	0.4	3.3	3.7
Parking and other paved areas	10.8	-4.6	6.2
Other altered areas	10.3	0.1	10.4
Undeveloped areas	3.0	-3.0	0.0
Total: Project Site Acreage	30.0	0.0	30.0

B. Has any part of the project site been in active agricultural use in the last five years? ___ Yes **X** **No**; if yes, how many acres of land in agricultural use (with prime state or locally important agricultural soils) will be converted to nonagricultural use?

C. Is any part of the project site currently or proposed to be in active forestry use? ___ Yes **X** **No**; if yes, please describe current and proposed forestry activities and indicate whether any part of the site is the subject of a forest management plan approved by the Department of Conservation and Recreation:

D. Does any part of the project involve conversion of land held for natural resources purposes in accordance with Article 97 of the Amendments to the Constitution of the Commonwealth to any purpose not in accordance with Article 97? ___ Yes **X** **No**; if yes, describe:

E. Is any part of the project site currently subject to a conservation restriction, preservation restriction, agricultural preservation restriction or watershed preservation restriction? ___ Yes **X** **No**; if yes, does the project involve the release or modification of such restriction? ___ Yes ___ No; if yes, describe:

F. Does the project require approval of a new urban redevelopment project or a fundamental change in an existing urban redevelopment project under M.G.L.c.121A? ___ Yes **X** **No**; if yes, describe:

G. Does the project require approval of a new urban renewal plan or a major modification of an existing urban renewal plan under M.G.L.c.121B? Yes ___ **No** **X**; if yes, describe:

III. Consistency

A. Identify the current municipal comprehensive land use plan
Title: **A City Master Plan- New Bedford 2020** Date **2010**

The Project is consistent with A City Master Plan- New Bedford 2020. See Attachment A, Chapter 1 for details.

B. Describe the project's consistency with that plan with regard to:
1) economic development _____
2) adequacy of infrastructure _____
3) open space impacts _____
4) compatibility with adjacent land uses _____

C. Identify the current Regional Policy Plan of the applicable Regional Planning Agency (RPA)
RPA: **Southeastern Regional Planning and Economic Development District (SRPEDD)**

Title: Growing the Economy of Southeastern Massachusetts: Comprehensive Economic Development Strategy (CEDS) Date: June 2014

The Project is consistent with SRPEDD's Comprehensive Economic Development Strategy. See Attachment A, Chapter 1 for details

- D. Describe the project's consistency with that plan with regard to:
- 1) economic development _____
 - 2) adequacy of infrastructure _____
 - 3) open space impacts _____

RARE SPECIES SECTION

I. Thresholds / Permits

A. Will the project meet or exceed any review thresholds related to **rare species or habitat** (see 301 CMR 11.03(2))? ___ Yes **X** **No**; if yes, specify, in quantitative terms:

(NOTE: If you are uncertain, it is recommended that you consult with the Natural Heritage and Endangered Species Program (NHESP) prior to submitting the ENF.)

B. Does the project require any state permits related to **rare species or habitat**? ___ Yes **X** **No**

C. Does the project site fall within mapped rare species habitat (Priority or Estimated Habitat?) in the current Massachusetts Natural Heritage Atlas (attach relevant page)? ___ Yes **X** **No**.

D. If you answered "No" to all questions A, B and C, proceed to the **Wetlands, Waterways, and Tidelands Section**. If you answered "Yes" to either question A or question B, fill out the remainder of the Rare Species section below.

II. Impacts and Permits

A. Does the project site fall within Priority or Estimated Habitat in the current Massachusetts Natural Heritage Atlas (attach relevant page)? ___ Yes ___ No. If yes,

1. Have you consulted with the Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program (NHESP)? ___ Yes ___ No; if yes, have you received a determination as to whether the project will result in the "take" of a rare species? ___ Yes ___ No; if yes, attach the letter of determination to this submission.

2. Will the project "take" an endangered, threatened, and/or species of special concern in accordance with M.G.L. c.131A (see also 321 CMR 10.04)? ___ Yes ___ No; if yes, provide a summary of proposed measures to minimize and mitigate rare species impacts

3. Which rare species are known to occur within the Priority or Estimated Habitat?

4. Has the site been surveyed for rare species in accordance with the Massachusetts Endangered Species Act? ___ Yes ___ No

4. If your project is within Estimated Habitat, have you filed a Notice of Intent or received an Order of Conditions for this project? ___ Yes ___ No; if yes, did you send a copy of the Notice of Intent to the Natural Heritage and Endangered Species Program, in accordance with the Wetlands Protection Act regulations? ___ Yes ___ No

B. Will the project "take" an endangered, threatened, and/or species of special concern in accordance with M.G.L. c.131A (see also 321 CMR 10.04)? ___ Yes ___ No; if yes, provide a summary of proposed measures to minimize and mitigate impacts to significant habitat:

WETLANDS, WATERWAYS, AND TIDELANDS SECTION

I. Thresholds / Permits

A. Will the project meet or exceed any review thresholds related to **wetlands, waterways, and tidelands** (see 301 CMR 11.03(3))? **Yes** ___ No; if yes, specify, in quantitative terms: The Project will require a non-water dependent license for approximately 18.2 acres of jurisdictional tidelands.

B. Does the project require any state permits (or a local Order of Conditions) related to **wetlands, waterways, or tidelands**? **Yes** ___ No; if yes, specify which permit:

The Project will require the issuance of an Order of Conditions from the New Bedford Conservation Commission under the Massachusetts Wetlands Protection Act, and an M.G.L. c. 91 Waterways License from the Massachusetts Department of Environmental Protection (MassDEP).

C. If you answered "No" to both questions A and B, proceed to the **Water Supply Section**. If you answered "Yes" to either question A or question B, fill out the remainder of the Wetlands, Waterways, and Tidelands Section below.

II. Wetlands Impacts and Permits

A. Does the project require a new or amended Order of Conditions under the Wetlands Protection Act (M.G.L. c.131A)? **Yes** ___ No; if yes, has a Notice of Intent been filed? ___ Yes **No**; if yes, list the date and MassDEP file number: _____; if yes, has a local Order of Conditions been issued? ___ Yes ___ No; Was the Order of Conditions appealed? ___ Yes ___ No. Will the project require a Variance from the Wetlands regulations? ___ Yes ___ No.

B. Describe any proposed permanent or temporary impacts to wetland resource areas located on the project site:

Work will be within Land Subject to Coastal Storm Flowage and the 100-foot buffer to Coastal Bank. Potential bulkhead repairs may impact Coastal Bank. No other temporary or permanent impacts are anticipated.

C. Estimate the extent and type of impact that the project will have on wetland resources, and indicate whether the impacts are temporary or permanent:

<u>Coastal Wetlands</u>	<u>Area (square feet) or Length (linear feet)</u>	<u>Temporary or Permanent Impact?</u>
Land Under the Ocean	_____	_____
Designated Port Areas	<u>1,289,376 sf</u>	<u>Permanent</u>
Coastal Beaches	_____	_____
Coastal Dunes	_____	_____
Barrier Beaches	_____	_____
Coastal Banks	_____	_____
Rocky Intertidal Shores	_____	_____
Salt Marshes	_____	_____
Land Under Salt Ponds	_____	_____
Land Containing Shellfish	_____	_____
Fish Runs	_____	_____
Land Subject to Coastal Storm Flowage	<u>248,292 sf</u>	<u>Permanent</u>
 <u>Inland Wetlands</u>		
Bank (If)	_____	_____
Bordering Vegetated Wetlands	_____	_____

Isolated Vegetated Wetlands	_____	_____
Land under Water	_____	_____
Isolated Land Subject to Flooding	_____	_____
Bordering Land Subject to Flooding	_____	_____
Riverfront Area	_____	_____

D. Is any part of the project:

1. proposed as a **limited project**? ___ Yes **X** **No**; if yes, what is the area (in sf)? _____
2. the construction or alteration of a **dam**? ___ Yes **X** **No**; if yes, describe:
3. fill or structure in a **velocity zone** or **regulatory floodway**? ___ Yes **X** **No**
4. dredging or disposal of dredged material? ___ Yes **X** **No**; if yes, describe the volume of dredged material and the proposed disposal site:
5. a discharge to an **Outstanding Resource Water (ORW)** or an **Area of Critical Environmental Concern (ACEC)**? ___ Yes **X** **No**
6. subject to a wetlands restriction order? ___ Yes **X** **No**; if yes, identify the area (in sf):
7. located in buffer zones? **X** **Yes** ___ **No**; if yes, how much (in sf) **262,675 sf**

E. Will the project:

1. be subject to a local wetlands ordinance or bylaw? **X** **Yes** ___ **No**
2. alter any federally-protected wetlands not regulated under state law? ___ Yes **X** **No**; if yes, what is the area (sf)?

III. Waterways and Tidelands Impacts and Permits

- A. Does the project site contain waterways or tidelands (including filled former tidelands) that are subject to the Waterways Act, M.G.L.c.91? **X** **Yes** ___ **No**; if yes, is there a current Chapter 91 License or Permit affecting the project site? **X** **Yes** ___ **No**; if yes, list the date and license or permit number and provide a copy of the historic map used to determine extent of filled tidelands:

The extent of filled tidelands was determined from the lines developed by the MassDEP/CZM Chapter 91 Mapping Project as downloaded from MassGIS. There are no licenses for Non-water dependent uses on the Project Site. Chapter 91 licenses issued for this Site include:

H&L 3553; DPW 536; DPW 879; DPW 1443; DPW 2652; HC 395; H&L 712; H&L 789; H&L 779; H&L 1138; H&L 1216, 1216A; H&L 2074; H&L 2525; H&L 2526; H&L 2598; H&L 2666; H&L 2849; H&L 2996; H&L 3064; H&L 3863; H&L 3939; H&L 4059; H&L 4071; Commission Waterway Public Lands 53; Commission Waterway Public Lands 99; Commission Waterway Public Lands 240; Commission Waterway Public Lands 281; Commission Waterway Public Lands 288; DPW 31; Division Waterway Public Lands 149; Division Waterway Public Lands 210; Division Waterway Public Lands 510; Division Waterway Public Lands 463; DPW 1150; DPW 3042; DPW 3234; DPW 3618; DPW 4440; DPW 4807; DEQE 1230; DEQE 1783; DEQE 3869; MassDEP 8327; and MassDEP 8770.

- B. Does the project require a new or modified license or permit under M.G.L.c.91? **X** **Yes** ___ **No**; if yes, how many acres of the project site subject to M.G.L.c.91 will be for non-water-dependent use? Current **0** Change **18.2** Total **18.2** If yes, how many square feet of solid fill or pile-supported structures (in sf)?

The proposed non-water dependent use project will be constructed on the existing filled tidelands (18.2 acres).

C. For non-water-dependent use projects, indicate the following:

Area of filled tidelands on the site: **18.2 acres**

Area of filled tidelands covered by buildings: **9.2 acres**

For portions of site on filled tidelands, list ground floor uses and area of each use:

Ground Floor Use	Approx. Area (SF)
Casino	120,000
Conference Center	25,000
Mechanical Plant	12,000 (relocated)
Office (Foundry)	6,030 (existing)
Casino Amenities (Power Plant)	83,500 (existing)
Meetings Rooms	7,400
Waterfront Café	3,500
Hotel Lobby, Pool & Spa	25,500
Parking Garage	100,000
Glass Enclosed Walkways	19,900
Total	402,830

Does the project include new non-water-dependent uses located over flowed tidelands?

Yes ___ No **X**

Proposed Height of building on filled tidelands:

Buildings range in height from approximately 25 feet to 157 feet.

Also show the following on a site plan: Mean High Water, Mean Low Water, Water-dependent Use Zone, location of uses within buildings on tidelands, and interior and exterior areas and facilities dedicated for public use, and historic high and historic low water marks.

D. Is the project located on landlocked tidelands? **X Yes** ___ No; if yes, describe the project's impact on the public's right to access, use and enjoy jurisdictional tidelands and describe measures the project will implement to avoid, minimize or mitigate any adverse impact:

The northwest corner of the Project Site, located approximately 300 feet from the high water line in New Bedford Harbor and on the west side of MacArthur Drive, contains approximately 0.08 acres (3,485 sf) of landlocked tidelands. The location of the landlocked tidelands is such that the public's right to access, use and enjoy jurisdictional tidelands will not be impacted.

E. Is the project located in an area where low groundwater levels have been identified by a municipality or by a state or federal agency as a threat to building foundations? ___ Yes **X No**; if yes, describe the project's impact on groundwater levels and describe measures the project will implement to avoid, minimize or mitigate any adverse impact:

F. Is the project non-water-dependent **and** located on landlocked tidelands **or** waterways or tidelands subject to the Waterways Act **and** subject to a mandatory EIR? **X Yes** ___ No; (NOTE: If yes, then the project will be subject to Public Benefit Review and Determination.)

G. Does the project include dredging? ___ Yes **X No**; if yes, answer the following questions:

What type of dredging? Improvement ___ Maintenance ___ Both ___

What is the proposed dredge volume, in cubic yards (cys) _____

What is the proposed dredge footprint ____length (ft) ____width (ft)____depth (ft);

Will dredging impact the following resource areas?

Intertidal Yes__ No__; if yes, ____ sq ft

Outstanding Resource Waters Yes__ No__; if yes, ____ sq ft

Other resource area (i.e. shellfish beds, eel grass beds) Yes__ No__; if yes __
sq ft

If yes to any of the above, have you evaluated appropriate and practicable steps
to: 1) avoidance; 2) if avoidance is not possible, minimization; 3) if either
avoidance or minimize is not possible, mitigation?

If no to any of the above, what information or documentation was used to support
this determination?

Provide a comprehensive analysis of practicable alternatives for improvement dredging in
accordance with 314 CMR 9.07(1)(b). Physical and chemical data of the
sediment shall be included in the comprehensive analysis.

Sediment Characterization

Existing gradation analysis results? __Yes __No: if yes, provide results.

Existing chemical results for parameters listed in 314 CMR 9.07(2)(b)6? __Yes
__No; if yes, provide results.

Do you have sufficient information to evaluate feasibility of the following management
options for dredged sediment? If yes, check the appropriate option.

Beach Nourishment ____

Unconfined Ocean Disposal ____

Confined Disposal:

Confined Aquatic Disposal (CAD) ____

Confined Disposal Facility (CDF) ____

Landfill Reuse in accordance with COMM-97-001 ____

Shoreline Placement ____

Upland Material Reuse ____

In-State landfill disposal ____

Out-of-state landfill disposal ____

(NOTE: This information is required for a 401 Water Quality Certification.)

IV. Consistency:

A. Does the project have effects on the coastal resources or uses, and/or is the project located
within the Coastal Zone? **X** **Yes** ____ No; if yes, describe these effects and the projects
consistency with the policies of the Office of Coastal Zone Management:

The Project will be consistent with and promote the objectives of the policies of the Coastal
Zone Management program. A detailed analysis and consistency statement will be included
within the draft environmental impact report.

B. Is the project located within an area subject to a Municipal Harbor Plan? **X** **Yes** ____ No; if yes,
identify the Municipal Harbor Plan and describe the project's consistency with that plan:

The Project is located within the harbor planning area for the 2010 New Bedford/Fairhaven MHP and DPA Master Plan, approved by the Secretary of the Executive Office of Energy and Environmental Affairs on June 14, 2010. The MHP notes that a potential future use of the Project Site includes a gaming establishment. The City of New Bedford recently renewed the MHP through the Office of Coastal Zone Management.

In conjunction with a planned request by the City of New Bedford for CZM to review the DPA boundary, it is anticipated that the current MHP will be amended pursuant to the provisions at 301 CMR 23.06. This amendment will focus on Substitute Provisions, appropriate Offsets, and potential Amplifications at the NSTAR/Eversource Cannon Street Station and Sprague Energy sites. The City will continue to consult with CZM regarding the integration of the DPA boundary review and the MHP amendment.

WATER SUPPLY SECTION

I. Thresholds / Permits

A. Will the project meet or exceed any review thresholds related to **water supply** (see 301 CMR 11.03(4))? ___ Yes **X** **No**; if yes, specify, in quantitative terms:

B. Does the project require any state permits related to **water supply**? ___ Yes **X** **No**; if yes, specify which permit:

C. If you answered "No" to both questions A and B, proceed to the **Wastewater Section**. If you answered "Yes" to either question A or question B, fill out the remainder of the Water Supply Section below.

II. Impacts and Permits

A. Describe, in gallons per day (gpd), the volume and source of water use for existing and proposed activities at the project site:

	<u>Existing</u>	<u>Change</u>	<u>Total</u>
Municipal or regional water supply	_____	_____	_____
Withdrawal from groundwater	_____	_____	_____
Withdrawal from surface water	_____	_____	_____
Interbasin transfer	_____	_____	_____

(NOTE: Interbasin Transfer approval will be required if the basin and community where the proposed water supply source is located is different from the basin and community where the wastewater from the source will be discharged.)

B. If the source is a municipal or regional supply, has the municipality or region indicated that there is adequate capacity in the system to accommodate the project? ___ Yes ___ No

C. If the project involves a new or expanded withdrawal from a groundwater or surface water source, has a pumping test been conducted? ___ Yes ___ No; if yes, attach a map of the drilling sites and a summary of the alternatives considered and the results. _____

D. What is the currently permitted withdrawal at the proposed water supply source (in gallons per day)? _____ Will the project require an increase in that withdrawal? ___ Yes ___ No; if yes, then how much of an increase (gpd)? _____

E. Does the project site currently contain a water supply well, a drinking water treatment facility, water main, or other water supply facility, or will the project involve construction of a new facility? ___ Yes ___ No. If yes, describe existing and proposed water supply facilities at the project site:

	<u>Permitted Flow</u>	<u>Existing Avg Daily Flow</u>	<u>Project Flow</u>	<u>Total</u>
Capacity of water supply well(s) (gpd)	_____	_____	_____	_____
Capacity of water treatment plant (gpd)	_____	_____	_____	_____

F. If the project involves a new interbasin transfer of water, which basins are involved, what is the direction of the transfer, and is the interbasin transfer existing or proposed?

G. Does the project involve:

1. new water service by the Massachusetts Water Resources Authority or other agency of the Commonwealth to a municipality or water district? ___ Yes ___ No
2. a Watershed Protection Act variance? ___ Yes ___ No; if yes, how many acres of alteration?
3. a non-bridged stream crossing 1,000 or less feet upstream of a public surface drinking water supply for purpose of forest harvesting activities? ___ Yes ___ No

III. Consistency

Describe the project's consistency with water conservation plans or other plans to enhance water resources, quality, facilities and services:

WASTEWATER SECTION

I. Thresholds / Permits

A. Will the project meet or exceed any review thresholds related to **wastewater** (see 301 CMR 11.03(5))? **Yes** ___ No; if yes, specify, in quantitative terms:

The Project will create a new discharge of an estimated 194,000 gpd to the New Bedford sewer system, exceeding the 100,000 gpd threshold by 94,000 gpd.

B. Does the project require any state permits related to **wastewater**? ___ Yes **No**; if yes, specify which permit:

C. If you answered "No" to both questions A and B, proceed to the **Transportation -- Traffic Generation Section**. If you answered "Yes" to either question A or question B, fill out the remainder of the Wastewater Section below.

II. Impacts and Permits

A. Describe the volume (in gallons per day) and type of disposal of wastewater generation for existing and proposed activities at the project site (calculate according to 310 CMR 15.00 for septic systems or 314 CMR 7.00 for sewer systems):

	<u>Existing</u>	<u>Change</u>	<u>Total</u>
Discharge of sanitary wastewater	<u>533</u>	<u>193,467</u>	<u>194,000</u>
Discharge of industrial wastewater	_____	_____	_____
TOTAL	_____	_____	_____
	<u>Existing</u>	<u>Change</u>	<u>Total</u>
Discharge to groundwater	_____	_____	_____
Discharge to outstanding resource water	_____	_____	_____
Discharge to surface water	_____	_____	_____
Discharge to municipal or regional wastewater facility	<u>533</u>	<u>193,467</u>	<u>194,000</u>
TOTAL	<u>533</u>	<u>193,467</u>	<u>194,000</u>

B. Is the existing collection system at or near its capacity? ___ Yes **No**; if yes, then describe the measures to be undertaken to accommodate the project's wastewater flows:

C. Is the existing wastewater disposal facility at or near its permitted capacity? ___ Yes **No**; if yes, then describe the measures to be undertaken to accommodate the project's wastewater flows:

D. Does the project site currently contain a wastewater treatment facility, sewer main, or other wastewater disposal facility, or will the project involve construction of a new facility? ___ Yes **No**; if yes, describe as follows:

	<u>Permitted</u>	<u>Existing Avg Daily Flow</u>	<u>Project Flow</u>	<u>Total</u>
Wastewater treatment plant capacity (in gallons per day)	_____	_____	_____	_____

E. If the project requires an interbasin transfer of wastewater, which basins are involved, what is the direction of the transfer, and is the interbasin transfer existing or new?

No interbasin transfer of wastewater is proposed.

(NOTE: Interbasin Transfer approval may be needed if the basin and community where wastewater will be discharged is different from the basin and community where the source of water supply is located.)

F. Does the project involve new sewer service by the Massachusetts Water Resources Authority (MWRA) or other Agency of the Commonwealth to a municipality or sewer district? ___ Yes X No

G. Is there an existing facility, or is a new facility proposed at the project site for the storage, treatment, processing, combustion or disposal of sewage sludge, sludge ash, grit, screenings, wastewater reuse (gray water) or other sewage residual materials? ___ Yes X No; if yes, what is the capacity (tons per day):

	<u>Existing</u>	<u>Change</u>	<u>Total</u>
Storage	_____	_____	_____
Treatment	_____	_____	_____
Processing	_____	_____	_____
Combustion	_____	_____	_____
Disposal	_____	_____	_____

H. Describe the water conservation measures to be undertaken by the project, and other wastewater mitigation, such as infiltration and inflow removal.

The Proponent will follow all applicable buildings codes including the Stretch Energy Code when providing water conservation measures for the Project.

III. Consistency

A. Describe measures that the proponent will take to comply with applicable state, regional, and local plans and policies related to wastewater management:

The Project will comply with all applicable policies and regulations. Compliance with all applicable policies and regulations will be detailed in the appropriate permitting submittals.

B. If the project requires a sewer extension permit, is that extension included in a comprehensive wastewater management plan? ___ Yes X No; if yes, indicate the EEA number for the plan and whether the project site is within a sewer service area recommended or approved in that plan:

While transit access to the Site is relatively limited, the Transportation Demand Management (TDM) plan for the Project will include strategies to encourage use of transit, particularly by employees, and other alternative modes. Generous pedestrian accommodations will be provided throughout the Site, with strong connections to the off-site pedestrian network and the proposed new Harborwalk along the Site's harbor edge. The Proponent is coordinating closely with the City of New Bedford's current efforts to better connect the City to the waterfront and promote improved pedestrian access to and through the area. Pedestrian accommodations at all crossing points on routes serving the Site will be evaluated and upgraded as appropriate.

Bicycle access for the Site will be coordinated with on- and off-street bicycle accommodations in the JFK Memorial Highway/Route 18 corridor, and on-site secure bicycle parking and changing facilities will be provided for employees.

- C. Is there a Transportation Management Association (TMA) that provides transportation demand management (TDM) services in the area of the project site? ____ Yes **X** **No**; if yes, describe if and how will the project will participate in the TMA:
- D. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation facilities? **X** **Yes** ____ **No**; if yes, generally describe:

The Project Site abuts New Bedford Harbor.

- E. If the project will penetrate approach airspace of a nearby airport, has the proponent filed a Massachusetts Aeronautics Commission Airspace Review Form (780 CMR 111.7) and a Notice of Proposed Construction or Alteration with the Federal Aviation Administration (FAA) (CFR Title 14 Part 77.13, forms 7460-1 and 7460-2)?

All required Forms and FAA review will be further discussed in the EIR.

III. Consistency

Describe measures that the proponent will take to comply with municipal, regional, state, and federal plans and policies related to traffic, transit, pedestrian and bicycle transportation facilities and services:

The Project will be consistent with state and regional multimodal principles and policies to reduce the use of single occupancy vehicles (SOV) and encourage alternative transportation modes. The Project access and circulation will be developed and designed to be consistent with, and compliment, the City of New Bedford's plans for JFK Memorial Highway. All improvements/ mitigation to be provided by the Project will be designed in accordance with "Complete Street" policies.

TRANSPORTATION SECTION (ROADWAYS AND OTHER TRANSPORTATION FACILITIES)

I. Thresholds

A. Will the project meet or exceed any review thresholds related to **roadways or other transportation facilities** (see 301 CMR 11.03(6))? ___ Yes **X** No; if yes, specify, in quantitative terms:

B. Does the project require any state permits related to **roadways or other transportation facilities**? ___ Yes **X** No ; if yes, specify which permit:

C. If you answered "No" to both questions A and B, proceed to the **Energy Section**. If you answered "Yes" to either question A or question B, fill out the remainder of the Roadways Section below.

II. Transportation Facility Impacts

A. Describe existing and proposed transportation facilities in the immediate vicinity of the project site:

B. Will the project involve any

- 1. Alteration of bank or terrain (in linear feet)? _____
- 2. Cutting of living public shade trees (number)? _____
- 3. Elimination of stone wall (in linear feet)? _____

III. Consistency -- Describe the project's consistency with other federal, state, regional, and local plans and policies related to traffic, transit, pedestrian and bicycle transportation facilities and services, including consistency with the applicable regional transportation plan and the Transportation Improvements Plan (TIP), the State Bicycle Plan, and the State Pedestrian Plan:

ENERGY SECTION

I. Thresholds / Permits

A. Will the project meet or exceed any review thresholds related to **energy** (see 301 CMR 11.03(7))?
___ Yes **X** **No**; if yes, specify, in quantitative terms:

B. Does the project require any state permits related to **energy**? ___ Yes **X** **No**; if yes, specify which permit:

C. If you answered "No" to both questions A and B, proceed to the **Air Quality Section**. If you answered "Yes" to either question A or question B, fill out the remainder of the Energy Section below.

II. Impacts and Permits

A. Describe existing and proposed energy generation and transmission facilities at the project site:

	<u>Existing</u>	<u>Change</u>	<u>Total</u>
Capacity of electric generating facility (megawatts)	_____	_____	_____
Length of fuel line (in miles)	_____	_____	_____
Length of transmission lines (in miles)	_____	_____	_____
Capacity of transmission lines (in kilovolts)	_____	_____	_____

B. If the project involves construction or expansion of an electric generating facility, what are:

1. the facility's current and proposed fuel source(s)?
2. the facility's current and proposed cooling source(s)?

C. If the project involves construction of an electrical transmission line, will it be located on a new, unused, or abandoned right of way? ___Yes ___No; if yes, please describe:

D. Describe the project's other impacts on energy facilities and services:

III. Consistency

Describe the project's consistency with state, municipal, regional, and federal plans and policies for enhancing energy facilities and services:

AIR QUALITY SECTION

I. Thresholds

A. Will the project meet or exceed any review thresholds related to **air quality** (see 301 CMR 11.03(8))? ___ Yes **X** **No**; if yes, specify, in quantitative terms:

B. Does the project require any state permits related to **air quality**? ___ Yes **X** **No**; if yes, specify which permit:

C. If you answered "No" to both questions A and B, proceed to the **Solid and Hazardous Waste Section**. If you answered "Yes" to either question A or question B, fill out the remainder of the Air Quality Section below.

II. Impacts and Permits

A. Does the project involve construction or modification of a major stationary source (see 310 CMR 7.00, Appendix A)? ___ Yes ___ No; if yes, describe existing and proposed emissions (in tons per day) of:

	<u>Existing</u>	<u>Change</u>	<u>Total</u>
Particulate matter	_____	_____	_____
Carbon monoxide	_____	_____	_____
Sulfur dioxide	_____	_____	_____
Volatile organic compounds	_____	_____	_____
Oxides of nitrogen	_____	_____	_____
Lead	_____	_____	_____
Any hazardous air pollutant	_____	_____	_____
Carbon dioxide	_____	_____	_____

B. Describe the project's other impacts on air resources and air quality, including noise impacts:

III. Consistency

A. Describe the project's consistency with the State Implementation Plan:

B. Describe measures that the proponent will take to comply with other federal, state, regional, and local plans and policies related to air resources and air quality:

SOLID AND HAZARDOUS WASTE SECTION

I. Thresholds / Permits

A. Will the project meet or exceed any review thresholds related to **solid or hazardous waste** (see 301 CMR 11.03(9))? ___ Yes **No**; if yes, specify, in quantitative terms:

B. Does the project require any state permits related to **solid and hazardous waste**? ___ Yes No; if yes, specify which permit:

C. If you answered "No" to both questions A and B, proceed to the **Historical and Archaeological Resources Section**. If you answered "Yes" to either question A or question B, fill out the remainder of the Solid and Hazardous Waste Section below.

II. Impacts and Permits

A. Is there any current or proposed facility at the project site for the storage, treatment, processing, combustion or disposal of solid waste? ___ Yes ___ No; if yes, what is the volume (in tons per day) of the capacity:

	<u>Existing</u>	<u>Change</u>	<u>Total</u>
Storage	_____	_____	_____
Treatment, processing	_____	_____	_____
Combustion	_____	_____	_____
Disposal	_____	_____	_____

B. Is there any current or proposed facility at the project site for the storage, recycling, treatment or disposal of hazardous waste? ___ Yes ___ No; if yes, what is the volume (in tons or gallons per day) of the capacity:

	<u>Existing</u>	<u>Change</u>	<u>Total</u>
Storage	_____	_____	_____
Recycling	_____	_____	_____
Treatment	_____	_____	_____
Disposal	_____	_____	_____

C. If the project will generate solid waste (for example, during demolition or construction), describe alternatives considered for re-use, recycling, and disposal:

D. If the project involves demolition, do any buildings to be demolished contain asbestos?
___ Yes ___ No

E. Describe the project's other solid and hazardous waste impacts (including indirect impacts):

III. Consistency

Describe measures that the proponent will take to comply with the State Solid Waste Master Plan:

HISTORICAL AND ARCHAEOLOGICAL RESOURCES SECTION

I. Thresholds / Impacts

A. Have you consulted with the Massachusetts Historical Commission? **Yes** ___ No; if yes, attach correspondence. For project sites involving lands under water, have you consulted with the Massachusetts Board of Underwater Archaeological Resources? ___ Yes ___ No; if yes, attach correspondence

Li Saltzman Architects staff spoke with Mr. Walter Marrows of the Architectural Review Department of the Massachusetts Historical Commission on 2/28/08 regarding regulatory review of a proposed development project on the designated site.

Letter, from Judith Saltzman, Li Saltzman Architects, to Brona Simon, Massachusetts Historical Commission, dated December 9, 2008 (Attachment E).

B. Is any part of the project site a historic structure, or a structure within a historic district, in either case listed in the State Register of Historic Places or the Inventory of Historic and Archaeological Assets of the Commonwealth? **Yes** ___ No; if yes, does the project involve the demolition of all or any exterior part of such historic structure? **Yes** ___ No; if yes, please describe:

The Workman's Shed, a non-contributing structure, was previously demolished. Partial demolition of the following buildings in the historic district is proposed:

- Cannon Street Power Station (in part): Extensions added (1945-1951) at the northeast corner of the building are proposed to be demolished
- Filtering Station
- NSTAR operations facility – non-contributing

The following structure in the historic district is proposed to be concealed:

- A new building is proposed on Eddy's Wharf.

C. Is any part of the project site an archaeological site listed in the State Register of Historic Places or the Inventory of Historic and Archaeological Assets of the Commonwealth? **Yes** ___ No; if yes, does the project involve the destruction of all or any part of such archaeological site? ___ Yes **No**; if yes, please describe:

The proposed development calls for the demolition of the Filtering Station, a contributing building in the historic district. Archaeological investigation at the site of the Filtering Station prior to demolition may be warranted.

D. If you answered "No" to all parts of both questions A, B and C, proceed to the **Attachments and Certifications** Sections. If you answered "Yes" to any part of either question A or question B, fill out the remainder of the Historical and Archaeological Resources Section below.

II. Impacts

Describe and assess the project's impacts, direct and indirect, on listed or inventoried historical and archaeological resources:

An Area of Potential Impact (API) will be prepared by the Project team, and reviewed and approved by MHC. Review of previous inventoried resources, and additional survey of potential historic/archaeological resources within and outside the NR/SR historic district will be performed as needed.

Direct Effects

Any potential direct effects to the Cannon Street Station, the Taber & Grinnell Iron Foundry Building, and Eddy's Wharf will be minimized. To minimize potential effects due to construction activities, historic fabric scheduled to remain within the work zone should have protection plans. Rehabilitation work will comply with The Secretary of the Interiors Standards for the Treatment of Historic Properties.

- Cannon Street Power Station: The building will be remediated, rehabilitated and repurposed to accommodate casino amenities. The historic massing and monumental presence of the Power Station will be maintained. The footprint will be altered by the demolition of the 1945, 1950 and 1951 ceramic block clad extensions (NE portion of building). The removal of these extensions will permit the formerly concealed portions of the North and East facades of the original 1916 Power Station to be exposed, and will re-establish the building's visual connectivity with New Bedford's waterfront.

The exterior brickwork will be repaired as required to maintain the original integrity of the historic building. The building's structure will be stabilized and all original windows will be replaced with energy efficient windows throughout. The one remaining chimneystack will be stabilized and featured with signage and illumination from below.

- Taber & Grinnell Iron Foundry Building: The Foundry building will be rehabilitated and utilized as office space with retail or dining at the first floor. The building's 3-story granite ashlar masonry facades, featuring flat planar surfaces and rock faced tooling, will be restored. The recent EIFS stucco cladding will be removed and any damage to the original structure repaired as needed. The original window openings will be maintained with new energy efficient windows installed to match the historic fenestration.
- Eddy's Wharf: The new 120,000 sf building and wood-decked Harborwalk, will be constructed on Eddy's Wharf. The perimeter of the Wharf's granite and concrete seawall will remain visible and unchanged.

Indirect Effects

Indirect effects on known and potentially eligible historic properties within the architectural Area of Potential Impact (API) may consist of viewshed impacts. Character defining features of contributing resources will be preserved in the proposed design, such as the monumental presence of the power plant and harbor frontage of the Canon Street Station, and the

appearance and location of the Foundry. The preservation of the Cannon Street Station's smokestack will retain its iconic presence.

The Proponent will consult with interested and consulting parties to avoid, minimize or mitigate adverse effects to contributing (listed) and potential historic resources.

III. Consistency

Describe measures that the proponent will take to comply with federal, state, regional, and local plans and policies related to preserving historical and archaeological resources:

The Project will comply with applicable federal, state, regional and local preservation regulatory requirements:

Federal

The Project will require a Section 106 Review in conformance with the National Historic Preservation Act (see below). Steps to comply with the NHPA/Section 106 Review are taken in consultation with the Massachusetts State Historic Preservation Officer (SHPO). The Massachusetts Historical Commission (MHC) is the office of the SHPO. The Project will also comply with The Secretary of the Interior's Standards for the Treatment of Historic Properties.

National Historic Preservation Act (1966, amended 2000) (16 U.S.C. 470h-2)

The National Historic Preservation Act authorized the Secretary of the Interior to expand and maintain a National Register of Historic Places, composed of districts, sites, buildings, structures, and objects significant to American history, architecture, archaeology, engineering, and culture. In particular, the Act charges the State Historic Preservation Office with the following responsibilities: "(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities; and (F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development."

Section 106 Review (36 CFR 800)

Any historic resource which is listed or eligible for listing on the National Register of Historic Places is afforded certain protections under the National Historic Preservation Act. Specifically, any financed, licensed or permitted Federal or federally-assisted undertaking affecting a National Register eligible or listed property triggers a Section 106 Review which requires Federal agencies to take historic resources, including archaeological resources, into account during the planning phase of a project. The Section 106 Review process requires the

defining an Area of Potential Impact (API) for the proposed undertaking, identifying any historic properties within the API, and evaluation of potential effects.

State

At the state level, the Proponent will comply with the requirements of the Massachusetts Environmental Policy Act (MEPA) and the Massachusetts Historical Commission (MHC).

Massachusetts Historical Commission

Any projects that require funding, licenses, or permits from any state agency must be reviewed by MHC in compliance with Massachusetts General Laws Chapter 9, sections 26-27C. This law creates the MHC, the office of the State Archaeologist, and the State Register of Historic Places among other historic preservation programs. It provides for MHC review of state projects, State Archaeologist's Permits, the protection of archaeological sites on public land from unauthorized digging, and the protection of unmarked burials. The state regulations establish a process that mirrors the federal "Section 106" regulations: identification of historic properties; assessment of effect; and consultation among interested parties to avoid, minimize, or mitigate any adverse effects

Municipal

At the local level, the Proponent will comply with the requirements of the New Bedford Historical Commission's Certificate of Appropriateness review. In addition, the Proponent will coordinate proactively with all local preservation advocacy groups to sensitively balance respect for historic fabric while meeting programmatic and code requirements of the new development project. Preservation organizations will include Waterfront Historic Area League (WHALE), and the New Bedford Preservation Society.

New Bedford Historical Commission (NBHC)

The NBHC consists of seven members and seven alternates appointed by the Mayor and confirmed by the City Council. The NBHC's responsibilities include administering the city's Demolition Ordinance, advising the City Council and other city agencies on the historical significance of sites and buildings proposed for demolition throughout the city. The Commission also cooperates with and advises the planning department, planning board, redevelopment authority and other city, state and federal agencies and departments in matters involving historic sites, buildings and structures.

Demolition Ordinance

This ordinance was written to allow for a streamlined review of buildings that may meet the age requirement (75 years or older) but are not found to be historic, allowing a project to continue through the permitting process without added delay. The ordinance also was written to allow for a fair review process for buildings that may be historically significant. Time is given to examine the building and the reasons why its demolition is being requested

by the applicant and the potential effects on the neighborhood. This process has also been designed to allow property owners and neighbors to be notified when a request has been made to demolish a historic building in their neighborhood, giving citizens the opportunity to be aware of, and involved in, changes in their community.

CERTIFICATIONS:

1. The Public Notice of Environmental Review has been/will be published in the following newspapers in accordance with 301 CMR 11.15(1):

(Name) The Standard-Times (Date) May 20, 2014

2. This form has been circulated to Agencies and Persons in accordance with 301 CMR 11.16(2).

Signatures:

	
_____ Date Signature of Responsible Officer or Proponent	_____ Date Signature of person preparing ENF (if different from above)

<u>Andrew M. Stern</u> Name (print or type)	<u>Stephanie Krueel</u> Name (print or type)
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<u>KG New Bedford, LLC</u> Firm/Agency	<u>VHB</u> Firm/Agency
---	---------------------------

<u>125 Park Avenue</u> Street	<u>99 High Street, 10th Floor</u> Street
----------------------------------	--

<u>New York, NY 10012</u> Municipality/State/Zip	<u>Boston, MA 02110</u> Municipality/State/Zip
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<u>646-673-5310</u> Phone	<u>617-607-2972</u> Phone
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Attachment A: Narrative

Chapter 1: Project Overview

Chapter 2: Transportation

Chapter 3: 21E/Hazardous Materials

Chapter 4: Chapter 91 & DPA

Chapter 5: Sustainability/Resilience



1

Project Overview

1.1 Project Identification and Project Team

Project Name	Cannon Street Station
Address/Location	180 MacArthur Drive New Bedford, MA 02740
Proponent	KG New Bedford, LLC c/o KG Urban Enterprises 125 Park Avenue New York, NY 10017 Andrew M. Stern
Architects	Kostow Greenwood Architects, LLP 594 Broadway, Suite 300 New York, NY 10012 Jane Greenwood, AIA LEED AP Elif Bayram
Preservation Architect	Li Saltzman Architects, PC 50 Broadway New York, NY 10004 Judith Saltzman Meisha Hunter
Resort Development Architect	Cunningham Group Architecture, Inc. 10100 W. Charleston Boulevard Suite 230 Las Vegas, NV 89135 Brett Ewing



Legal Counsel	GreenbergTraurig, LLP One International place Boston, MA 02110 Hamilton Hackney, III
Permitting, Transportation, Site/ Civil, Environmental Consultants	VHB 99 High Street, 10 th Floor Boston, MA 02110 Elizabeth Grob Douglas Landry, PE Richard Hollworth, PE David Black Stephanie Krueel
Environmental Remediation Consultant	TRC Solutions 41 Spring Street New Providence, NJ 07041 Marc S. Faecher
Consultant Engineer	Tibbetts Engineering Corp. 3090 Acushnet Avenue New Bedford, MA 02745 George Block, PE
Mechanical Engineer	WSP Group 512 Seventh Avenue New York, NY 10018 Mark Powasnik
Construction Engineer	Tishman Construction Corporation 66 Long Wharf, 2 nd Floor Boston, MA 02110 Jeffrey Eamer
Estimated Commencement	Upon Issuance of Gaming License
Estimated Completion	24 Months from Issuance of Gaming License
Approximate Development Cost	\$650 million
Status of Project Design	10% Complete

1.2 Project Summary

KG New Bedford, LLC (the Proponent) has options to purchase a forty-four acre site (including 14 acres of watershed) at a waterfront site located in New Bedford, Massachusetts near the intersection of MacArthur Drive, JFK Memorial Highway, and Walnut Street. The Proponent has applied to the Massachusetts Gaming Commission



for a Category 1 gaming license to develop Cannon Street Station, the “Project” as a waterfront destination resort casino. This high quality gaming establishment will include public amenities including a Harborwalk and public waterfront open space, three hundred hotel rooms, restaurants, retail, multifunction event and entertainment space, a waterfront conference center, along with parking. The Proponent has entered into a Host Community Agreement with the City of New Bedford, one of the purposes of which is to provide the City with funds to reinvest in the economic development of its downtown and maritime industrial waterfront.

1.3 Consistency with Planning

The Project demonstrates consistency with municipal and regional plans, including the City of New Bedford Master Plan, the New Bedford/Fairhaven Municipal Harbor Plan, and the Regional Comprehensive Economic Development Strategy, as detailed below.

1.3.1 City of New Bedford Master Plan

The Project is consistent with the policy and planning objectives set forth by the City of New Bedford in the New Bedford 2020 Master Plan (2010). Specifically, the Project will promote the goals of economic growth, brownfield remediation, creation of an improved public realm and waterfront pedestrian promenade, and linkages between Downtown and the waterfront.

The plan’s comprehensive strategy for economic development calls for capturing long-term catalytic opportunities for growth, specifically including preparation for a waterfront gaming complex. The City has set up a municipal department on Gaming/Casinos to aid in this effort. The Proponent has committed in the Host Community Agreement to making good faith efforts to ensure that at least twenty percent of construction and operational employment opportunities are filled by New Bedford residents.

Another of the Plan’s goals is to prioritize the remediation and development of brownfield sites with high economic development potential. The Project Site includes the former Cannon Street power station and is currently an obsolete industrial site listed on the Massachusetts Department of Environmental Protection list of hazardous waste disposal sites. The Proponent will remediate the existing environmental contamination on the Site at an estimated cost of \$50 million.

The City also strives to improve the public realm to create more pedestrian-friendly, accessible, attractive spaces. Specifically, the plan calls for providing amenities and services that promote the public’s enjoyment of and access to the waterfront and



watersheet, including adding cultural, recreational, and tourism-based space and facilities. It also calls for the development of a harbor promenade/riverwalk along the entire western boundary of New Bedford Harbor, linking existing and proposed visitor attractions in an effort to reclaim the waterfront for public use by the residents of and visitors to New Bedford while maintaining a balance with the working waterfront. The Project helps meet this goal by including an approximately 155,000 square foot, \$10 million Harborwalk, a waterfront café, and space for local food purveyors, along with other public spaces and amenities for the enjoyment of the community and visitors alike.

The City plans to complete the planned linkage between Downtown and the waterfront, including the construction planned as part of the JFK Memorial Highway improvements. Cannon Street Station will be designed to be consistent with those improvements in coordination with the City's Department of Infrastructure.

1.3.2 Municipal Harbor Plan and Designated Port Area

The 2010 New Bedford/Fairhaven Municipal Harbor Plan (MHP) notes that the Project Site could become the location for a gaming facility. With the exception of a small parcel (approximately 0.4 acres) located in the northwest corner of the Site, the entire Site is located within the New Bedford – Fairhaven Designated Port Area (DPA). To accommodate the uses and structures proposed for this Project, a City-initiated DPA boundary review (301 CMR 25.00) to alter the DPA boundary and a Municipal Harbor Plan amendment (301 CMR 23.00) are required. After consultation with the Massachusetts Office of Coastal Zone Management (CZM) in May 2015, the City of New Bedford plans to request that CZM conduct a DPA boundary review. For more information about the MHP and DPA, see Attachment A, Chapter 3.

1.3.3 Regional Comprehensive Economic Development Strategy

The Project is also consistent with the Southeast Regional Planning and Economic Development District's (SRPEDD) Comprehensive Economic Development Strategy (CEDS), titled "Growing the Economy of Southeastern Massachusetts" (June 2014). It helps meet the goals of reclaiming brownfield sites as well as promoting and supporting development in Priority Development Areas that includes LEED certified buildings. The Project Site is within a designated Priority Development Area (PDA) described in a SRPEDD report titled "City of New Bedford Priority Development and Protection Areas" (May 2008). PDAs are areas that are capable of handling more development due to several factors, including good access, available infrastructure (primarily water and sewer and good access to transportation), an absence of environmental constraints, and local support. The relevant PDA is known as the



“Sprague/NSTAR Site,” which encompasses approximately 18 acres along the Central Waterfront between Leonard’s Wharf to the north and Conway Street to the south.

1.4 Consistency with Zoning

The Project Site is within the Waterfront Industrial District (WI), which was established to accommodate waterfront related uses, such as fish processing and other industrial uses reliant upon a waterfront location. The City Council recently approved the Waterfront Economic Development & Revitalization Overlay District (WEDROD) for a portion of the waterfront that includes the Project Site. This overlay district provides a special permit approval process for various commercial uses, including licensed gaming establishments. Among its objectives are to:

- Create permanent employment;
- Remediate environmental contamination;
- Activate the waterfront, including creation/enhancement of public open space, harborwalks, passive and active waterfront recreation, facilities of public accommodation, and public water transportation, while, to the extent feasible, supporting existing marine industrial activities outside the WEDROD;
- Enhance pedestrian and vehicular access between Downtown and the Waterfront;
- Remove blighted or obsolete structures;
- Preserve or reuse Historic structures; and
- Promote neighborhood retail, restaurant and entertainment businesses.

The Project has been designed to help the City achieve the above objectives.

Adjacent to the north of the Site is a Mixed-Use Business District (MUB), which is a typical commercial zoning district that also allows multi-family residential. To the west across Route 18 lies a Residence C District (RC), where higher density multi-family residential housing can be found.

1.5 Public Benefits

New Bedford has been shaped by and is intimately tied to its waterfront. It is the starting location of Herman Melville’s whaling adventures and remains the largest fishing port in the country. Over time, the public’s connections to the waterfront have been weakened in order to build infrastructure for the fishing industry, and the waterfront has been contaminated by historical industrial impacts. Today, the Municipal Harbor Plan (2010) seeks to attract tourists and residents alike to a



revitalized waterfront. The Project will help the City achieve its goal by providing the following significant public benefits:

- **Environmental Remediation:** The Proponent will invest an estimated \$50 million to remediate environmental contamination at the Site in accordance with M.G.L. Chapter 21E.
- **Improved Water Quality:** The Project will employ Best Management Practices (BMP) to treat and enhance the quality of stormwater runoff.
- **Waterfront Access & Public Open Space:** The Proponent will invest an estimated \$10 million to create an approximately 155,000 square foot Harborwalk and publicly accessible open space, which will incorporate in its design certain features that promote and protect the Project's waterfront for public access, use and enjoyment.
- **Sustainable Design/Green Building:** The Project will strive to achieve LEED Gold by being sustainably designed, energy efficient, resilient to climate change impacts, environmentally conscious, and healthy for its employees and visitors. Innovative technologies are being explored to determine what works best for the Project Site.
- **Host Community Agreements:** Payments to the City of New Bedford will be made pursuant to the Host Community Agreement, including:
 - Funding for mitigation of Project impacts on City services and infrastructure;
 - An initial payment \$4.5 million directly to the City to promote economic development, harbor development, and community preservation; and
 - Annual payments of \$12.5 million directly to the City to promote economic development, harbor development, and community preservation.
- **Tax Revenues:** The Project will generate significant new tax revenue at the state and local levels in the form of sales taxes, hotel taxes, food and beverage taxes, as well as taxes on gross gaming revenues.
- **New Jobs:** As many as 3,764 permanent jobs and 2,105 construction jobs will be created.
- **Local Jobs:** The Proponent will use good faith efforts to require its operators of the Project to provide that at least twenty percent of the total permanent workforce of the Project be comprised of residents of the City. It will also require its construction contractor to provide at least twenty percent of the total employee hours for construction of the Project to be undertaken by residents of the City. The Proponent will hold two career/job fairs in the city to highlight and publicize these positions. The Proponent also plans to enter



into a Memorandum of Understanding with Bristol Community College on initiatives and cooperation toward workforce training, with an emphasis on the casino and hospitality industries.

- **Support for Local Vendors:** The Proponent will use good faith efforts to purchase at least \$10 million in goods and services annually from local vendors, and will hold two vendor fairs in the city to educate local vendors about the opportunity to provide goods and services to the Project.
- **Support for Zeiterion Theatre:** The Zeiterion Theatre is a performing arts center in New Bedford that presents a broad range of high caliber national and international performing artists and programs. It is an active participant in the revitalization of Downtown New Bedford. The Proponent will designate Zeiterion Theatre as an Impacted Live Entertainment Venue under the Expanded Gaming Act and provide support to the theater through marketing and promotions that support the role of local arts in the community.

1.6 Permitting Context

Table 1-1 contains a list of federal, state, and local agencies from which permits of other actions area or may be required.

Table 1-1 Permits and Agency Actions

AGENCY	PERMIT/LICENSE/APPROVAL
Federal	
U.S. Environmental Protection Agency	<ul style="list-style-type: none"> • National Pollutant Discharge Elimination System (NPDES) • Construction General Permit
U.S. Army Corps of Engineers	<ul style="list-style-type: none"> • Section 404 Massachusetts General Permit
Federal Aviation Administration (FAA)	<ul style="list-style-type: none"> • Notice of Proposed Construction/Determination (if required)
State	
Executive Office of Energy and Environmental Affairs	<ul style="list-style-type: none"> • MEPA Certificate • Public Benefit Determination
Massachusetts Department of Environmental Protection (DEP)	<ul style="list-style-type: none"> • Chapter 91 License • Demolition Permit • 401 Water Quality Certification (if required) • Asbestos Removal Permit
Massachusetts Office of Coastal Zone Management	<ul style="list-style-type: none"> • Federal Consistency Certification • DPA Boundary Review • DPA Master Plan and MHP Renewal
Massachusetts Gaming Commission	<ul style="list-style-type: none"> • Category 1 Gaming License



Massachusetts Historical Commission	<ul style="list-style-type: none"> • Sections 26 and 27C State Register Review • Section 106 Review
Local	
New Bedford Conservation Commission	<ul style="list-style-type: none"> • Order of Conditions • Certificate of Compliance
New Bedford Department of Inspectional Services	<ul style="list-style-type: none"> • Building Permit • Certificate of Occupancy
New Bedford License Commission	<ul style="list-style-type: none"> • Flammable Storage License
New Bedford Fire Department	<ul style="list-style-type: none"> • Fuel Storage Permit
New Bedford Department of Public Infrastructure	<ul style="list-style-type: none"> • Line and Grade Applications • Local Sewer, Water and Drain Permits • NPDES Review
New Bedford Planning Board	<ul style="list-style-type: none"> • Site Plan Review
New Bedford Historical Commission	<ul style="list-style-type: none"> • Certificate of Appropriateness, Non-applicability or Hardship • Demolition Ordinance
New Bedford Traffic Commission	<ul style="list-style-type: none"> • Commercial Curb Cut Permit
New Bedford Licensing Board	<ul style="list-style-type: none"> • Licensing for; Liquor Establishment, Restaurants, and Lodging
New Bedford Health Department	<ul style="list-style-type: none"> • Demolition Permit • Food Service Establishment Permits • Hotel Establishment Permits
New Bedford Zoning Board of Appeals	<ul style="list-style-type: none"> • WEDROD Special Permit

The necessity of a Massachusetts Department of Transportation Vehicular Access Permit has not yet been determined, and is the subject of further discussions with appropriate MassDOT divisions.

The National Environmental Policy Act (NEPA) requires the disclosure of the environmental impacts of proposed “major Federal actions significantly affecting the quality of the human environment” (40 U.S. C. § 4332(2)(C)). Such actions include “projects and programs entirely or partly financed, assisted, conducted, regulated or approved by federal agencies” (40 CFR § 1508.18(a)). At this time, it does not appear that the Project will involve any Federal funding or subsidy, any Federal permit, license, or approval or any other Federal agency activity that would trigger NEPA review.

1.6.1 Legislation

Chapter 194 of the Acts of 2011: An Act Establishing Expanded Gaming in the Commonwealth (the “Gaming Act”) was signed into law by Governor Deval Patrick on November 22, 2011 with the goal of providing economic investment and job creation within the Commonwealth. The Gaming Act provides for the licensing of up



to three destination resort casinos in diverse geographic locations within the Commonwealth as well as one slots facility and the creation of a Gaming Commission to oversee the implementation of expanded gaming within the Commonwealth. The Proponent has filed an application with the Massachusetts Gaming Commission seeking a license to operate at Category 1 gaming establishment at the Project Site pursuant to the provisions of M.G.L Chapter 23K. On January 15, 2015, the Proponent paid to the Massachusetts Gaming Commission a statutorily-established fee to commence that process and filed its RFA-1 suitability application with the Commission. With the potential of creating as many as 3,764 permanent jobs and 2,105 construction jobs, a \$50 million environmental clean-up, and significant economic contributions the New Bedford Downtown area, the Project is in keeping with the economic development and job creation goals of the Gaming Act.

1.6.2 Host Community Agreement

On March 19, 2015 the City of New Bedford and the Proponent entered into a Host Community Agreement that sets the conditions under which the Proponent may locate a gaming establishment within New Bedford's municipal boundaries. The agreement identifies the following:

- Certain features of the \$650 million gaming facility, including a full-service hotel, a waterfront conference center, a Harborwalk, the reuse of the historic former power plant and granite foundry building, retail stores, and restaurants;
- Financial benefits to the City including up-front payments totaling \$4.5 million over three years and annual payments of \$12.5 million;
- The economic benefits of employment (as many as 3,764 permanent and 2,105 construction jobs);
- A commitment to hiring New Bedford residents (20 percent of total employment opportunities);
- A commitment to purchase at least \$10 million annually in goods and services from city businesses;
- A commitment to use a unionized workforce for construction activities;
- Establishment of a job-training partnership with Bristol Community College;
- Environmental cleanup estimated at \$50 million;
- Relocation of NSTAR's Cannon Street operations; and
- Construction of a \$10 million Harborwalk.

The Proponent also agreed to a number of special protections to ensure the future vitality of the City's downtown and historic district, including:

- Construction of a destination waterfront conference center;
- Limits on restaurants and retail businesses on-site;
- Limits on the height of the hotel;
- Redesign of the northwest corner of the Site;



- Protections for the Zeiterion Performing Arts Center;
- Partnerships with current and future downtown hotels;
- A rewards program including \$50,000 per year spent in local businesses;
- Limits on signage; and
- Implementation of a responsible gaming program.

1.6.3 Public and Agency Review and Outreach

The Proponent has met with the following public and municipal organizations:

- Massachusetts Environmental Policy Act Office
- Massachusetts Coastal Zone Management Office
- Mayor of New Bedford
- City of New Bedford Department of Planning, Housing, & Community Development
- City of New Bedford Department of Public Infrastructure
- New Bedford Harbor Development Commission
- New Bedford Economic Development Council

1.6.4 Legal Information

The Proponent is not aware of any tax arrears on, or any legal judgements that are adverse to, the proposed Project.

Transportation

2.1 Introduction

This chapter presents a preliminary evaluation of the transportation characteristics of the proposed Cannon Street Station Project. It includes a preliminary trip generation analysis for the Project, intended to provide a basis for developing a detailed scope of analysis for the Environmental Impact Report (EIR) filing.

2.2 Access and Circulation

As shown in Figure 10-5, the Project Site is located on the east side of JFK Memorial Highway, and benefits from direct access to the regional roadway network due to the proximity of Route 6, Route 18, and I-195 to the north. Currently, the Project Site is served by two primary vehicle access points located on MacArthur Drive on the north side of the Site and on JFK Memorial Highway at Pine Street on the west side of the Site. In addition, there is a secondary vehicle access on the south side of the Site via Cape Street.

2.3 Trip Generation

Given the location of the proposed Project it was determined that trip generation rates developed for the previously proposed Foxwoods Casino in Milford, MA, would be appropriate for the proposed Project. Traffic count data performed at the Twin River Casino in Lincoln, RI (4,740 gaming positions) and the Foxwoods Casino in Ledyard, CT (9,950 gaming positions) were used to determine daily and peak hour trip rates per gaming position. These rates, shown in Table 2-1, account for vehicle trips



generated by all of the components of a resort casino, including casino patrons, employees, function rooms, retail shops, restaurants and hotel guests.

Table 2-1. Trip Generation Rates (per gaming position)

	Monday - Thursday	Friday	Saturday	Sunday
<i>Daily</i>	2.66	3.98	4.94	3.60
<i>Morning Peak Hour</i>				
Enter	0.06	0.06	0.07	0.06
Exit	0.03	0.04	0.03	0.03
Total	0.09	0.10	0.10	0.09
<i>Evening Peak Hour</i>				
Enter	0.11	0.18	0.20	0.13
Exit	0.09	0.11	0.17	0.12
Total	0.20	0.29	0.37	0.25

Source: Traffic Impact and Access Study Foxwoods Casino Milford, Massachusetts prepared by TetraTech on July 9, 2013.

As previously noted, the proposed Project will have approximately 3,190 gaming positions. Table 2-2 shows the expected trip generation associated with the proposed Project based on the proposed gaming position program.

Table 2-2. Project Vehicle Trip Generation

	Monday - Thursday	Friday	Saturday	Sunday	Average
<i>Daily</i>	8,510	12,740	15,810	11,520	10,590
<i>Morning Peak Hour</i>					
Enter	195	190	225	195	200
Exit	95	130	95	95	100
Total	290	320	320	290	300
<i>Evening Peak Hour</i>					
Enter	350	575	640	415	435
Exit	290	355	545	385	350
Total	640	930	1,185	800	785

As can be seen in Table 2-2, the critical time periods occur during the Friday and Saturday evening peak hours. A total of 930 trips (575 entering and 355 exiting) and 1,185 trips (640 entering and 545 exiting) are projected for those periods, respectively.

It should be noted that current activities on the existing Project Site comprise largely of utility-related uses for which specific data are not available.



2.4 Trip Distribution

The geographic directional distribution of Project trips is a function of several variables including the relative locations and densities of population, competing land uses, existing travel patterns, and the efficiency of roadways leading to the Project Site. While the trip distribution patterns will be different for patrons and employee trips, the catchment area for patron trips was used in this preliminary analysis as patron trips comprise the majority of trips to a casino. Separate trip generation, distribution and assignment for patrons and employees will be developed for the EIR analysis, in consultation with MassDOT. Trip distribution patterns for employees will be developed based on the 2010 U.S. Census Journey to Work data for the City of New Bedford.

Patron trip distribution patterns were developed based on the market analysis model prepared for the Project. This gravity model accounts for gaming competition (including the Springfield and Boston region casinos), the location of the facility relative to the patron's location, as well as socioeconomic characteristics of potential patrons.

Table 2-3 and Figure 10-1 present the overall regional distribution of Project vehicle trips.

Table 2-3. Trip Distribution

	Percent in Route
<i>Route 140 SB</i>	30%
<i>I-195 EB</i>	24%
<i>I-195 WB</i>	28%
<i>Route 6 EB</i>	1%
<i>Route 6 WB</i>	4%
<i>Local Roadways</i>	10%
<i>Ferry</i>	3%
Total	100%

Source: Based on Market Analysis model for the Cannon Street Station Project.

2.5 Alternative Modes of Transportation

The location of the proposed Project provides opportunities for access to the Site via modes of transportation other than automobiles. Typically, five to ten percent of patrons arrive at New England casino sites via private coaches either operated through the casino or other entities. Given the trip generation methodology described



above, however, this mode share is intrinsically incorporated in the trip rate calculations.

As can be seen in Table 2-3, a significant number of patrons are expected to arrive via Ferry from Nantucket, Martha’s Vineyard and other islands. Through the development of the waterfront, for which the Project is a catalyst, it is reasonable to assume that the Site has the potential to attract other ferry patrons in the future.

Finally, the South Coast Rail project currently plans to construct two station in the City of New Bedford: King’s Highway and Whale’s Tooth. The Whale’s Tooth station is less than 1.5 miles north of the Site, and it is expected that this will provide an important alternative mode of transportation for patrons, most likely by shuttle service between the station and the Project.

To provide a conservative analysis, however, no adjustment to trip generation was made for additional ferry service and/or commuter rail. Further, while it is expected that there will be a measurable component of pedestrian and bicycle trips to the Project, particularly for employees, no adjustment was made for those modes for this preliminary conservative analysis.

2.6 Trip Assignment

The Friday and Saturday evening peak hour trips presented in Table 2-2 were assigned to the roadway network based on the trip distribution developed for the Project (Table 2-4). Table 2-4 and Figure 10-2 show the projected Project trips. Figures 10-3 and 10-4 show the expected Project trips graphically as they travel through study area intersections.

Table 2-4. Trip Assignment

	Friday Evening Peak Hour	Saturday Evening Peak Hour
<i>Route 140 SB</i>	280	355
<i>I-195 EB</i>	225	285
<i>I-195 WB</i>	260	330
<i>Route 6 EB</i>	10	10
<i>Route 6 WB</i>	35	50
<i>Local Roadways</i>	90	120
<i>Ferry</i>	30	35
Total	930	1,185



2.7 Proposed EIR Study Area

Based on the estimated number of Project trips and information provided from MassDOT's Revised Transportation Impact Assessment (TIA) Guidelines, a study area encompassing the Route 18/JFK Memorial Highway corridor from the I-195 in the north to Cove Street in the south, along with the Route 6 corridor from Main Street in Fairhaven to the Route 18 off-ramp/Pleasant Street/Foster Street/Kempton Street/Mill Street intersection is proposed to capture potential Project traffic impacts.

The proposed study area is shown in Figure 10-5. It is proposed to study the following intersections and interchanges within this study area in the EIR analysis:

- JFK Memorial Highway at Cove Street
- JFK Memorial Highway at Division Street (new intersection)
- JFK Memorial Highway at Rivet Street (new intersection)
- JFK Memorial Highway at Potomska Street
- JFK Memorial Highway at South Street
- JFK Memorial Highway at Conway Street
- JFK Memorial Highway at Griffin Court (new intersection)
- MacArthur Drive at South Street
- MacArthur Drive at Conway Street
- MacArthur Drive at Pine Street (potential site access)
- MacArthur Drive at Walnut Street (potential site access)
- JFK Memorial Highway at Walnut Street
- JFK Memorial Highway/Route 18/Union Street
- MacArthur Drive at Union Street
- Route 18 at Elm Street
- MacArthur Drive at Elm Street
- Route 6/Route 18 off-ramp/Pleasant St./Foster St./Kempton St./Mill St
- Route 6/Main Street (Fairhaven)
- Route 6/Bridge Street (Fairhaven)
- Route 240/Bridge Street (Fairhaven)
- Route 18 at Route 6 Interchange
- Route 18 at I-195 Interchange
- Route 140/I-195 Interchange

At the two proposed interchanges, as well as other ramps within the study area, weaving, merging and diverging operations will be evaluated where appropriate.

Additionally, pedestrian and bicycle connections to and from the Site will be evaluated, in particular connections to Downtown New Bedford including the Union Street and Walnut Street corridors.



2.8 Mitigation/Improvements

Appropriate off-site mitigation will be developed in coordination with MassDOT and the City of New Bedford. Improvements are expected to include, but not be limited to, new or modified traffic signals, safety improvements, new travel lanes, roadway striping, signage and pedestrian and bicycle accommodations. A complete evaluation of potential mitigation measures on state-controlled roadways and City street will be included in the EIR analysis.

In addition, a comprehensive Travel Demand Management (TDM) plan will be developed for the Project to minimize single occupancy vehicle (SOV) travel and encourage use of alternative modes. While current transit access to the Site is relatively limited, the TDM plan for the Project will include strategies to encourage use of transit, particularly by employees, and other alternative modes. Generous pedestrian accommodations will be provided throughout the Site, with strong connections to the off-site pedestrian network and the proposed new Harborwalk along the Site's harbor edge. Pedestrian accommodations at all crossing points on routes serving the Site will be evaluated and upgraded as appropriate. Bicycle access for the Site will be coordinated with on- and off-street bicycle accommodations in the JFK Memorial Highway/Route 18 corridor, and on-site secure bicycle parking and changing facilities will be provided for employees.

2.9 Parking

There are approximately 548 existing parking spaces on the Site. A total of approximately 2,388 parking spaces will be provided by the Project, reflecting an increase of approximately 1,840 spaces. Dedicated drop-off areas for coaches and taxis and service/loading areas will be identified. A detailed parking demand and supply analysis for the Project will be included in the EIR analysis.

21E – Hazardous Materials

3.1 Introduction

The current Site is an obsolete and environmentally degraded industrial site on the New Bedford waterfront. A central element of the Cannon Street Station Project is the redevelopment of this brownfield site, at a cost estimated at approximately \$50 million. This work will include remediation of environmental contamination, abatement of hazardous materials in the former power plant, and decommissioning of various site buildings and infrastructure.

3.2 Existing Conditions

The major historical land uses and potential contaminant sources for the Site include the following:

1. Former Manufactured Gas Plant (MGP)
2. Petroleum terminal
3. Electric power generation and related infrastructure (e.g., transformer substation)
4. Former coal tar receiving/processing operation
5. Vehicle maintenance and fueling

Extensive environmental sampling investigations of the Site have been undertaken by the Proponent's environmental consultant (TRC) and others, including impacts to groundwater, soil, soil gas and sediment. A graphic display of the extent of locations sampled during these investigations of environmental impacts to the Site is attached as Figure 5. Since 2000, hundreds of samples have been collected from various media (e.g., soil, groundwater, hazardous building materials, etc.) at the Site.



3.2.1 Soils

As noted above, polycyclic aromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), Extractable Petroleum Hydrocarbons (EPH) and Total Petroleum Hydrocarbons (TPH), all associated with the former MGP facility operations, have been detected in soil (as well as groundwater) at the Site at levels above Massachusetts Contingency Plan (MCP) Method 1 limits. Sampling has confirmed the presence on the Site of a large (approximately 190,000 square foot) area of naphthalene contaminated soil and two localized areas (40,000 square feet and 10,000 square feet, respectively) of benzene contaminated soil at the Site, all at levels above MCP Method 1 cleanup criteria. Left untreated, the vapors emanating from these areas of concentrated soil contamination, which currently dissipate into the air, would pose a significant health risk to inhabitants of any building that may be constructed above these areas. In addition, the MGP facility operations have resulted in an area of soil contaminated with TPH above MCP Method 1 cleanup criteria on the Site that is approximately 100,000 square feet in size and which is also releasing petroleum hydrocarbon vapors.

3.2.2 Groundwater

Similarly, groundwater sampling has confirmed significant contamination associated with Site operations. Benzene, ethylbenzene, p/m-xylene, styrene, naphthalene, lead, zinc and physiologically available cyanide ("PAC") have all been detected at concentrations above MCP Method 1 groundwater cleanup standards. Investigations have delineated an approximately 180,000 square foot area of groundwater potentially contaminated with naphthalene above MCP Method 1 cleanup criteria. A plume of benzene groundwater contamination in excess of MCP Method 1 cleanup standards extending over an approximately 60,000 square foot area has also been identified. TPH impacts to groundwater above MCP Method 1 cleanup criteria are estimated to extend over a 150,000 square foot plume. PAC impacts to groundwater above MCP Method 1 cleanup criteria are estimated to extend over a 160,000 square foot plume. As with the soil contamination, migration of contaminant vapors from the impacted groundwater pose a health risk for any building constructed over the impacted areas. Also of concern, contamination in groundwater may be migrating off-site.

3.2.3 Coal Tar

Pure phase coal tar has been observed in monitoring wells at the Site. Also referred to as non-aqueous phase liquid ("NAPL"), this pure phase coal tar has been measured in wells in thicknesses ranging from less than 1/8 of an inch to 2.3 feet thick.



3.3 Hazardous Releases

A number of petroleum and/or hazardous materials releases were previously reported to MassDEP pursuant to the Massachusetts Contingency Plan and received Release Tracking Numbers. A summary of each of the individual Site RTNs is provided below.

- 4-14208/4-15755 (MGP Site): RTN 4-14208 is associated with the Former MGP Plant and Tar Processing Facility and involved PAHs, VOCs, and TPH detected above MCP Reportable Concentrations (RCs) in soil and ground water. Studies from as early as 1998 indicate some PAHs and TPH in two soil samples above MCP Upper Concentration Limits (UCLs). Some PAHs, VOCs, TPH, and physiologically available cyanide (PAC) were detected above RCGW-2 levels in groundwater, with PAHs detected in one groundwater monitoring well above UCLs. Approximately 1/8 inch of NAPL was observed in the same well (MW-1D). The observed impacts appear to correspond with former MGP/Tar Processing buildings that would be likely sources. RTN 4-15755 was an assessment-only Immediate Response Action (IRA) triggered by 8.3 feet of pure-phase coal tar observed in a monitoring well near a former tar holding tank. A Method 3 risk assessment determined that there was No Significant Risk under current conditions. However, a condition of No Significant Risk does not exist for potential future receptors (construction worker, visitors/workers) and public welfare (due to UCL exceedances). A Phase III report was prepared concurrent with the 2002 Phase II work. A Class C Response Action Outcome (RAO) (monitoring only) was submitted with No Substantial Hazard attained.
- 4-12592 (Inner Slip/Outer Slip): RTN 4-12592, involving a Commonwealth Electric/Former Old Colony Tar Company related release, was triggered by sheens on surface water in the inner slip area in 1997. Potential ecological exposures and Substantial Release Migration (SRM) concerns were noted with this release attributed to coal tar in sediment and soil beneath the so-called Inner Slip. The risk characterization concluded that the Disposal Site posed a condition of readily apparent harm and unacceptable risk to human health, safety and public welfare, thereby requiring response actions. A 3.5 to 10.5 foot thick tar layer estimated to contain 3,750 cubic yards of tar was identified within the Inner Slip.

Between June and November 2011, a remedy was implemented in the Inner Slip and the western portion of the so-called Outer Slip (the watersheet extending east from the terminus of the Inner Slip). This remedy included:

- Permanently closing off the Inner Slip with a steel sheetpile wall and creating a confined disposal facility (CDF).
- Dredging a designated area containing visibly tar-impacted sediments from the western portion of the Outer Slip and transferring the Outer Slip dredge spoils to the Inner Slip CDF.
- In-situ Solidification (ISS) of transferred dredge spoils and underlying sediment and soil in the Inner Slip. The solidification zone was extended to refusal in dense sand and gravel



near or to the bedrock surface to address NAPL in sediment and underlying soil and to minimize contact of the contaminated material with groundwater.

- Placing an approximately 2- to 4-foot-thick aquatic cap and armoring system in the western portion of the Outer Slip that extends approximately 10 feet beyond the estimated edge of visually-observable tar in shallow sediment.
- Backfilling over the stabilized material in the Inner Slip with a gravel cap/layer to match the surrounding grade.

An Activity and Use Limitation (AUL) has been placed on the Inner Slip and the western portion of the Outer Slip to maintain a condition of No Significant Risk (NSR). The AUL requires periodic inspection and maintenance of the gravel cap/layer in the Inner Slip and the subaqueous cap in the western portion of the Outer Slip. The AUL prohibits activities that may result in potential future contact with contaminated soil/fill of the Inner Slip or dredging in the capped portion of the Outer Slip without appropriate controls, and anchoring in the Outer Slip. As a result, a Class A-3 RAO was submitted for the Disposal Site.

- 4-13434: A 1997 Global Petroleum related release of 100-200 gallons of No. 6 fuel oil to a secondary containment system was attributed to a failed packing in a king valve on Tank No. 2. The release triggered a two-hour reporting obligation and an Immediate Response Action (IRA). Response actions that included the removal of nine cubic yards of soil and 400 pounds of oily debris resulted in a Class A-1 RAO.
- 4-15577: A 2000 Global Petroleum related release of No. 6 fuel oil was associated with a transfer hose failure within the secondary containment area. The release triggered a two-hour reporting obligation and an IRA. Response actions consisting of the removal of product and soil resulted in a Class A-1 RAO.
- 4-18540: A 2004 Global Petroleum related release of 200 gallons of No. 6 fuel oil occurred within the secondary containment area. The release triggered a two-hour reporting obligation and an IRA. Response actions consisting of the removal of product and soil achieved a Class A-2 RAO.
- 4-20254: A January 2007 Sprague Energy related release of No. 2 fuel oil in a boiler house was associated with a failed pressure gauge on an oil feed pump. The release triggered a two-hour reporting obligation and an IRA. Response actions consisting of the removal of product and soil resulted in a Class A-2 RAO.
- 4-15570: A fuel oil release was reported in June 2000 by Commonwealth Electric Company when No. 6 fuel oil was encountered during advancement of geotechnical borings associated with a proposed Site re-development initiative. The release was adjacent to an underground pipeline utilized by Global Petroleum to transport fuel from tankers to above-ground storage tanks (ASTs). Greater than one-half inch of LNAPL was detected, triggering a two-hour regulatory notification obligation and an IRA. The pipeline was found to be undamaged; therefore, other sources were implicated (historical release). Approximately 1.68 feet of NAPL



was observed in one well (MW-1). A 2001 Phase III recommended natural attenuation and monitoring as a Temporary Solution (Class C-RAO) and suggested coupling excavation of impacted soil with future redevelopment. However, in 2003, a Class A-2 RAO was filed following Class C RAO abatement that included the removal of 10 cubic yards of oily soil and 1,734 gallons of oil-impacted ground water.

- 4-16574: An NSTAR Service Center related release reported in September 2001 was associated with detections of hazardous materials in indoor air, triggering a two-hour reporting obligation and an IRA. Testing and risk assessment determined that indoor air concentrations posed no risk, resulting in a Class B-1 RAO.
- 4-15896: A Commonwealth Electric related release reported in November 2000 was triggered by an April/May 2000 subsurface investigation that detected VOCs in soil at a former hazardous waste storage area inside the former power plant. Specifically, 1,1-dichloroethene (1,1-DCE) was detected at 210 micrograms per kilogram (ug/kg), which exceeded the RC of 100 ug/kg at 0-1 feet below a concrete floor slab. 1,1-DCE was not detected in a supplementary investigation to assess the extent of impacted soil (18 soil samples and 8 ground water samples), resulting in a Class B-1 RAO.
- 4-18316: An NSTAR Service Center related release reported in March 2004 was associated with a Release Abatement Measure (RAM) that addressed contamination near a hydraulic lift. A field test kit detected petroleum (TPH) at 10,000 parts per million (ppm). A Class A-2 RAO was achieved following the removal of 50 tons of oily soil and 1,508 gallons of oil-impacted ground water.
- 4-00117: A Commonwealth Electric related release was reported in January 1987. Regulatory files indicate No Further Action was required.
- 4-0011345: A release in the South Transformer Yard reported in May 1995 triggered a two-hour reporting obligation and an IRA. Response actions resulted in a Class A-1 RAO.

3.4 Remediation

The Proponent is relying on MCP Method 1 cleanup criteria as a benchmark to identify areas at the Site that may require remediation. Investigations to date have identified contamination in numerous locations at the Site that significantly exceeds MCP Method 1 standards. Based on the MCP regulatory framework, the Proponent intends to achieve a Permanent Solution with Conditions to allow for the planned development of the Site.

3.4.1 Permanent Remedy

The planned permanent remedy for the Site will utilize AULs in conjunction with site contamination as the preferred approach for bringing the Site to a Condition of No Significant



Risk, thereby achieving a Permanent Solution for the redevelopment area of the Site. Based on previous Risk Characterizations performed by others and TRC's review of these previous Risk Characterizations, to achieve a condition of No Significant Risk at the Site, the Remedial Action at the Site in conjunction with AULs for the Site must accomplish the following:

- Remedial Action Objective No. 1: Reduce Levels of NAPL to below the MCP Upper Concentration Limit of 1/2 inch. To achieve a Condition of No Significant Risk under the MCP, the thickness of NAPL (i.e., on this site, coal tar) needs to be less than ½-inch.
- Remedial Action Objective No. 2: Control Exposures to Contaminants in Soil. The contaminants that are currently present in the soil beneath the Site result in unacceptable risks to construction and utility workers as well as future Site workers. In order to control the risk associated with the contamination, the levels of the contaminants in the soils must be reduced to a point where a Condition of No Significant Risk exist in conjunction with the allowable uses of the Site as established in any AUL recorded for the Site.
- Remedial Action Objective No. 3: Control Intrusion of Volatile Organic Compounds to Indoor Air. The volatile contaminants present in the subsurface soils and ground water currently pose a risk to future site workers from the accumulation of their vapors within buildings on the Site. In order to control these risks and achieve a condition of No Significant Risk for the Site, the concentrations for these volatile contaminants must be reduced and/or vapor barriers and AULs instituted to ensure the levels of contaminant vapors in buildings on the Site are below levels that pose a risk to human health.
- Remedial Action Objective No. 4: Control Exposure to Groundwater. The contaminants present in groundwater at the Site currently exceed the MCP GW-3 standards, indicating a potential risk to surface water bodies. To achieve a Condition of No Significant Risk at the Site, the levels of contaminants in groundwater must be reduced to levels that are not a threat to surface water bodies. Additionally, the levels of volatile contaminants in groundwater exceed the levels that are a threat to indoor air quality and must be addressed as part of Remedial Action Objective No. 3.

3.4.2 Environmental Benefits

The proposed remedy offers numerous environmental benefits. When implemented, the remedy will significantly reduce concentrations of contaminants present in the subsurface at the Site to levels that are safe for commercial development and reduce the mobility (and therefore the threat to neighboring properties) of the residual contamination. In-situ thermal treatment can remove and destroy a significant volume of contaminants in the soil and groundwater at the Site with considerably fewer implementation issues when compared, for example, to remedial approaches that entail massive excavation of impacted soil (much of which is below the water table). The proposed remedy significantly reduces the amount of truck traffic that would be associated with hauling the impacted material off-site and replacing it with clean fill as well as minimizing the release of contaminant vapors from the Site that would potentially be associated with an open



excavation. The proposed remedy will not require significant dewatering and therefore the associated (risky and expensive) water handling operations are eliminated.

Potential issues with historic buried or otherwise concealed foundations and structures are minimized because the proposed remedy limits excavation to certain hot spot areas. The proposed remedy is protective of human health and the environment, reducing potential vapor impacts to indoor air quality and limiting the potential for future releases. In addition, the proposed remedy will ensure that the historically significant power station structure will be preserved and can be re-purposed for the Project. The proposed remedy can also be implemented quickly and phased if necessary to allow the development of the Site to take place on schedule. Finally, the costs associated with the proposed remedy are similar to other remedial approaches that are protective in accordance with the MassDEP requirements.

3.5 Building Related Contamination

In addition to the presence of soil, sediment and groundwater related pollution, most of the buildings on the Site (including most prominently the original power station building) are contaminated by hazardous materials such as asbestos. This building related contamination dates back to the Site's original use in the late 1800s/early 1900s and consequently contain hazardous materials not commonly used in new construction such as asbestos containing materials ("ACM"), lead-based paint ("LBP"), mercury switches and PCB-containing fluorescent light ballasts. The buildings are also contaminated with pigeon guano, mold as well as random containers and drums of hazardous and regulated materials that were at one time associated with operations at the Site. These materials will be abated, and the bulk oil storage tanks and infrastructure on the Sprague portion of the Site will be decommissioned and demolished.

3.6 Remedial Costs

The cost to remedy the contamination at the Site to allow for any productive use, apart from the current outdoor industrial use, is estimated at approximately \$53.7 million. This estimate includes the cost to implement environmental remediation of soil and groundwater, abate hazardous conditions in structures (including demolition) and installation of protections required to make remaining structures habitable (e.g., an asphalt cap and vapor barriers on buildings).



4

Chapter 91 & Designated Port Area

4.1 Introduction

The 44.0 acre Cannon Street Station Project consists of approximately 30.0 acres of upland and 14.0 acres of watersheet along the New Bedford waterfront. In addition to flowed tidelands, Chapter 91 jurisdiction extends to approximately 18.2 acres of filled tidelands within the upland area. With the exception of a small parcel (approximately 0.4 acres) located in the northwest corner of the Site, the entire Site is located within the New Bedford – Fairhaven Designated Port Area (DPA). Approximately 0.08 acres of this small parcel consist of landlocked tidelands (310 CMR 9.02). To accommodate the uses and structures proposed for this Project, a City-initiated DPA boundary review (301 CMR 25.00) to alter the DPA boundary and a Municipal Harbor Plan amendment (301 CMR 23.00) are required.

4.2 Existing Conditions

The subject parcel is located along the west shore of New Bedford Harbor in the City of New Bedford, at the site of the NSTAR/Eversource Cannon Street Station and Sprague Energy sites, almost entirely within the New Bedford - Fairhaven DPA. With the exception of those tidelands defined to be landlocked (310 CMR 9.02), the geographic scope of the Waterways regulations extends to all areas located on filled and flowed tidelands (320 CMR 9.04). State tidelands policy objectives and associated regulatory principles are set forth in the Waterways Regulations (310 CMR 9.00) and seek to promote responsible stewardship of public rights in these trust lands.



The development history of the New Bedford waterfront is characterized by extensive filling of former tideland areas. Chapter 91 jurisdiction for the Site is assumed to be consistent with that depicted in the Massachusetts Historical Mapping Project (the Mapping Project), which for this area relies on work of the U.S. Coast Survey in the mid- to late-19th century to establish the positions of the historical high and low water lines and to define the extent and nature of tidelands jurisdiction on the subject parcel. Figure 7 depicts the scope of Chapter 91 jurisdiction for the Site based on the Mapping Project.

As shown in Table 4.1, approximately 11.72 acres of the upland portion of the Project Site is located landward of the historical high water shoreline and, therefore, is not subject to tideland regulation. Of the remainder of the Site, approximately 18.2 acres consist of filled tidelands and approximately 14.0 acres consist of flowed tidelands. While approximately 0.08 acres in the northwest corner of the Site are located on formerly flowed tidelands, this small area is considered landlocked pursuant to 310 CMR 9.02 due to the location of MacArthur Boulevard and its relationship to the high water line located over 250 feet to the east.

Table 4.1. Chapter 91 Jurisdiction 310 CMR 9.02 & 9.04

Description	Acres
Project Site	44.00
Upland Area	30.00
Land Not Subject to c.91	11.72
Landlocked Tidelands	0.08
Filled Tidelands (jurisdictional)	18.20
Watersheet	14.00
Flowed Tidelands (jurisdictional)	14.00

4.3 Proposed Project

To accommodate the uses and structures proposed for this Project, a City-initiated DPA boundary review (301 CMR 25.00) to alter the DPA boundary and a Municipal Harbor Plan amendment (301 CMR 23.00) are required.

After a consultation meeting on April 29, 2015, with the Massachusetts Office of Coastal Zone Management (CZM), the City of New Bedford is in the process of preparing a letter to request a DPA boundary review and to initiate a MHP planning process to accommodate this project.. The City has three objectives in requesting this boundary review: (1) to update CZM DPA boundary maps and descriptions to include an expansive area of recently filled tideland within the DPA at the New Bedford Marine Commerce Terminal in the southern portion of the harbor; (2) to



identify potential new areas for inclusion in the DPA, either as buffer area for existing water dependent industrial uses or as waterfront areas with deep-water access, all mostly or entirely within Chapter 91 jurisdiction; and (3) to remove certain areas from the New Bedford-Fairhaven DPA to accommodate a new Region C destination resort casino under the Massachusetts Expanded Gaming Act, at the NSTAR/Eversource Cannon Street Station and Sprague Energy sites, thereby also implementing a cleanup of this highly contaminated area.

The Project will activate the New Bedford waterfront by providing public access to a portion of the waterfront that is currently closed to public. This is consistent with planning objectives in the 2010 Municipal Harbor Plan – specifically, to improve public access and provide amenities on the waterfront near downtown New Bedford to support local tourism and quality of life for local residents. The proposed Harborwalk (estimated \$10 million cost) will provide extensive waterfront access and will be connected to pedestrian routes from the downtown to facilitate the movement of residents and visitors between downtown and the waterfront.

The state-approved 2010 New Bedford – Fairhaven MHP and DPA Master Plan recognized the special qualities of the proposed Project Site and indicated that a gaming facility was a potential future use for the Site. Accordingly, the City will be notifying CZM of its intent to file an amendment to the 2010 New Bedford – Fairhaven MHP and DPA Master Plan specifically for the Project Site. The City will continue to consult with CZM regarding the potential integration of the DPA boundary review and the MHP amendment.

It is anticipated that substitute provisions to the Chapter 91 nonwater dependent use standards will be requested in the MHP amendment for:

- (1) building footprint (lot coverage) 310 CMR 9.51(3)(d) and 9.53(2)(b);
- (2) water dependent use zone (setback) (310 CMR 9.51 (3)(c)); and
- (3) building height (310 CMR 9.51(3)(e).

Sustainability/Resilience

5.1 Introduction

The overarching goal of the Project’s sustainability/resilience approach is to ensure that sustainability/resilience considerations are addressed throughout the project planning and design process, as well as the project life cycle. The Project aims not only to take all feasible measures to avoid, minimize, or mitigate damage to the environment, but to also assess and mitigate the risks and vulnerabilities that are likely to result from climate change impacts. This chapter details the Proponent’s approach to integrating both concepts into the Project. The project location is a designated Brownfield site which will undergo a thorough remediation prior to the start of construction. For more information on hazardous waste at the Site please see Attachment A, Chapter 3.

5.2 Sustainability

In order to reduce greenhouse gas (GHG) emissions, save valuable resources, and have a positive impact on the health of the Site’s users, the Project is striving to achieve LEED Gold on new-construction buildings and existing structures where possible. Sustainable measures featured in the design include, but are not limited to, those addressed below.

5.2.1 Sustainable Sites

The Project Site is in a dense urban area close to the future MBTA Whale’s Tooth Commuter Rail Station and other public transportation options. The proposed Project design includes creating a new casino resort consisting of new construction and



retrofitting of existing structures to house a gaming area, hotel, conference center, restaurants, retail space, offices, Harborwalk, and all necessary administrative and support spaces. Parking will be accommodated in both a parking structure and surface parking.

Sustainable stormwater designs will be incorporated into the Project to the maximum extent practicable. The Proponent will make every effort to design the Project consistent with LEED Credits 6.1 (Stormwater Design Quantity Control) and 6.2 (Stormwater Design Quality Control). The ability to obtain these points will be determined as the Project's drainage design advances. Since the Project will reduce impervious surface on the Site by approximate 1.7 acres, there will be a reduction in the rate and volume of stormwater leaving the Site. Stormwater runoff from the 90% annual rainfall will be captured and treated, which will remove 80% of total suspended solids. LID drainage MBPs, including water quality swales and bioretention basins, are being considered where appropriate to provide water quality treatment. Additionally, storm water management features will be designed to minimize the infiltration of storm water through any residually contaminated soils attributable to legacy site operations thereby eliminating the potential for migration of pollution to soil, ground or surface waters. The Proponent will also consider the installation of a rainwater harvesting system for landscape irrigation and/or indoor water use (toilet flushing).

5.2.2 Water Efficiency

The State Building Code requires the use of water-conserving fixtures. Water conservation measures such as low-flow toilets and restricted flow faucets will reduce the domestic water demand on the existing distribution system. Sensor-operated sinks with water-conserving aerators and sensor-operated toilets will be installed in all restrooms. The Proponent will also consider the installation of a graywater reuse system for landscape irrigation and/or indoor water use (toilet flushing).

5.2.3 Energy and Atmosphere

In addition to compliance with stringent standards for energy use in the Stretch Code, the Proponent is evaluating the feasibility of installing PV arrays on several rooftops, including the parking structure, where they could also function as sunshades for parked vehicles. High-efficiency mechanical equipment, such as boilers and chillers, the use of free-cooling systems, potentially cogeneration and high-performance building shells, will substantially reduce energy use.

Building systems will not use refrigerants that are harmful to the environment. The Proponent will engage a Commissioning Agent to confirm the building systems are installed and operated as intended and designed. Materials and Resources



Throughout construction, the Construction Management team will endeavor to divert Construction and Demolition waste from area landfills and procure materials that have recycled content and/or are extracted and manufactured within 500 miles of the Project Site.

5.2.4 Indoor Environmental Quality

Air quality will be monitored during Project construction and likely prior to occupancy. Low-emitting materials will be used throughout construction to maintain and improve air quality. Building occupants will be able to maintain a comfortable environment through access to thermal and lighting controls.

5.3 Resilience

Between now and the end of the century, climate conditions in New England are projected to change considerably. Any new development must have the ability to endure and recover from the types of extreme weather events that are projected to occur during that time period, which include increased heat, increased precipitation, and more intense coastal hazards. The build year for the Project is estimated to be 2018, and it will have a design life of 50+ years. In order to improve its resiliency, the Project design will consider the range of conditions that are likely to exist between today and the year 2070. Many climate projections are published only for the years 2050 and 2100, in which case year 2100 conditions will be considered.

5.3.1 Increased Heat

Massachusetts' Climate Change Adaptation Report indicates that by the end of the century, under the high emissions scenario of the Intergovernmental Panel on Climate Change (IPCC), Massachusetts would experience a 5° to 10°F increase in average ambient temperature, with several more days of extreme heat during the summer months. Days with temperatures greater than 90°F are predicted to increase from the 5 to 20 days annually that Massachusetts experiences today to between 30 to 60 days annually. Up to 28 days annually are predicted to reach above 100°F, compared to up to two days annually today.

This extreme heat can be hazardous to people. Therefore the project design will manage heat gain in both buildings and on ground surfaces in an effort to reduce the risk of harm to workers and visitors. The Proponent will explore various cool roofing options, from extensive and intensive green roofs, to high-albedo and reflective roofing materials. In addition to enhanced building insulation, energy efficient windows and shading devices may be used to maximize insulating qualities. Cooler



ground surfaces will be created through the planting of native and/or drought tolerant woody shrubs and vegetative ground cover, as well as trees shading walk ways and parking areas. Light color paving will be utilized wherever practicable. The Proponent will also investigate resilient back-up power and systems, potentially including solar power and/or natural gas generators to ensure the safety of visitors in the event of a power failure.

5.3.2 Increased Precipitation

By the year 2100, annual precipitation is expected to increase by 7 to 14 percent, with a slight decrease in the summer, while winter precipitation—mostly in the form of rain—is expected to increase by 12 to 30 percent. Stormwater infrastructure on the Site will therefore be sized appropriately for increased rainfall. While infiltration on the Site is not possible, stormwater best management practices, including low impact development measures, will be employed to the extent practicable.

5.3.3 Coastal Hazards

Portions of the Site are located within the 1% annual chance flood area (a.k.a. 100-year floodplain), zone AE6, as delineated by FEMA. The remainder of the Site is located within the Shaded X zone, which indicates that there is a reduced flood risk due to the presence of the New Bedford Hurricane Barrier. Designed in 1957 to protect against a Category 3 hurricane with up to a 22-foot storm surge, the barrier closes about a dozen times per year for storm events that bring southerly gales and tidal surges. Operation of the gates is the responsibility of the Army Corps of Engineers, and as per an agreement with the City the gates are closed when tides rise four feet above mean high water. FEMA stresses that accredited levees like the Hurricane Barrier only provide a specific level of protection (in this case to the 1% annual chance flood as modeled by FEMA based on historical records) and can be overtopped in larger flood events, with catastrophic failure as a risk. However, there is no practicable alternative that would allow redevelopment of this area while avoiding flooding hazards entirely.

In addition to current flooding conditions, the Site is vulnerable to the coastal impacts of climate change. According to the Massachusetts Office of Coastal Zone Management, sea level is projected to rise locally by between 1.21 and 3.92 feet above 2003 levels by 2075. By 2050 the 100-year storm surge could exceed the elevation of today's (2005) 1,000-year storm surge. The recurrence interval of the 100-year storm surge will likely be less than 15 years, and possibly less than two years. Finally, climate models project more intense and longer-lasting tropical storms, with related increases in wind, rain, and storm surges, although not necessarily an increase in the number of these storms that make landfall. Increasing hurricane intensity coupled



with sea-level rise leads to rising storm surge levels and increasing damage from hurricanes.

Recognizing the project's location within the current floodplain and associated exposure to current and future flood hazards, careful engineering and design considerations will target risk reduction strategies. The Proponent will choose an appropriate design flood elevation (DFE) that takes into account sea level rise. As required by the Massachusetts Building code, structures in A zones will have the lowest floor elevated to or above the DFE. Any enclosed areas used solely for parking, building access, or storage that are below the DFE will be wet flood proofed with compliant foundation openings. Existing buildings will be retrofitted to meet the flood proofing requirements, including their utilities, plumbing, mechanicals and HVAC systems, fuel tanks, stairwells, and elevators. Finally, the Proponent will consider hazard resilient landscaping, designed to withstand periodic salt-water inundation and high wind speeds.



Attachment B: Figures

Figure 1: USGS Location Map

Figure 2: Context Plan

Figure 3: Proposed Site Plan

Figure 4: Existing Conditions Plan

Figure 5: Hazardous Materials: Impacted Areas of Site

Figure 8: Existing Conditions Photos

Figure 7: Chapter 91 & DPA

Figure 8: Floodplain & Wetlands

Figure 9: Historic and Cultural Resources

Figure 10: Transportation Study

10-1: Trip Distribution

10-2: Trip Assignment

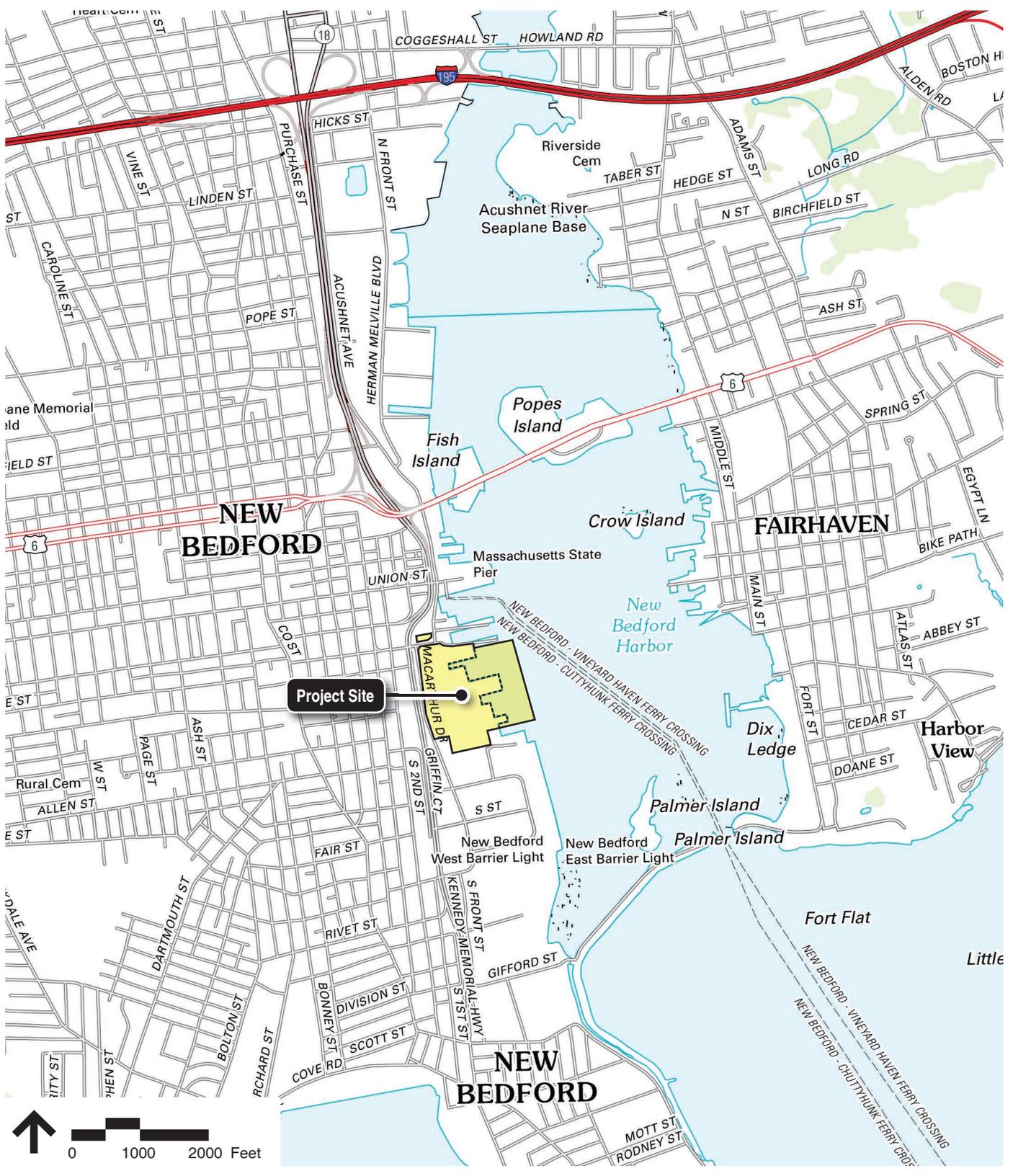
10-3: Friday and Saturday Peak Hour Project Trips on Study Area Intersections

10-4: Friday and Saturday Peak Hour Project Trips on Study Area Interchanges

10-5: Study Area

Figure 11: Alternative Site Plan

Figure 12: Project Rendering



Source: 2012 USGS North and South Bedford Quads



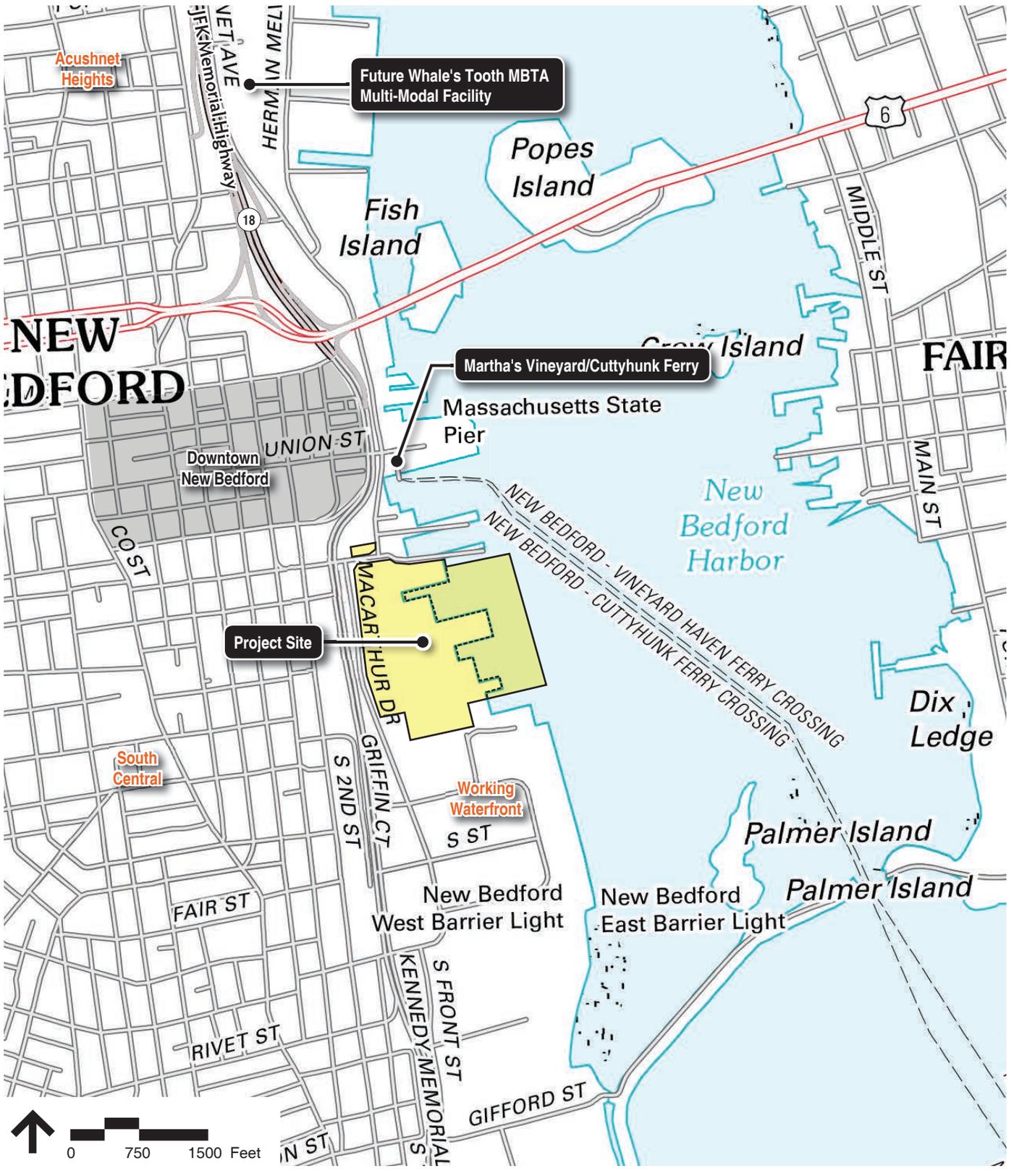
kostowgreenwood

architects LLP



Figure 1
USGS Location Plan

**Cannon Street Station ENF
New Bedford, Massachusetts**



Source: 2012 USGS North and South Bedford Quads



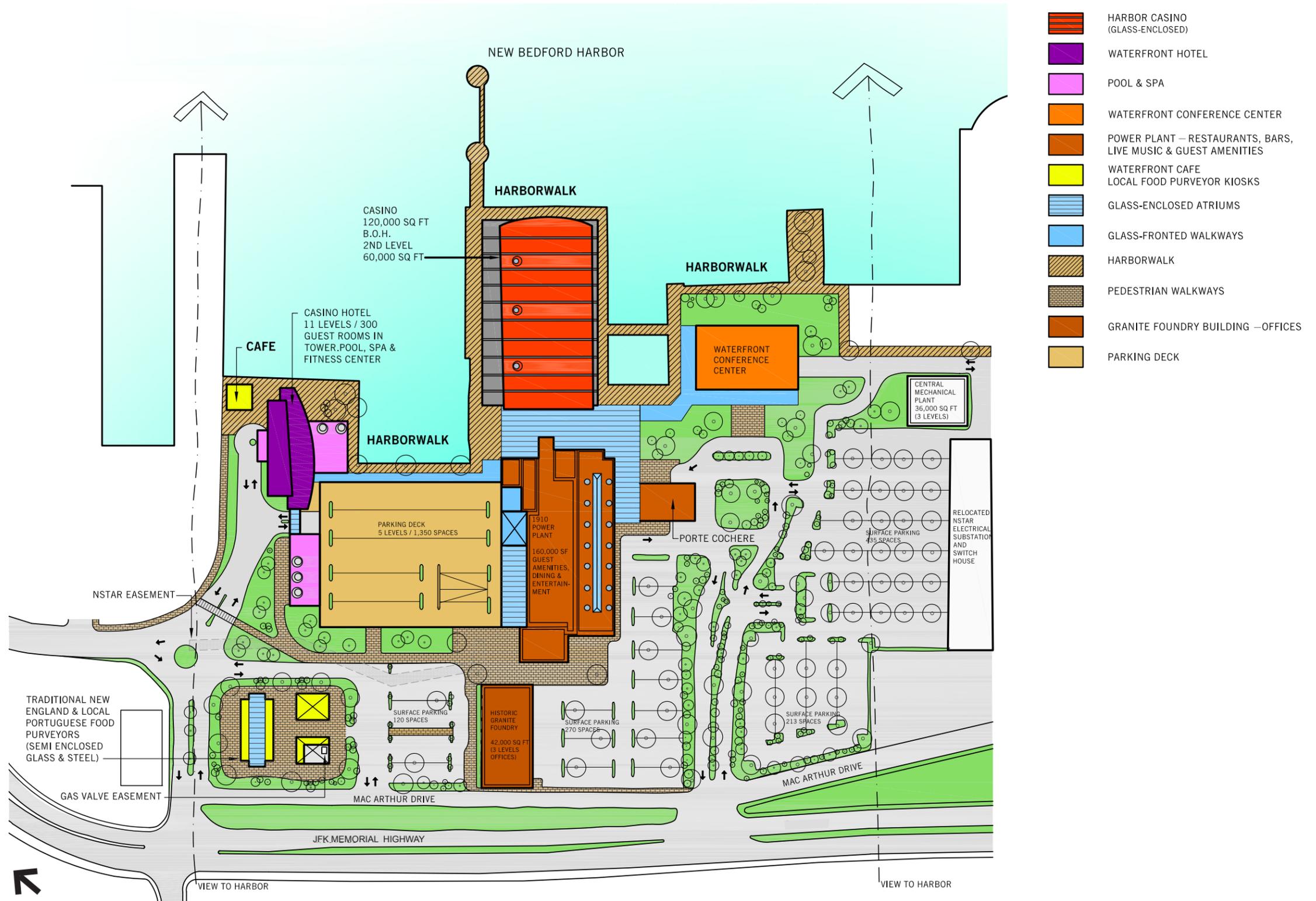
kostowgreenwood

architects LLP



Figure 2
Context Plan

**Cannon Street Station ENF
New Bedford, Massachusetts**



Source: Kostow Greenwood Architects



Source: Arcmap Online Bing Aerial



kostowgreenwood

architects LLP



Figure 4
Existing Conditions Plan

**Cannon Street Station ENF
New Bedford, Massachusetts**

LEGEND:

HISTORICAL STRUCTURE

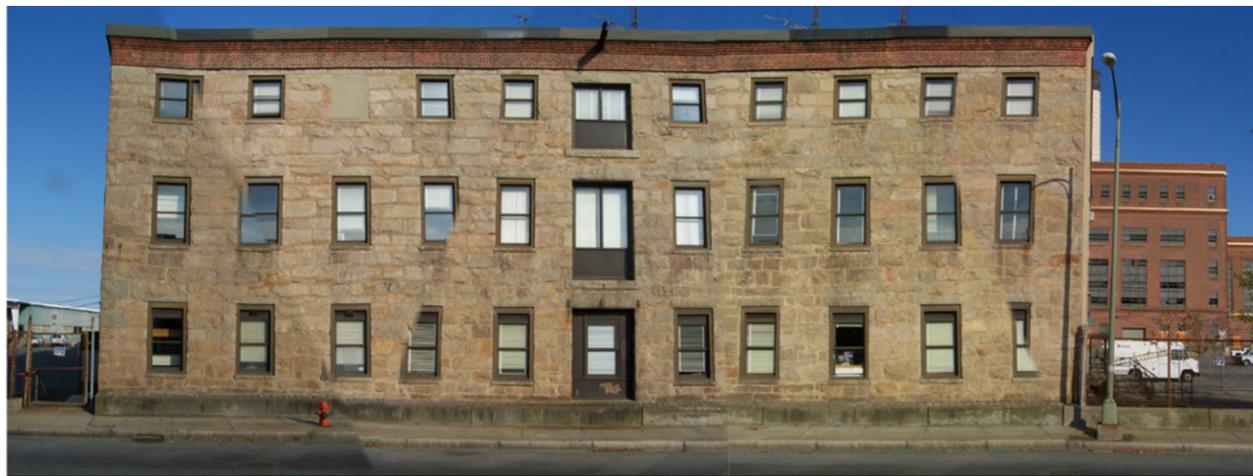
Fuel AST Impacts

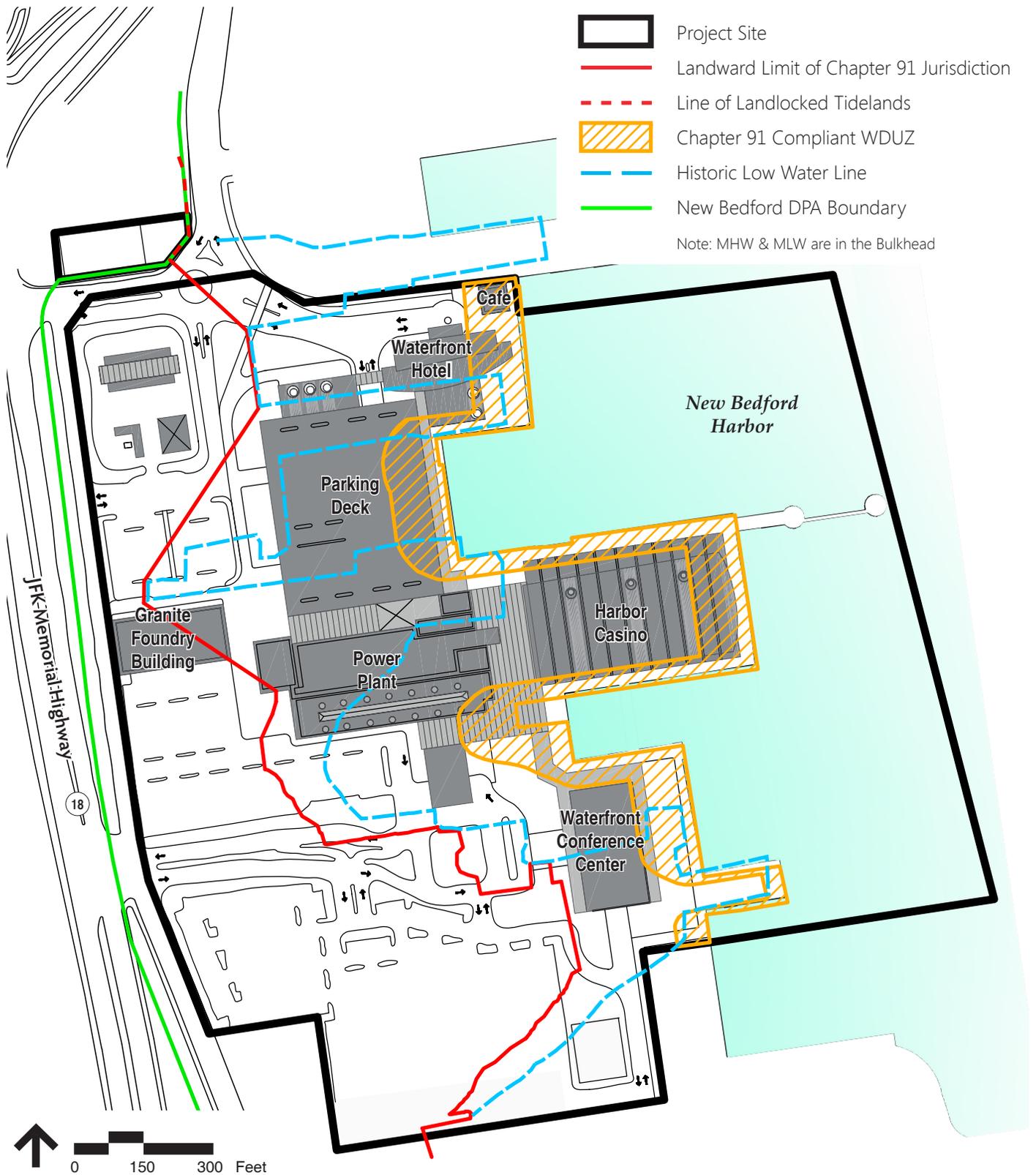
MGP Impacts

Metals & PAH Impacts

PCB Impacts







Source: Cannon Street Station Master Plan



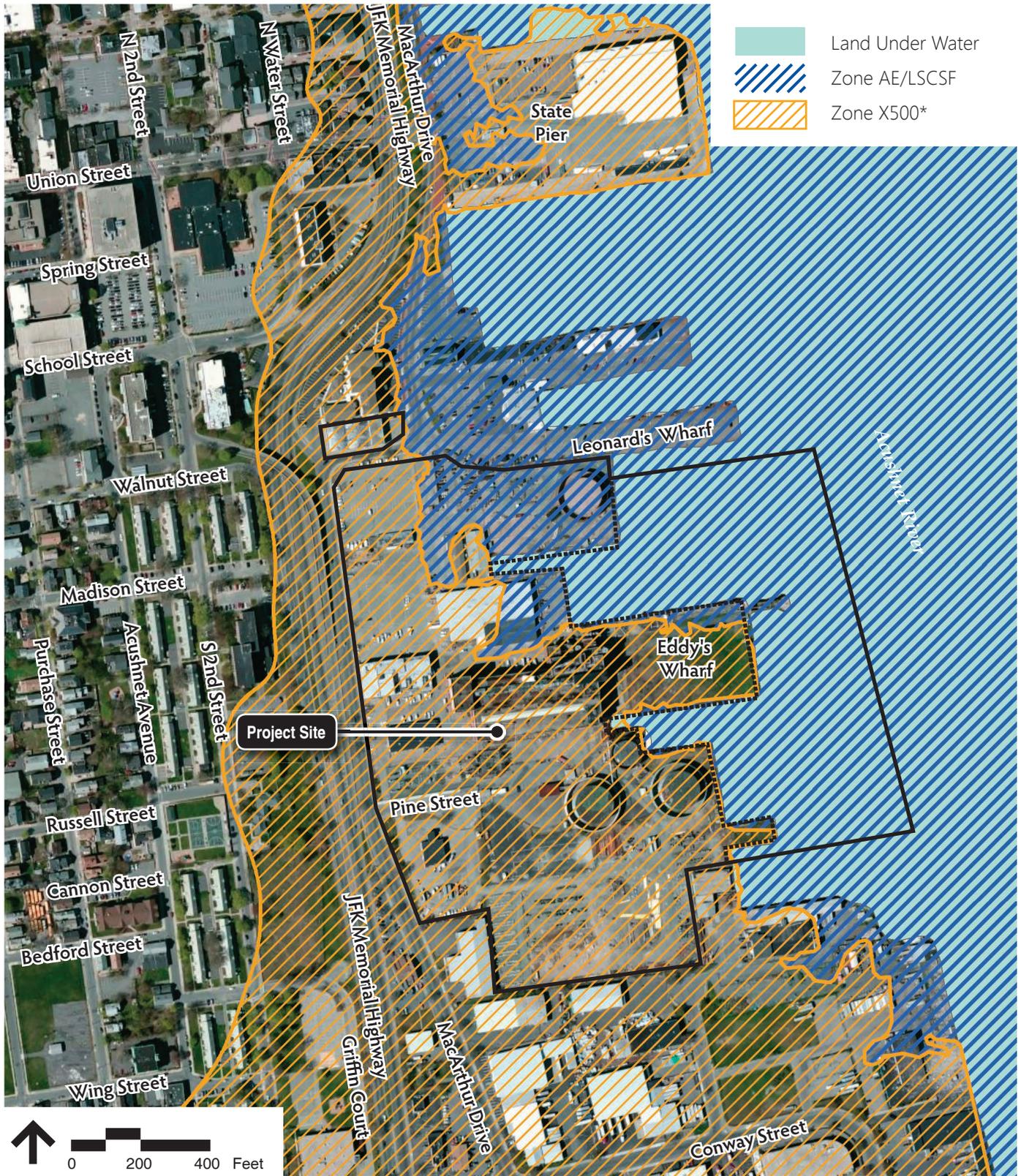
kostowgreenwood | architects LLP



Figure 7

Chapter 91 & Designated Port Area Boundaries

**Cannon Street Station ENF
New Bedford, Massachusetts**



Source: MassGIS 2001 Orthophoto, Mass DEP, FEMA

* Protected by levee from 100-year flood

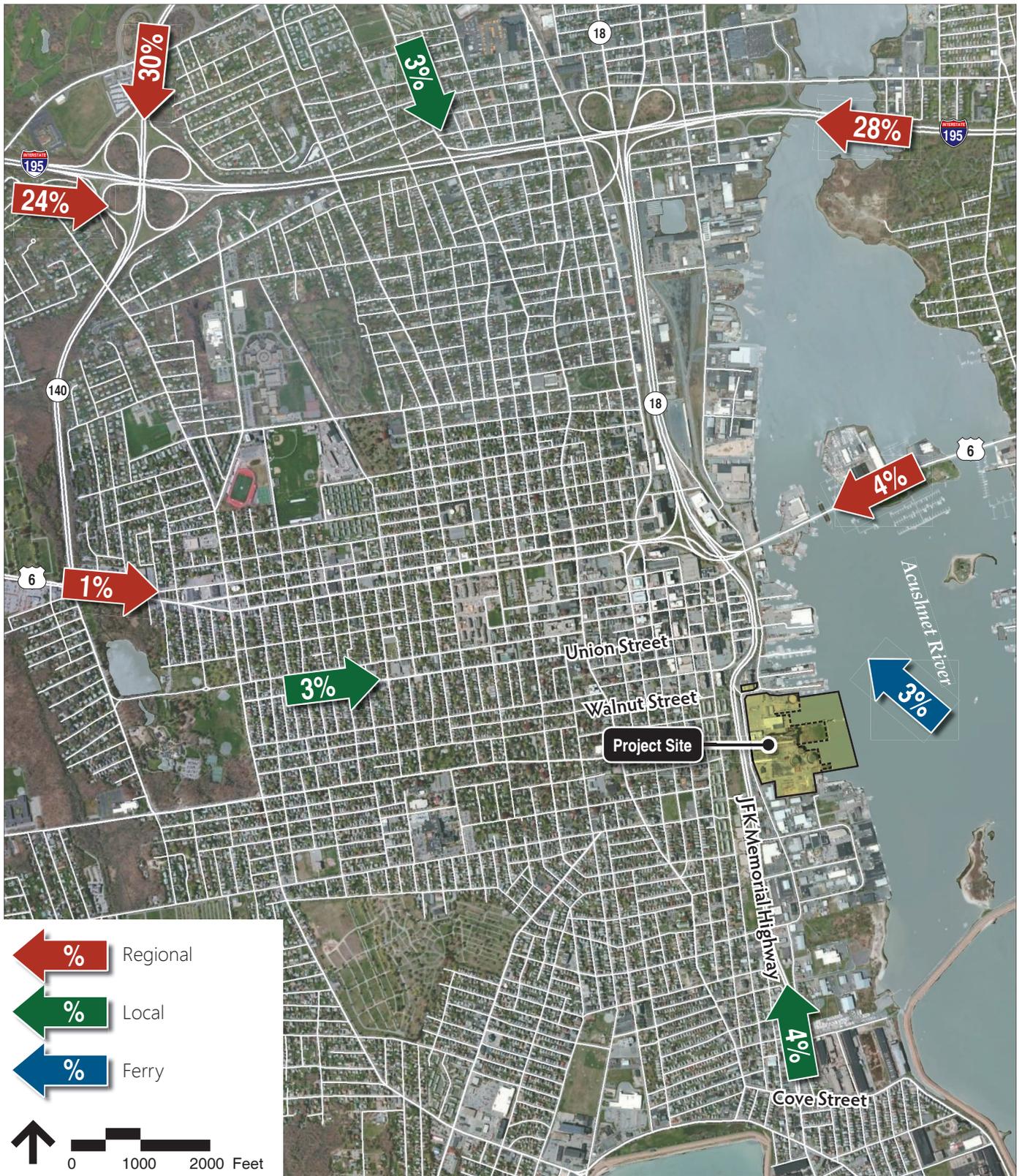


Source: Figure recreated from Li Saltzman Architects, PC data



Figure 9
Historic Resources

**Cannon Street Station ENF
New Bedford, Massachusetts**



Source: Arcmap Online Bing Aerial



Source: Arcmap Online Bing Aerial

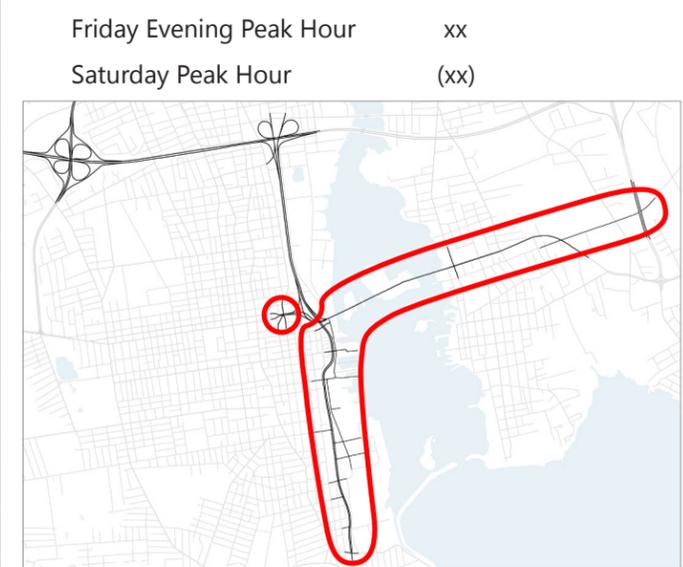
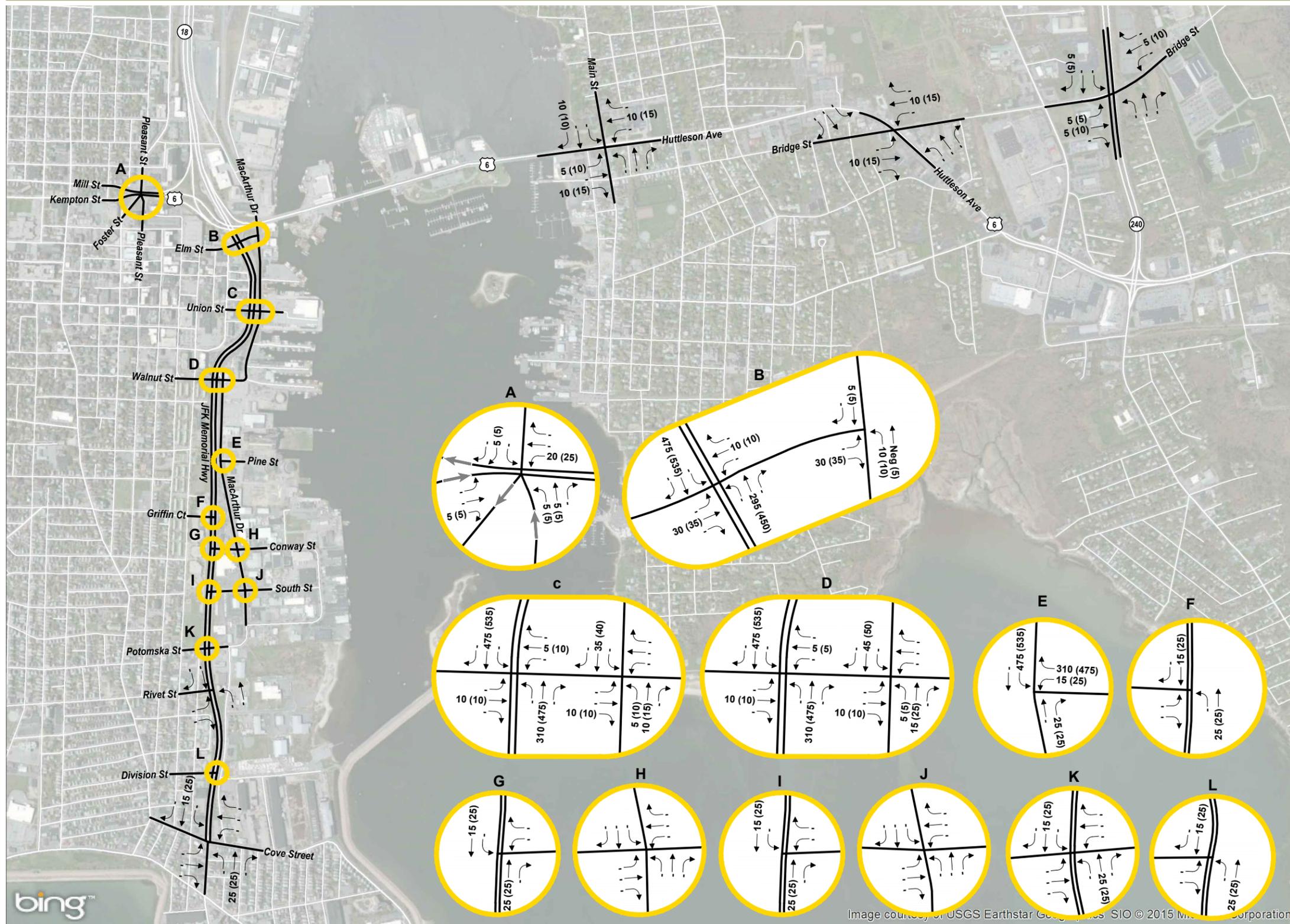
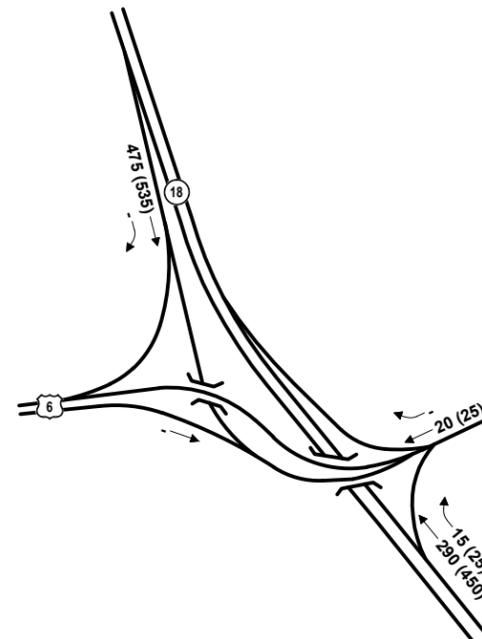
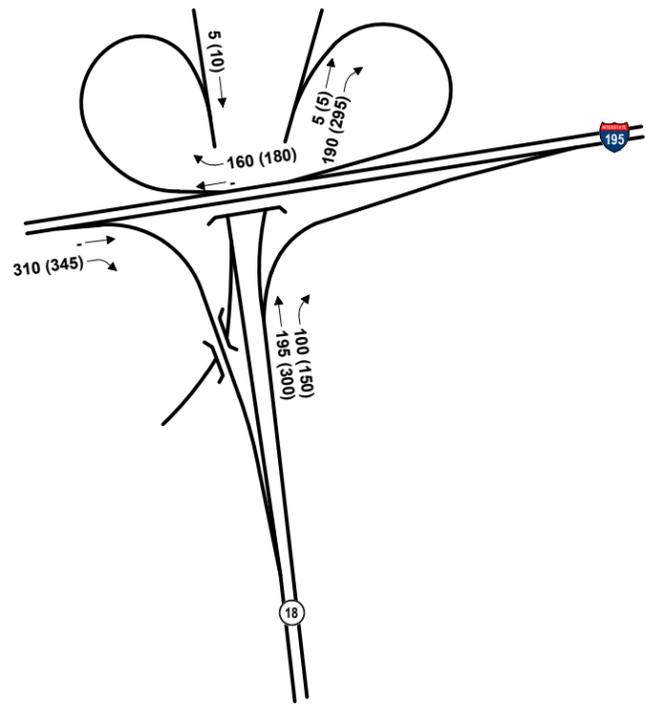
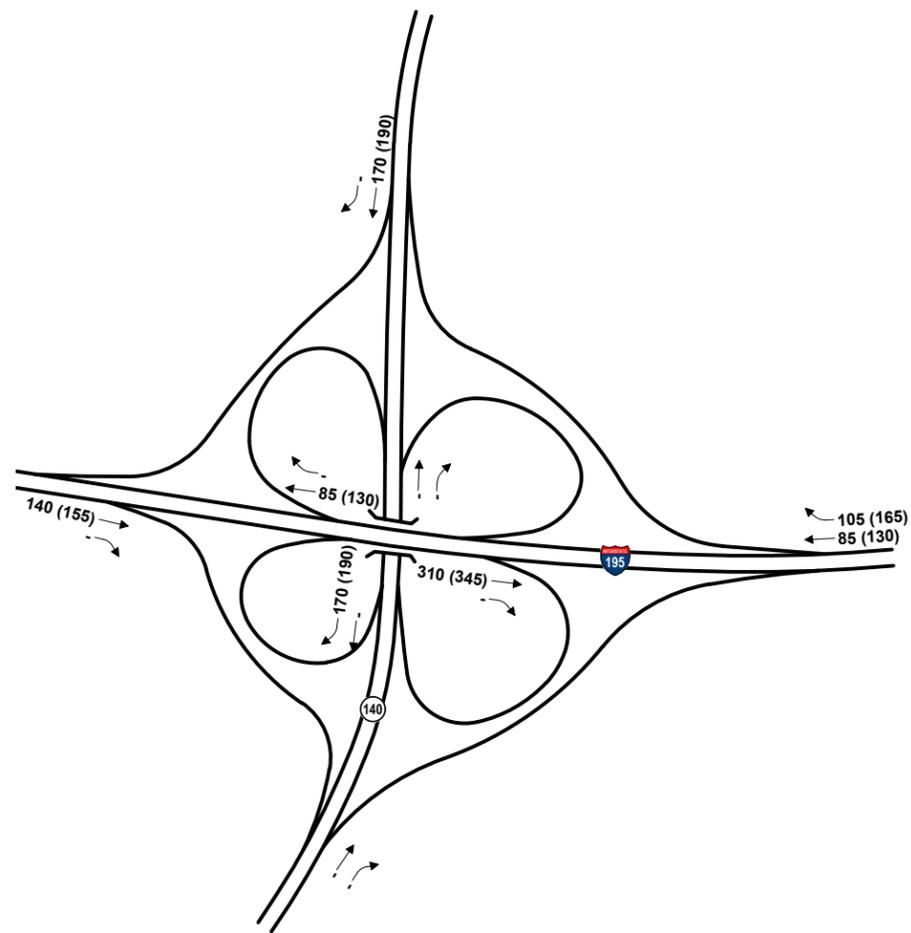


Figure 10-3
 Friday and Saturday Peak Hour Project
 Trips on Study Area Intersections
**Cannon Street Station ENF
 New Bedford, Massachusetts**



Friday Evening Peak Hour xx
 Saturday Peak Hour (xx)





Source: Arcmap Online Bing Aerial



kostowgreenwood

architects LLP



Figure 10-5
Study Area

**Cannon Street Station ENF
New Bedford, Massachusetts**



Source: Kostow Greenwood Architects



Figure 11
Alternative Site Plan

**Cannon Street Station ENF
New Bedford, Massachusetts**



Source: Kostow Greenwood Architects



Figure 12
Project Rendering

**Cannon Street Station ENF
New Bedford, Massachusetts**



Attachment C: Distribution List





Attachment C: Distribution List

In accordance with the MEPA regulations at 301 CMR 11.16, the Proponent is circulating this Environmental Notification Form (ENF) for the Cannon Street Station Project to the public agencies and interested stakeholders listed below.

It is expected that notice of the availability of this ENF will be published in the **May 20, 2014** edition of the *Environmental Monitor*, initiating a 20-day public comment period that will end on **June 30, 2015**. The Secretary will issue a Scope on or about **July 10, 2015**.

Federal

EPA New England, Region 1
Attention: NPDES Permit Division
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Commonwealth of Massachusetts

Secretary Matthew Beaton (provided herein)
Executive Office of Energy and Environmental Affairs (EEA)
Attn: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

Department of Environmental Protection
Commissioner's Office
One Winter Street
Boston, MA 02108

DEP/Southeast Regional Office
Attn: MEPA Coordinator
20 Riverside Drive
Lakeville, MA 02347

Massachusetts Department of Environmental Protection
Waterways/Chapter 91 Program
Attn: Ben Lynch
One Winter Street
Boston, MA 02108
Massachusetts Department of Transportation



Public/Private Development Unit
10 Park Plaza
Boston, MA 02116

MassDOT - District #5
Attn: MEPA Coordinator
Box 111
1000 County Street
Taunton, MA 02780

Massachusetts Historical Commission
ATTN: MEPA Coordinator
The Massachusetts Archives Building
220 Morrissey Boulevard
Boston, MA 02125

Southeastern Regional Planning & Economic Development District
88 Broadway
Taunton, MA 02780

Coastal Zone Management
Attn: Project Review Coordinator
251 Causeway Street, Suite 800
Boston, MA 02114

Coastal Zone Management
Attn: David Janick, South Coastal Regional Coordinator
2870 Cranberry Highway
East Wareham, MA 02538

Division of Marine Fisheries (South Shore)
Attn: Environmental Reviewer 1213 Purchase Street – 3rd Floor
New Bedford, MA 02740-6694

Massachusetts Gaming Commission
101 Federal Street, 23rd Floor
Boston, MA 02110

City of New Bedford

Mayor Jon Mitchell
City of New Bedford
133 William St
New Bedford, MA 02740

New Bedford City Council
133 William St – RM 215
New Bedford, MA 02740



City of New Bedford Department of Planning, Housing & Community Development
Planning Division
133 William St – RM 303
New Bedford, MA 02740

New Bedford Conservation Commission
133 William St – RM 304
New Bedford, MA 02740

City of New Bedford Health Department
1213 Purchase Street
New Bedford, MA 02740

New Bedford Department of Public Infrastructure
1105 Shawmut Avenue
New Bedford, MA 02740

Interested Stakeholders

New Bedford Harbor Development Commission
52 Fisherman's Wharf
New Bedford, MA 02740

New Bedford Economic Development Council
1213 Purchase Street
New Bedford, MA 02740

Fairhaven Board of Selectmen
Town Hall
40 Center Street
Fairhaven, MA 02719



Attachment D: Permit List





Attachment D: Permit List

The following is a list of anticipated permits, licenses and approvals related to the Cannon Street Station Project:

AGENCY	PERMIT/LICENSE/APPROVAL
Federal	
U.S. Environmental Protection Agency	<ul style="list-style-type: none"> • National Pollutant Discharge Elimination System (NPDES) • Construction General Permit
U.S. Army Corps of Engineers	<ul style="list-style-type: none"> • Section 404 Massachusetts General Permit
Federal Aviation Administration (FAA)	<ul style="list-style-type: none"> • Notice of Proposed Construction/Determination (if required)
State	
Executive Office of Energy and Environmental Affairs	<ul style="list-style-type: none"> • MEPA Certificate • Public Benefit Determination
Massachusetts Department of Environmental Protection (DEP)	<ul style="list-style-type: none"> • Chapter 91 License • Demolition Permit • 401 Water Quality Certification (if required) • Asbestos Removal Permit
Massachusetts Office of Coastal Zone Management	<ul style="list-style-type: none"> • Federal Consistency Certification • DPA Boundary Review • MHP Amendment
Massachusetts Gaming Commission	<ul style="list-style-type: none"> • Category 1 Gaming License
Massachusetts Historical Commission	<ul style="list-style-type: none"> • Sections 26 and 27C State Register Review • Section 106 Review



Local	
New Bedford Conservation Commission	<ul style="list-style-type: none"> • Order of Conditions • Certificate of Compliance
New Bedford Department of Inspectional Services	<ul style="list-style-type: none"> • Building Permit • Certificate of Occupancy
New Bedford License Commission	<ul style="list-style-type: none"> • Flammable Storage License
New Bedford Fire Department	<ul style="list-style-type: none"> • Fuel Storage Permit
New Bedford Department of Public Infrastructure	<ul style="list-style-type: none"> • Line and Grade Applications • Local Sewer, Water and Drain Permits • NPDES Review
New Bedford Planning Board	<ul style="list-style-type: none"> • Site Plan Review
New Bedford Historical Commission	<ul style="list-style-type: none"> • Certificate of Appropriateness, Non-applicability or Hardship • Demolition Ordinance
New Bedford Traffic Commission	<ul style="list-style-type: none"> • Commercial Curb Cut Permit
New Bedford Licensing Board	<ul style="list-style-type: none"> • Licensing for; Liquor Establishment, Restaurants, and Lodging
New Bedford Health Department	<ul style="list-style-type: none"> • Demolition Permit • Food Service Establishment Permits • Hotel Establishment Permits
New Bedford Zoning Board of Appeals	<ul style="list-style-type: none"> • WEDROD Special Permit



Attachment E: Massachusetts Historical Commission Correspondance

Letter, from Judith Saltzman, Li Saltzman Architects, to Brona Simon,
Massachusetts Historical Commission, dated December 9, 2008

December 8, 2009

Ms. Brona Simon
Executive Director and State Historic Preservation Officer
Massachusetts Historical Commission
220 Morrissey Boulevard
Boston, Mass. 02125

Re: Cannon Street Power Station (New Bedford Gas & Edison District)
 180 MacArthur Drive, New Bedford, (Bristol County), Massachusetts

Dear Ms. Simon:

Please find appended a preliminary submittal package outlining a proposal for rehabilitation, adaptive use and new development at the State and National Register listed Cannon Street Power Station in New Bedford. The project team has made substantial due diligence outreach efforts, and has met with Mayor Lang, municipal and state economic development departments, and various municipal and state elected officials including Congressman Barney Frank, and the Chief of Staff for Governor Deval Patrick. The project team is led by KG Urban Enterprises and Kostow Greenwood Architects. Li Saltzman Architects serves as the historic preservation consultant to the project team.

In light of the scheduled press release regarding the proposal in mid-December 2009, and the time-sensitive interest of the team in informing the Massachusetts Historical Commission (MHC) of the proposal prior to the press release date, we have prepared a preliminary submittal for MHC review. The package includes aerial photographs calling out the location of the site, existing condition photographs, and proposed condition renderings.

As you know, the Cannon Street Power Station site includes two principal buildings, namely the Cannon Street Power Station (constructed 1916 with later additions) and the Taber & Grinnell Iron Foundry (constructed 1856, with addition), and two contributing resources, including Eddy's Wharf (constructed 1856) and Filtering Station (constructed 1940's). There are two non-contributing resources on the site, including the Workman's shed and the NSTAR service building.

The proposed scope of work consists of rehabilitating and adaptively using the Power Station as a casino and the Foundry as an office building. Additionally, a mixed use development is proposed for the site, including Eddy's Wharf. Other buildings on the site are proposed to be demolished.

Please do not hesitate to contact me with any questions or comments during the course of your review. If time permits, our team would be pleased to meet with you and discuss the proposal in greater detail.

Sincerely,

LI SALTZMAN ARCHITECTS, PC

Judith Saltzman
Principal

Cc: Andrew Stern; Jane Greenwood

JS/mh

P:\New Bedford Power Plant\Documents\02 Design\02 05 Review Agencies\091208 MHC Letter.Doc



Attachment F: Host Community Agreement

Host Community Agreement Dated March 19, 2015

HOST COMMUNITY AGREEMENT

This Host Community Agreement (the "Agreement") is made and entered into as of March 19, 2015 (the "Effective Date"), by and between the City of New Bedford, Massachusetts (the "City"), a municipality of the Commonwealth of Massachusetts, and KG New Bedford, LLC, a Delaware limited liability corporation ("KG") (collectively, the "Parties").

RECITALS

WHEREAS, KG Urban Enterprises, LLC has options to purchase forty-three acres of land (including uplands and tidelands) and improvements located off of McArthur Boulevard, New Bedford, Massachusetts, as generally shown on Exhibit A (the "Project Site"), which land includes the former Cannon Street power station and is currently an obsolete industrial site listed on the Massachusetts Department of Environmental Protection list of hazardous waste disposal sites;

WHEREAS, KG has applied to the Massachusetts Gaming Commission (the "Commission") for a Category 1 gaming license in the area designated Region C by Chapter 23K of the Massachusetts General Laws (the "Massachusetts Gaming Act" or the "Act") to develop the Project Site as a waterfront destination resort casino;

WHEREAS, KG, if granted a final, non-appealable Category 1 gaming license by the Commission, plans to develop the Project Site with a high quality gaming establishment, including without limitation three hundred hotel rooms, restaurants, retail, multifunction event and entertainment space, waterfront conference center, back of house spaces, and surface and structured parking designed and constructed to provide a high-quality resort experience for its patrons (collectively, the "Project"), such as is depicted for illustrative purposes on Exhibit A;

WHEREAS, the City is a "Host Community" as that term is defined and used in the Act because KG plans to locate a gaming establishment within its municipal boundaries;

WHEREAS, the Project presents an opportunity to remediate a contaminated industrial site and revenue from the Project will allow the City to reinvest in the economic development of its downtown and maritime industrial waterfront;

WHEREAS, the Project can be developed in a responsible manner that is respectful of the historic nature of the City's downtown and waterfront with appropriate design principles, building materials and architectural sensitivity employed in the design and development of the Project, and will be developed to maximize integration of the Project with downtown businesses and attractions;

WHEREAS, the Project will bring economic development to the City, creating thousands of new construction and permanent jobs for residents and new sources of revenue for the City, and accordingly, the City desires to support KG in the development of the Project;

WHEREAS, KG and the City agree that this Agreement establishes appropriate procedures for identifying and mitigating the known impacts of the Project as required by Section 15(8) of the Act and that KG desires to mitigate the impacts from the development and operation of a gaming establishment through the means described herein, in accordance with the Act; and

WHEREAS, subject to a ballot question at an election in the City to authorize the operation of a Category 1 gaming establishment licensed by the Commission at the Project Site, KG and the City desire to enter into this Host Community Agreement to set forth the conditions to have a gaming establishment located within the City, in full satisfaction of Section 15(8) of the Act.

ACCORDINGLY, the Parties, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, enter into this Agreement to effectuate the purposes set forth above and to be bound by the provisions set forth below:

SECTION 1: DEFINITIONS

Capitalized terms used in this Agreement that are not otherwise defined herein and are defined in Section 2 of the Act shall be given such definition as of the date of this Agreement for purposes of the Agreement:

1.1. “**Gross Gaming Revenue**” has the meaning currently set forth in Section 2 of the Act: “the total of all sums actually received by a gaming licensee from gaming operations less the total of all sums paid out as winnings to patrons; provided, however, that the total of all sums paid out as winnings to patrons shall not include the cash equivalent value of any merchandise or thing of value included in a jackpot or payout; and provided further, that [Gross Gaming Revenue] shall not include any amount received by a gaming licensee from simulcast wagering or from credit extended or collected by the gaming licensee for purposes other than gaming; provided further, that the issuance to or wagering by patrons of a gaming establishment of any promotional gaming credit shall not be taxable for the purposes of determining gross revenue.”

For the purposes of this Agreement and reflecting the Parties’ interpretation of the Act, the term Gross Gaming Revenue as used in this Agreement does not include the issuance to or wagering by patrons of the gaming establishment of any (i) promotional gaming credit, (ii) revenues from the sale of food and beverage, (iii) retail sales, (iv) hotel revenues, (v) parking fees, (vi) ATM fees, nor (vii) any other non-casino sources of revenue.

1.2. **“Open for Business to the General Public”** means that the Project's gaming area (as defined in the Act) is open for business to the general public.

1.3. **“Project Investment”** means all costs incurred in connection with the Project, whether or not such costs are eligible for inclusion in the minimum capital investment requirement of \$500 million for a Category 1 gaming establishment under the Act as determined by the Commission, and include but are not limited to all of the Project's hard and soft costs, furniture, fixtures and equipment, the Category 1 license fee, interest expense and financing fees, land acquisition costs, Project Site remediation and structure decommissioning/demolition costs, costs of onsite and offsite improvements, pre-opening costs (marketing, personnel/training, supplies, and other), legal fees, consultant costs, development fees, initial cage cash, pursuit and application costs, upfront costs assessed by the Commission, travel expenses, and payments under this Agreement before the Project is first Open for Business to the General Public.

SECTION 2: KG'S PRESENT IMPACT MITIGATION OBLIGATIONS

2.1. **Preface.** Except as otherwise expressly provided in this Agreement, payments made pursuant to Sections 2, 3 and 4 (“Project Payments”) (i) are made in lieu of all taxes and impact payments otherwise due from KG to the City and its departments, boards, or commissions, including, but not limited to, its school district, and police and fire departments, but excluding permit fees, utility connection fees and other payments not uniquely targeted to games and gaming or to the Project; and (ii) constitute KG's mitigation efforts and are in full and complete satisfaction of KG's obligations under the Act and this Agreement to mitigate all Project impacts, known or unknown, whether or not identified in this Agreement, except as otherwise agreed to by the Parties in the Mitigation Agreement (as defined in Section 2.2(d) below). Except as expressly provided in Section 8.7, nothing in this Agreement will prevent the City from imposing lawful taxes and assessments on third party tenants, vendors and patrons of the Project, consistent with taxes, fees, and assessments lawfully and generally applied to all tenants, vendors and patrons in City.

2.2. Payment of City Costs for Project Planning and Review.

(a) **Eligible Costs.** KG will pay directly or reimburse the City, as appropriate, for the City's reasonable, direct costs (including but not limited to planning and peer review costs and reasonable legal fees) of determining the impacts of the Project, negotiating this Agreement and related agreements, and reviewing and commenting on Project design, as well as other reasonable, direct costs incurred by the City in connection with:

- (1) holding joint public forums regarding the public referendum on the project;

(2) holding a ballot election as provided in Section 15(13) of the Act;

(3) communicating with and/or appearing before the Commission in connection with KG's license application and the Project;

(4) preparing and presenting amendments to the City's Ordinances and other necessary municipal legislative enactments; and

(5) participating in local, state or federal permitting activities and municipal proceedings relative to the Project.

(b) Budget and Approval. With respect to any costs incurred by the City prior to the Effective Date in connection with any of the foregoing matters, the City agrees that the costs for which it will seek reimbursement shall not exceed Ninety Thousand Dollars (\$90,000), exclusive of consultant funds previously provided by KG. With respect to costs incurred after the Effective Date, the City will prepare and submit to KG a budget(s) for all costs for which the City will seek payment or reimbursement hereunder, which budget(s) shall be subject to KG's review and approval, which approval will not be unreasonably withheld or delayed. Any costs not included in the approved budget(s) will require KG's separate prior approval. The City will also provide KG with any proposal, contract or scope of work for any consultants for which the City seeks or will seek payment from KG for KG's review and approval prior to the City's execution of such any proposal, contract or scope of work.

(c) Payment. KG will make payments to the City as may be necessary to cover the City's costs, subject to the budget and approval process of Section 2.2(b). The Parties will cooperate in seeking approval and payment of all costs approved pursuant to Section 2.2(b). The City will provide reasonable substantiation and documentation for any and all costs paid for or reimbursed by KG pursuant hereto, but will not be required to divulge privileged billing entries by its legal counsel. KG agrees that, where practicable, such funds shall be provided in advance to the City or its counsel, and that such consultant funds shall be paid from the funds provided in advance. Otherwise, such funds shall be reimbursed by KG within thirty (30) days of its approval of the budget therefor, provided that such approval shall not be unreasonably withheld or delayed. The City will promptly return to KG any payment made to the City under this Agreement which is not spent by the City as provided for in this Agreement.

(d) Impact Studies. KG and the City will jointly commission comprehensive studies to be prepared by one or more independent, mutually acceptable third parties to evaluate the impacts of the Project on the City's (i) traffic/public transit/transportation infrastructure; (ii) utility infrastructure; (iii) public safety; (iv) economy (including without limitation schools and housing impacts); and (v) construction impacts to the extent not addressed in the other studies (collectively, the "Impact Studies"). The Impact Studies will be funded by KG and will be designed and

undertaken in collaboration with the City, its departments and consultants, and in accordance with the requirements of the Act and aimed at providing complete and exemplary responses to the Commission's RFA-2 Application. Only one study shall be performed for each of items (i) through (v) listed above. Such third parties shall be instructed that KG and the City are joint clients, that their obligations are to impartially and fully evaluate the potential impacts of the Project, and both parties shall be entitled to review and comment on any drafts of the written report(s) prior to the finalization of the report.

(e) Mitigation Agreement. Upon the submission of the Impact Studies to KG and the City, the Parties will work together in good faith and in a reasonable and expeditious manner to agree on the required mitigation, and the timing of completion of such mitigation, which will be memorialized in a separate agreement in accordance with the Act (the "Mitigation Agreement"). The Parties acknowledge that time is of the essence with respect to completing the Impact Studies and executing the Mitigation Agreement and agree that the Mitigation Agreement should be completed twenty (20) days before the RFA 2 Application is due. In the event the Parties are unable to enter into the Mitigation Agreement in such time, they shall promptly enter into binding arbitration pursuant to Section 11.1 and complete such arbitration no later than five (5) days before the RFA 2 Application is due.

(f) Permitting and Review Fees. KG will pay to the City, and hereby agrees not to contest or challenge, all permitting and utility connection fees properly associated with the Project according to the fee schedule in effect for all developments in the City at the Effective Date, including but not limited to building permitting, planning, zoning fees, and reasonable costs and expenses to supplement the ability of the City's Office of Planning and Department of Inspectional Services to process Project-related permits, approvals, inspections and the like (including direct compensation for temporary staff but only to the extent such temporary staff is working on the Project, and only for activities occurring before the Project is Open for Business to the General Public) and outside consultants, pursuant to Section 2.2(b) (in addition to other payments made by KG pursuant to this Agreement).

SECTION 3: KG IMPACT PAYMENTS ONCE CATEGORY 1 GAMING LICENSE IS GRANTED

Upon the grant of a final, non-appealable Category 1 gaming license to KG by the Commission for the Project, KG will make the following payments to the City:

3.1. Real and Personal Property Taxes. From the date that KG takes title to the Project Site until the Project is first Open for Business to the General Public, in satisfaction of all Real and Personal Property Taxes due on the Project Site due after KG takes title (including after construction begins) and of any other assessments due from KG to the City and any City department, board, or commission for the Project, including,

but not limited to, its school district, and police and fire departments, except as otherwise expressly provided herein, KG will pay annual Real Property Taxes to the City based on the purchase price of the Project Site, which purchase price for purposes of this Agreement shall include all consideration paid by KG for the Project Site, including without limitation relocation costs, and which shall be pro-rated for any partial year, and based upon any percentage of partial completion of the Project, in accordance with generally applicable law and assessment standards; provided further that no property tax exemptions shall apply. The Parties will calculate the amount of this annual payment by applying the City's commercial/ industrial tax rate on the date that KG takes title to the Project Site (which, for reference, is \$32.18 per \$1,000 of assessed value as of the Effective Date) to the purchase price of the Project Price, which KG represents is the result of a negotiated, arm's length transaction contemplating the receipt of the site-specific Category 1 gaming license and the redevelopment of the Project Site into the Project.

3.2. **Mitigation Pursuant to Impact Studies.** As agreed to by the Parties in the Mitigation Agreement, KG will fund the mitigation of impacts on the City identified in the Impact Studies, in the amounts and according to the timetable set forth in the Mitigation Agreement. The mitigation activities agreed to in the Mitigation Agreement will be scheduled to be completed before the Project is Open for Business to the General Public. KG will fund the agreed-upon reasonable costs of those mitigation activities to be undertaken by parties other than KG if the Mitigation Agreement includes any such activities. If the Mitigation Agreement requires KG to expend more than Eight Million, Five Hundred Thousand Dollars (\$8,500,000) ("**Mitigation Cap**"), then KG may deduct the amount above Eight Million Five Hundred Thousand Dollars (\$8,500,000) from the Annual Payments, provided that KG may not deduct more than One Million, Five Hundred Thousand Dollars (\$1,500,000) per year. For purposes of this section, the cost of infrastructure improvements voluntarily undertaken by KG to serve the Project, which are not required by the City in connection with the Mitigation Agreement, shall not count toward the Mitigation Cap.

3.3. **Preliminary Economic Regeneration Payment.** After KG is granted a final, non-appealable Category 1 Gaming License for Region C, KG will pay Four Million, Five Hundred Thousand Dollars (\$4,500,000) (the "**Preliminary Economic Regeneration Payment**"), paid by KG at the direction of the Mayor directly to governmental entities to promote economic development, harbor development, and community preservation, in three installments as follows:

(a) Two Million Dollars (\$2,000,000) payable:

(1) If the final, non-appealable Category 1 Gaming License is granted on or before April 30, 2016, the earlier of the date upon which KG receives construction financing for the Project or June 30, 2016; or

(2) If the final, non-appealable Category 1 Gaming License is granted after April 30, 2016, sixty (60) days after the license is granted.

(b) One Million Five Hundred Thousand Dollars (\$1,500,000) on the first anniversary of the initial payment; and

(c) One Million Dollars (\$1,000,000) on the second anniversary of the initial payment.

(d) Thirty (30) days prior the date each installment of the Preliminary Economic Regeneration Payment is due, the Mayor's Office shall provide KG written instructions for the manner in which such payments shall be made.

SECTION 4: KG PAYMENTS ONCE THE PROJECT IS OPEN FOR BUSINESS TO THE GENERAL PUBLIC

KG will make payments to the City and its designees as set forth in this Section after the Project is Open for Business to the General Public.

4.1. PILOT Payments.

(a) PILOT Agreement. The Parties will work cooperatively to enter into a payment in lieu of taxes ("PILOT") agreement through the use of a G.L. c. 121A urban redevelopment corporation and agreement, which may carry additional benefits for both parties, the details and requirements of which must be reviewed and agreed upon by the Parties and by the Massachusetts Department of Housing and Community Development ("DHCD"). As it is in the Parties' mutual interest to have a PILOT agreement in place before the Project is first Open for Business to the General Public, the Parties will begin working diligently on the process set forth in this paragraph immediately upon the execution of this Agreement. The Parties will work cooperatively to negotiate such an agreement and to seek the necessary approvals thereof, including the approval of DHCD.

(b) Special Legislation. If the Parties are unable to negotiate and obtain all the approvals necessary to enter into a PILOT agreement under G.L. c. 121A, they will work cooperatively to prepare and seek all necessary approvals of special legislation to authorize such a PILOT.

(c) Alternative Payment. If such special legislation is not passed by the General Court and signed into law by the Governor, the parties agree that the City will be required to assess real and personal property taxes in accordance with Massachusetts law and generally accepted assessment standards. If in any given year, the real and personal property taxes so assessed on the Project are more than the PILOT

would be under Section 4.1(a) and 4.2(a)(1) of this Agreement, then the Annual Economic Regeneration Payments, as described below will be decreased, in pro rata shares, by a total amount equal to such difference, provided that if such decreases would exceed the total amount of the such payments otherwise due, then the City shall not be required to make any repayments to KG, but KG will be entitled to a credit against any future year(s) Annual Economic Regeneration Payments for the amount by which the difference exceeds the total amount of Annual Economic Regeneration Payments otherwise due. Likewise, if in any given year, the real and personal property taxes so assessed on the Project are less than the PILOT would be under Sections 4.1(a) and 4.2(a)(1) of the Agreement, then the Annual Economic Regeneration Payments will be increased, in pro rata shares, by a total amount equal to such difference. For avoidance of doubt, the foregoing reconciliation provision is intended to ensure that if KG is paying real and personal property taxes rather than the proposed PILOT payment, then such real and personal property taxes when added to the Annual Economic Regeneration Payments for the same period shall be equal to the amount of PILOT and Annual Economic Regeneration Payments that would have been paid hereunder for the same period.

4.2. Annual Payments. After the Project is first Open for Business to the General Public, as an alternative to any and all real and personal property taxes and recurring impact payments due from KG to the City for the Project (but excluding hotel and meal, and motor vehicle excise taxes, which shall be paid as provided in Sections 4.3 and 4.4 of this Agreement), KG will annually make three defined payments to the City (collectively, the "Annual Payments") as further defined below.

(a) Amounts. KG will make the Annual Payments in a total amount equal to Twelve Million, Five Hundred Thousand Dollars (\$12,500,000) with the Annual Payments to be allocated as follows:

(1) A PILOT in satisfaction of all Real and Personal Property Taxes otherwise owed to the City in the amount of Seven Million Dollars (\$7,000,000), which shall be exclusive of and in addition to any and all applicable hotel, meals and excise taxes;

(2) An Annual Impact Payment in the amount of Five Hundred Thousand Dollars (\$500,000); and

(3) Annual Economic Regeneration Payments, paid by KG at the direction of the Mayor directly to governmental entities to promote economic development, harbor development, and community preservation, totaling Five Million Dollars (\$5,000,000); on April 15th of each year in which the Annual Economic Regeneration Payments are due, the Mayor's Office shall provide KG written instructions for the manner in which each quarterly payment (as provided in Section 4.2(b)) shall be made.

(b) Timing. On the first days of May, August, November and February, KG will make four equal quarterly payments of the Fixed Amount portions of the Annual Payments in arrears for the quarters ending on the last days of March, June, September, and December. If any date for payment set forth in this paragraph falls on weekend day, holiday, or other day on which banks in Bristol County are not open for business, KG will make the corresponding payments on the next business day.

(c) Annual Payments Adjustment. Beginning on the first day of the first municipal fiscal year following the fifth (5th) anniversary of the Project Opening for Business to the General Public, the Annual Payments shall increase by two and one-half percent (2.5%) per annum.

(d) Pro-ration. In the calendar year in which the Project is first Open for Business to the General Public, the amounts of the Annual Payments will be prorated based on the number of days that the Project is Open for Business to the General Public in that year. No Annual Payments will be earned or due before the Project is first Open for Business to the General Public. If, after it is first Open for Business to the General Public, the Project is prevented from remaining Open for Business to the General Public for five or more consecutive days or for more than twenty-five days during a calendar year by reason of any cyber-threat or attack, terrorist act, strike or labor troubles, government preemption in connection with a national emergency or by reason of any rule, order or regulation of any department (or subdivision thereof) of any government agency, fire, war, act of God or other emergency or circumstances not within KG's reasonable ability to control (collectively, "Force Majeure"), then the Annual Payments for that calendar year will be reduced pro rata based on the number of days in the calendar year that the Project is prevented from being Open for Business to the General Public by the Force Majeure event(s). If, however, KG receives business interruption insurance payments or other compensation for its inability to make its Annual Payments because of closure as a result of any Force Majeure event, KG shall credit the amount of those insurance proceeds against any proration sought hereunder. If KG seeks to receive Force Majeure relief under this section, it shall provide written notice thereof to the City and shall provide all documentation in its possession that is necessary to support such request, including any applicable insurance policies or other documents that may lead to mitigation of the loss claimed by KG as a result of the Force Majeure event. The parties shall negotiate in good faith regarding any request by KG for relief hereunder. If the parties are unable to resolve KG's request, they shall each retain all rights pursuant to the dispute resolution provisions set forth in Section 11.1 hereof.

(e) Region C Tribal Casino. If a Tribal casino opens in Region C, the Annual Payments will be altered, starting in the quarter that the Tribal casino first opens for business, to the higher of Seven Million, Five Hundred Thousand Dollars (\$7,500,000) or 2.5% of Gross Gaming Revenue of the Project. If either party asserts that the opening of the Tribal casino in Region C is a reason for reopening the mitigation

agreement as provided in 205 CMR 127.02, the parties shall follow the procedures in 205 CMR 127.00 for resolving the matter.

(f) Expansion. If, after the Project is first Open for Business to the General Public, KG expands the Project's total gross casino floor area by seventeen and half percent (17.5%) or more in the aggregate, then such change shall be considered a voluntary re-opener under 205 CMR 127.06 and KG and the City shall negotiate in good faith concerning the payments KG will make to the City under Section 4.2 after such expansion is completed. If the Parties are unable to reach agreement on the modification of the Annual Payments due once such expansion is completed, they shall proceed with dispute resolution pursuant to Section 11.1 hereof. Nothing in this Section shall exempt such expansion from any permitting or licensing requirements applicable thereto.

4.3. Hotel and Meals Taxes. KG (or its tenants or operators, as applicable) will assess and collect all local hotel/room occupancy and meals taxes from its patrons and will remit payment of such taxes to the City in accordance with applicable law.

4.4. Motor Vehicle Excise Taxes. KG agrees to garage all motor vehicles owned by the Project in the City and pay excise taxes on those vehicles to the City in accordance with applicable law.

4.5. Late Payment Penalty. Timely payment of the amounts required under this Agreement is a material condition to the City's agreement to execute this Agreement, and KG therefore agrees to pay interest at ten percent (10%) per annum on any required payment not timely paid in accordance with the terms of this Agreement, calculated on a daily basis using a 365-day year, provided that, with the exception of real and personal property taxes pursuant to Section 3.1(b), the City provides on the first three occasions when such payment is late written notice five (5) business days in advance of assessing such late penalty and KG shall not owe a late payment penalty if KG pays the outstanding amount within such five (5) business day period.

SECTION 5: OTHER KG COMMITMENTS

5.1. Project Investment. If the Commission grants a final, non-appealable Category 1 gaming license to KG for the Project, KG will make a Project Investment of approximately Six Hundred Fifty Million Dollars (\$650,000,000) to develop the Project. Upon a favorable city-wide referendum ballot authorizing the operation in City of the Project as a Category 1 gaming establishment licensed by the Commission, KG will use all reasonable efforts to promptly obtain a Category 1 gaming license from the Commission for the Project.

5.2. Brownfield Cleanup. As the location of the former Cannon Street power station and bulk oil storage facility, the Project Site is heavily contaminated by oil and hazardous materials requiring extensive environmental remediation. In addition, the power plant and other structures are obsolete and burdened with contaminated materials,

leaving a large waterfront parcel critical to the City's economic and waterfront development blighted and under-utilized. As part of the Project, KG shall remediate the existing environmental contamination adversely affecting the Project Site in accordance with Chapter 21E of the Massachusetts General Laws and Massachusetts Contingency Plan (310 CMR 40.0000, et. seq). KG shall also diligently decommission and demolish those existing Project Site structures and buildings that will not be used for the Project. KG's environmental consultant, TRC, has estimated the costs for the foregoing work to be approximately Fifty Million Dollars (\$50,000,000).

5.3. **Relocation of NStar.** KG agrees to use good faith efforts to work with NStar relocate its operations from the Project Site to another site in the City in order to preserve NStar's jobs in the City. In exercising its good faith efforts, KG will in no event be required to spend more than Fifteen Million Dollars (\$15,000,000) to relocate NStar's site inclusive of the costs to acquire NStar's McArthur Site. The City agrees to work cooperatively with KG and NStar to identify a suitable location within the City for such relocation. The parties acknowledge that the decision to select the relocation site is solely to be made by NStar, which is not a party to this Agreement, and that KG will not be deemed in violation of this provision if NStar chooses to relocate its operations to a location outside of the City, despite such good faith efforts by KG.

5.4. **Waterfront Harborwalk and Access.** KG is developing the Project as a waterfront resort casino and shall make public access to the Project's waterfront part of its development. Consistent with the City's current municipal harbor plan and Massachusetts General Law Chapter 91, the Public Waterfront Act and Waterways Regulations ("Chapter 91"), KG shall incorporate in its design certain features that promote and protect the Project's waterfront for public access, use and enjoyment. Subject to securing applicable local, state and federal approvals, KG will construct a harborwalk amenity along the waterfront edge of the Project Site, the cost of which KG estimates to be Ten Million Dollars (\$10,000,000). KG agrees to work cooperatively with the City in connection with the planning, permitting and construction of the harbor walk, including where feasible ensuring connection with other existing or planned pedestrian routes along waterfront or from downtown.

5.5. **Commercial Fishing/Recreational Marina.** The City believes that tidelands in its harbor areas, especially in the City's Designated Port Area, should be fully utilized in accordance with the City's maritime history and traditions. Given the physical constraints of the Site and the adjacent water sheet, productive and compatible uses of the tidelands of the Project Site include providing commercial fishing vessel berths in the southern portion of said tidelands and a public recreational boating facility (as that term is defined in 310 CMR 9.38) in the northern portion of such tidelands between the proposed casino location and Leonard's Wharf.

KG acknowledges that the City desires to create additional berths for commercial fishing vessels along the southernmost edge of the Project Site. Prior to the time the

Project is first Open for Business to the General Public, the City (or its designee) and KG will in good faith attempt to negotiate a lease for nominal value and containing commercially reasonable terms for the bulkhead and adjacent tidelands portion of that area. The berthing of commercial fishing vessels shall not adversely affect the Project or the patrons' experience. The lease shall not include any pedestrian or vehicular access across the Project Site.

As noted, the City desires to provide for a public recreational boating facility in the northern portion of the tidelands adjacent to the Project Site. The City acknowledges that a portion of this area contains the so-called Outer Slip Cap and is subject to an Activity and Use Limitation precluding the disturbance of the Outer Slip Cap, and in addition portions of this area contain contaminated sediments that could be disturbed by recreational boating activities. KG and the City (and/or designee) will in good faith negotiate and execute an option agreement granting the City the right to execute a commercially reasonable long-term lease of the tidelands for the operation of a public recreational boating facility for transient boaters, for a nominal lease payment, which option agreement shall include the following terms:

- (a) The City will secure at its cost an environmental pollution legal liability policy, which policy will name KG as an insured (and NStar as an additional named insured) and will include a coverage term for the term of the lease and coverage amounts, deductibles and exclusions acceptable to KG in its sole and absolute discretion;
- (b) KG shall provide necessary easements to allow electrical and water utility connections;
- (c) The marina construction commencement and phasing shall be approved in advance by KG, which approval may be withheld or conditioned in its sole and absolute discretion; and
- (d) The operation of the marina shall not interfere with the operation of the Project, including without limitation the Project Site may not be used for (i) vehicular access to the marina or (ii) parking for marina employees or patrons, in either case without KG's written consent, which may be withheld or conditioned in its sole and absolute discretion.

5.6. **Rewards Programs.** As part of its rewards / frequent guests / loyalty or similar programs, KG will issue at least Fifty Thousand Dollars (\$50,000 per year) in gift cards, gift certificates and/or local business discounts to be redeemed at City businesses outside the Project Site. In addition, KG and the Project operator shall use best efforts to ensure that rewards / frequent guest / loyalty points or similar rewards may be used to purchase goods and services at City businesses outside the Project Site.

5.7. **Partnership with Zeiterion Theater.** KG shall designate the Zeiterion Theater as an Impacted Live Entertainment Venue ("ILEV") as defined in the Act and

shall enter into an **ILEV** Agreement under which it will provide support to the Theater in advancing its marketing/promotions, programming and artistic mission, reinforcing the important role of local arts in the community or participate in the binding arbitration procedure provided for in 205 CMR 126.01(4)(c).

5.8. **Partnership with Other Hotels in City.** KG shall use reasonable good-faith efforts to partner with other hotels located within a half mile of the Project on cross-marketing opportunities.

5.9. **Responsible Gaming Program.** KG recognizes that, while gaming is an enjoyable leisure and entertainment activity for most, there is a small percentage of the population that may not gamble responsibly. KG will implement a responsible gaming plan at the Project in compliance with the Act and all applicable regulations of the Commission.

5.10. **Cooperation on Site Design.** KG recognizes that the City is particularly interested in ensuring that the Project is designed and developed in conformance with the City's planning and economic development goals, and in a manner that is consonant with the City's rich history and architectural fabric and will not adversely impact businesses within the City's downtown. Accordingly, the parties hereby agree that:

(a) The parties recognize that the Project will require a special permit from the City's Zoning Board of Appeals and Site Plan approval from the City's Planning Board. The parties agree that KG will consult regularly with the City regarding Project design and will consider the comments, input and recommendations of the City and its consultants regarding Project design, site layout, pedestrian and vehicular access, architecture and building materials. The Parties agree that the City Planning Board's Site Plan review may give reasonable consideration to issues relating to integration of the Project with the City's downtown. Nothing herein is intended or shall have the effect of limiting the lawful scope of the Planning Board's review or that of any other permitting board or agency.

(b) KG shall limit the following uses as set forth in this Section 5.9(b):

(1) One full-service hotel to be located at the northern side of the site containing not more than three hundred (300) rooms and not exceeding eleven (11) stories in height, which may include one full-service restaurant and one counter-service restaurant;

(2) Indoor food service establishments totaling not more than thirty-five thousand square feet (35,000 s.f.) in seating space, (i) excluding nightclubs and bars that do not offer sit-down meal service and (ii) food kiosks, as depicted in the northwest corner of the Project Site on **Exhibit 1**;

(3) Retail sales space not to exceed twenty-five thousand square feet (25,000 s.f); and

(4) One dedicated, fixed-seat performance space, which shall not provide more than two hundred seats.

(c) The Project will include construction and operation of a waterfront conference center of approximately twenty-five thousand square feet (25,000 s.f.).

(d) For the purposes of this section, "Casino" shall refer to the structure containing the primary Gaming Area but shall not refer to the historic power plant structure on the Project Site. Signage for the Project shall be subject to applicable City Ordinances and to the following specific limitations:

1. There shall be no signage advertising or referring to Gaming, or any Game or Gaming Device, or to the operator of the Gaming Area, or containing or depicting any trademark or brand of the operator of the Gaming Area on any east facing façade of any structure on the Project Site;
2. No portion of any signage advertising or referring to Gaming, or any Game or Gaming Device, or to the operator of the Gaming Area, or containing or depicting any trademark or brand of the operator of the Gaming Area, shall be at a height above forty (40) feet, provided however, that such signage shall be permitted up to twenty (20) feet above the roof of the Casino.
3. Neither KG nor the operator of the Gaming Area shall advertise or refer to Gaming, or any Game or Gaming Device, or to the operator of the Gaming Area on any billboard in the City. However, if any other gaming establishment located in any state advertises on any billboard(s) in the City ("Competing Billboard"), KG and/or the Gaming Operator may so advertise on up to an equal number of billboard(s) in the City for so long as such Competing Billboard(s) exists; provided that KG or its operator shall have reasonable time to remove its advertising from its billboard(s) once the Competing Billboard no longer exists.

5.11. Letter of Credit. To secure KG's obligations under this Agreement, KG shall not later than the commencement of construction of the Project, deliver to the City an original irrevocable standby letter of credit issued by a major money center bank located within the United States reasonably acceptable to the City in the sum of Five Million Dollars (\$5,000,000) (the "Letter of Credit") or some other form of credit satisfactory to the City. The Letter of Credit shall be issued in accordance with, and subject to, the International Standby Practices (ISP98) International Chamber of Commerce Publication No. 590 and the rules of the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500, as most recently published and/or updated by the International Chamber of Commerce, or any successor code of standby letter of credit practices generally adopted by the issuing bank as may be in effect at the time of issuance. KG shall be required to

maintain the Letter of Credit throughout the Agreement and shall annually provide evidence to the City of its renewal. In the event such evidence of renewal is not received by the City at least thirty (30) days prior to its expiry, the City shall be entitled to draw on the then existing Letter of Credit and shall hold the funds in escrow until such time as a replacement Letter of Credit has been provided to the City. The City shall have the right to draw upon the Letter of Credit if KG fails to make a timely payment of any of the payments called for in this Agreement and fails to make any such payment within ten (10) days after receiving written notice from the City of an overdue payment. On the second (2nd) year anniversary after the Project is Open for Business to the General Public, the Letter of Credit shall promptly be returned to KG, provided that KG has timely made all payments required under this Agreement.

5.12. City Office of Gaming Coordination. The City intends to create an Office of Gaming Coordination to handle matters relating to the Project and its operation, including without limitation periodic review of the status of the Project, employment, use of vendors and other matters set forth in this Agreement. KG agrees to work cooperatively with the Office of Gaming Coordination and to provide such non-privileged information as may reasonably be requested by said Office from time to time.

SECTION 6: WORKFORCE DEVELOPMENT AND LOCAL HIRING PREFERENCES

6.1. Construction Jobs.

(a) Subject to the Act, and to the extent that such a practice and its implementation are consistent with federal, state, and municipal laws and regulations, KG will work in a good faith, legal and non-discriminatory manner with the Project's general contractor, construction manager, and/or subcontractors to give reasonable preference in the hiring for Project construction jobs to properly qualified bona fide residents of the City. KG shall use good faith efforts to require its construction contractor to provide that at least twenty percent (20%) of the total employee hours for construction of the Project be undertaken by properly qualified bona fide residents of the City, if such qualified bona fide residents of the City apply.

(b) KG shall require its general contractor or construction manager for the Project and those engaged by said general contractor or construction manager to use good faith efforts to employ suitably qualified minorities, women and veterans for the construction of the Project and the Developer shall meet all Commission requirements for the employment of properly qualified minorities, women and veterans on the Project.

(c) KG intends for the Project to be constructed using union labor and has entered into an agreement with the Massachusetts Building Trades Council and the Southeastern Building Trades Council, which is attached hereto as Exhibit B.

6.2. Permanent Jobs.

(a) Subject to the Act, and to the extent that such a practice and its implementation are consistent with federal, state, and municipal laws and regulations, KG will work in a good faith, legal and non-discriminatory manner to give reasonable preference in the hiring for permanent Project jobs to properly qualified bona fide residents of the City. KG shall use good faith efforts to require its operators of the Project to provide that at least twenty percent (20%) of the total permanent workforce of the Project be comprised of properly qualified bona fide residents of the City, if such qualified bona fide residents of the City apply.

(b) KG will hold two career / job fair(s) in the City to highlight and publicize the Project's permanent job needs and explain to attendees the process by which they may seek to be hired in connection with the Project.

(c) KG shall use reasonable good faith efforts to employ properly qualified minorities, women and veterans as part of the total permanent workforce for the Project and shall meet all Commission requirements for the employment of properly qualified minorities, women and veterans on the Project.

(d) Career Training. KG shall use reasonable good faith efforts to enter into a Memorandum of Understanding with Bristol Community College ("BCC") on initiatives and cooperation toward workforce training, with an emphasis on the casino and hospitality industries. The Memorandum of Understanding shall ensure that such initiatives and training focus and primarily occur upon the New Bedford campus of the BCC.

6.3. Local Vendors.

(a) On an annual basis, KG (together with its affiliates, tenants and operators) shall utilize reasonable good faith efforts to purchase not less than Ten Million Dollars (\$10,000,000) in goods and services annually from competitively priced vendors and companies with a principal place of business in the City and will provide reasonable assistance to such local vendors in satisfying the qualification requirements of the Commission.

(b) KG will hold two vendor fairs in City to educate local vendors about opportunities to provide goods and services to the Project.

SECTION 7: PROJECT DEMANDS ON CITY SERVICES

7.1. KG recognizes that the Project may require upgrades to certain components of the City's utility infrastructure. The nature and extent of any required utility infrastructure upgrades will be determined through the Impact Studies process set forth in Section 2.2(d) and (e) of this Host Community Agreement and KG's obligation to

construct and/or pay for others to construct such reasonable necessary upgrades will be memorialized in a separate Mitigation Agreement under that section of this Agreement.

SECTION 8: CITY OBLIGATIONS

In consideration of the mitigation measures that KG will undertake, and in further recognition of the benefits the Project will bring to City, the City will do the following:

8.1 **City Wide Election**. The Mayor will promptly request that the City Council formally approve the holding of an election pursuant to Section 15(13) of the Act, and consistent with the regulations and interpretations of the Commission. Upon receipt of the Mayor's request, the City Council will schedule a City-wide election so that qualified City residents can vote on a ballot question to support or reject this Agreement and, by extension, the Project. The Mayor will request that the City Council schedule such election no later than ten (10) days before the RFA 2 Application is due, provided that holding the election on such date is not in direct violation of state law or any duly promulgated regulation of the Commission, and subject to any determination by the Commission that the election should be held on a different date. If the election is not so permitted to be held ten (10) days before the RFA 2 Application is due, it will be held upon a mutually acceptable date as soon as permitted under applicable state law and regulations and any Commission directive;

8.2 **Support KG's License Application**. The City will support and actively work with KG in its RFA-2 application for a Category 1 gaming license from the Commission, including issuing a written statement of the City's support of the Project;

8.3 **Seek Funds Available Under the Act**. The City will use best efforts to seek monies available under the Act, including but not limited to, those monies in the Community Mitigation Fund, the Local Capital Projects Fund, the Massachusetts Cultural Council, and the Transportation Infrastructure and Development Fund; provided, however, that any monies obtained by the City under this provision will not change KG's obligation to mitigate impacts as described herein;

8.4 **Support Permitting and Approval Efforts**. The City will work cooperatively and in good faith with KG to support and assist KG in securing in a prompt and efficient manner all zoning/land use, site plan, and other City licenses, permits and approvals from the City, and as may be required or advisable in connection with the construction and operation of the Project, including processing license, permit and approval applications in an expeditious manner after customarily required application materials have been submitted; provided that nothing herein shall require the City to waive any review and approval rights set forth in applicable statutes or regulations and provided further that the City shall retain the right to provide comments and recommendations regarding Project design, consistent with this Agreement;

8.5 Amend Local Regulations. If required or advisable in connection with the development and operation of the Project, the City will consider any reasonable request by KG to prepare and submit an amendment to the City Zoning Ordinance, and/or any other City land use regulations requiring amendment, to allow construction and operation of the Project at the Project Site; provided, however that the KG acknowledges that such amendment(s) may include a reasonable administrative site plan review process and the adoption of reasonable design guidelines.

8.6 Actively Support Other Permitting and Approval Efforts for the Project. The City will actively support KG in obtaining all other licenses, permits or approvals required or advisable in connection with the construction and operation of the Project, including without limitation any Chapter 91 permits or licenses, modifications to the Designated Port Area boundaries and/or amendments to the New Bedford Municipal Harbor Plan, provided that the City shall retain the right to provide comments and recommendations regarding Project design, consistent with this Agreement; and

8.7 No New Taxes or Fees Targeting the Project. To the extent permitted by law, the City will not directly or indirectly adopt or implement, nor accept, any municipal taxes, fees or other assessments specific or unique, by language or effect, to a gaming establishment, its customers, employees, tenants, vendors, suppliers or owners that do not generally apply to other businesses in the City or its downtown.

SECTION 9: TRANSFERABILITY

KG may transfer or assign, subject to the Act, its rights and obligations under this Agreement to any transferee or assignee of the Category 1 gaming license to operate the Project as approved by the Commission, provided that the transferee or assignee assumes all obligations and liabilities hereunder. The City will be bound by this Agreement regardless of any such transfer or assignment. Any transferee or assignee of KG will likewise be bound by this Agreement to the fullest extent allowed by law. For the avoidance of doubt, after any transfer or assignment of the Agreement in accordance with the terms of this Section 9, KG shall have no further obligations under this Agreement provided that KG has paid and performed all of its obligations up to the date of assignment or transfer.

The City acknowledges and agrees that KG and its successors or assigns may, at any time and on one or more occasions, provide security to a lender, mezzanine lender or equity holder in connection with a financing or equity contribution, pledge or otherwise collaterally assign this Agreement and all documents, agreements, understandings, and arrangements relating to the transaction contemplated by this Agreement. The City will, within ten (10) days after receiving such a request, execute any commercially reasonable and customary instruments that do not deviate from its rights or increase its obligations (other than immaterial, administrative obligations).

This Section 9 shall not apply to, and shall in no way limit or restrict KG's ability to execute, any leases (including long-term ground leases), licenses, easements or other occupancy agreements executed by KG with respect to the Project.

SECTION 10: MODIFICATION

This Agreement may be modified or amended by written agreement of the Parties for any reason the parties deem is in their mutual interest, not otherwise inconsistent with the Act and all requirements of the Commission. Any such modification pursuant to this Section 10 shall be considered a voluntary reopening of a mitigation agreement as provided in 205 CMR 127.06

SECTION 11: CHOICE OF LAW; DISPUTE RESOLUTION

11.1 **Dispute Resolution.** Any dispute arising out of or related to this Agreement, or the breach thereof, that cannot be resolved by discussions, shall be resolved as follows: (a) first, by mediation administered by the American Arbitration Association ("**AAA**") under its Commercial Mediation Rules; and (b) if mediation does not resolve the dispute or if either party refuses to participate in good faith in mediation, by binding arbitration by a single arbitrator under the AAA Commercial Arbitration Rules. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact. Any such arbitration shall be conducted by an arbitrator experienced in gaming and real estate development and shall include a written record of the arbitration hearing. The parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. An award of arbitration may be confirmed in a court of competent jurisdiction. Each party shall bear its own costs in connection with the arbitration, and they shall share equally in the fees of the arbitrator. The Parties agree that time is of the essence in connection with undertaking and completing any dispute resolution under this Section 11.1, and agree that the scheduling of the arbitration proceeding, shall to the maximum extent feasible take into account any pending Project timelines.

11.2 **Choice of Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts, without regard to its conflict of laws provisions. Any dispute arising under or in connection with this Agreement shall be within the exclusive jurisdiction of the Massachusetts Superior Courts for Suffolk or Bristol Counties.

SECTION 12: INDEMNIFICATION

KG agrees to and shall defend, indemnify and hold harmless the City from and against any and all claims, actions, proceedings or demands brought against the City, its agents, departments, officials, employees, or insurers ("**Indemnified Parties**") by any third party

in connection with this Agreement, or exercise of its rights or obligations hereunder, or the issuance of City permits and approvals for the Project, and any reasonable costs incurred by the City in connection with defending legal challenges (other than by the City's agents, departments, officials or employees) of City actions taken in good faith in pursuit of any of the foregoing, except to the extent that any such claims, actions, proceedings or demands are premised upon acts of the City or its agents, departments, officials or employees taken intentionally or constituting gross negligence. The Indemnified Parties may elect to engage their own counsel to defend the Indemnified Parties, at KG's sole cost and expense, subject to KG's approval of Indemnified Parties' counsel, which approval shall not be unreasonably withheld. In such case, Indemnified Parties and their attorneys shall control the resolution of any claims, actions, proceedings or demands for which a claim has been made under this Section 12; provided, however, that no compromise or settlement of such claim, action, proceeding or demand shall be entered without KG's consent, which may be conditioned, delayed or withheld in its sole and absolute discretion. KG agrees, within thirty (30) days of written notice by the City, to reimburse the City for any and all reasonable costs and fees incurred in defending itself with respect to any such claim, action, proceeding or demand.

SECTION 13: MISCELLANEOUS

13.1 No Third Party Beneficiaries. No provisions of this Agreement shall be construed in any manner so as to create any rights in any third parties not party to this Agreement. The Agreement shall be interpreted solely to define specific duties and responsibilities between the City and KG, and shall not provide any basis for claims of any other individual, partnership, corporation, organization, or municipal entity.

13.2 Entire Agreement. This Agreement, together with any separate Mitigation Agreement between the City and KG to be entered into after the Effective Date, embodies the entire agreement between the Parties and supersedes all prior agreements and understandings relating to the Project.

13.3 Exercise of Rights and Waiver. The failure of any party to exercise any right under this Agreement shall not, unless otherwise provided or agreed to in writing, be deemed a waiver thereof; nor shall a waiver by any Party of any provisions hereof be deemed a waiver of any future compliance therewith, and such provisions shall remain in full force and effect.

13.4 Severability. If any clause, provision or remedy in this Agreement is, for any reason, deemed invalid or unenforceable, the remaining clauses and provisions shall not be affected, impaired or invalidated and shall remain in full force and effect.

13.5 Headings and Construction. The section headings in this Agreement are inserted for convenience of reference only and shall in no way affect, modify, define or be used in construing the text of the Agreement. Where the context requires, all singular

words in the Agreement shall be construed to include their plural and all words of neuter gender shall be construed to include the masculine and feminine forms of such words.

13.6 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

13.7 **Time is of the Essence.** The Parties agree and acknowledge that time is of the essence under the Agreement, and agree to cooperate and take such actions as necessary to ensure the timely completion of their respective duties and obligations hereunder.

13.8 **Operator to Comply.** The Parties agree and acknowledge that any third-party operator of the Gaming Area should comply with the terms of this Agreement. KG shall provide such operator with a copy of this Agreement.

SECTION 14: NOTICES

Any notices, consents, demands, requests approvals or other communications issued under this Agreement must be made in writing and must be delivered by hand, overnight delivery service, or certified mail, postage pre-paid (return receipt requested), and will be effective upon receipt for hand or overnight delivery and three days after mailing, to the other Party at the following addresses:

If to the City:

City of New Bedford
Office of the Mayor
133 William Street
New Bedford, MA 02740

With copy to:

City of New Bedford
City Solicitor
133 William Street, Room 203
New Bedford, MA 02740

With a copy to:

Jonathan Silverstein, Esq.
Kopelman and Paige, P.C.
101 Arch Street, 12th Floor
Boston, MA 02110

If to KG:

Barry Gosin

KG New Bedford, LLC
125 Park Avenue
New York, NY 10017

With a copy to: Hamilton Hackney, Esq.
Greenberg Traurig, LLP
One International Place
Boston, MA 02110

With a copy to: Kevin Conroy, Esq.
Foley Hoag LLP
155 Seaport Blvd.
Boston, MA 02210

SECTION 15: TERM

The term of this Agreement commences on the Effective Date and will end on the earliest of:

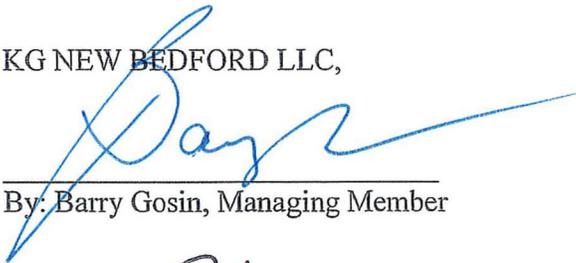
- A. Any date on which KG provides written notice that it elects to withdraw its application or abandon its efforts to obtain a Category 1 gaming license to be located in City, which it may do at any time in its sole and absolute discretion;
- B. Any date on which the Commission has issued a Category 1 gaming license for Region C to another applicant and KG has provided written notice that it has decided to discontinue pursuit of a Category 1 gaming license for the Project, which it may do in its sole and absolute discretion;
- C. Any date on which KG provides written notice that it elects not to construct, or to permanently cease operations of, the Project, which it may do at any time in its sole and absolute discretion; or
- D. Any date upon which the Category 1 gaming license previously issued to KG for the Project is revoked, rescinded or expires without having been renewed (collectively, "Termination Date").

If the Agreement is terminated, notwithstanding any other provisions of this Agreement, KG and the City will have no further obligations to each other under this Agreement, except that KG will pay the following:

- (i) costs incurred by the City as of the Termination Date that KG is obligated to pay under Section 2 of this Agreement;
- (ii) any payments then due under Section 3 as of the Termination Date and pro rated as of the Termination Date, if applicable;
- (iii) the costs of completing or restoring to original conditions any in progress phase(s) of work underway under Section 3.2 as of the Termination Date;
- (iv) pro-rated portions of any annual payments due under Section 4.1 of this Agreement, calculated as of the Termination Date;
- (v) any applicable penalties under Section 4.5; and
- (vi) any obligations associated with an indemnity claim under Section 12 of which the City gives KG notice prior to the Termination Date.

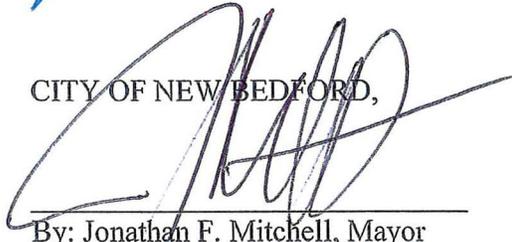
Such termination of this Agreement shall not absolve KG of responsibility for any lawfully assessed, post-termination taxes or regulatory fees in connection with the Project Site for so long as KG continues to own the Project Site.

KG NEW BEDFORD LLC,

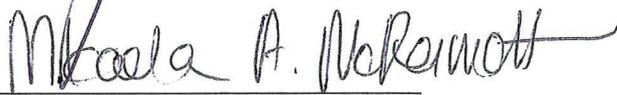


By: Barry Gosin, Managing Member

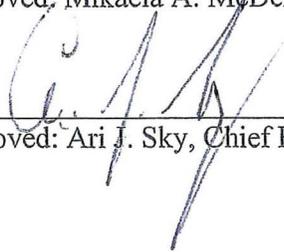
CITY OF NEW BEDFORD,



By: Jonathan F. Mitchell, Mayor



Approved: Mikaela A. McDermott, City Solicitor



Approved: Ari J. Sky, Chief Financial Officer