



City of New Bedford
OFFICE OF THE CITY SOLICITOR

ERIC JAIKES
City Solicitor

ELIZABETH McNAMARA
First Assistant City Solicitor

April 21, 2022

KREG R. ESPINOLA
OWEN J. MURPHY
Assistant City Solicitors

Chance Perks, Agent
New Bedford Conservation Commission
133 William Street, Room 304
New Bedford, MA 02740

JOHN E. FLOR
THOMAS DAVID HOUGHTON
NICHOLAS D. DeMARCO
Associate City Solicitors

Re: A-1 Asphalt, Inc.

Dear Mr. Perks:

As City Solicitor and as counsel to the New Bedford Airport Commission I have reviewed the Site Access Agreement between the City of New Bedford and A-1 Asphalt Corp. dated January 20, 2021, as well as the as-built plan dated January 2, 2022, for wetlands project No. DEP49-294 (copies of which are attached to this correspondence).

On behalf of the City of New Bedford, by its Airport Commission, this letter will confirm that the work performed on the airport property, as shown on the as-built plan, is in compliance with the access agreement, and that the property of the Airport has otherwise been returned substantially to its original condition. The Commission is satisfied with the performance of that work.

Sincerely,

Eric Jaikes

Eric Jaikes
City Solicitor

Enclosures (2)

Cc: ✓ Scot Servis, Director
Attorney Thomas Crotty

SITE ACCESS AGREEMENT

This Site Access Agreement (the "Agreement") dated as of this twentieth day of January 2021 is made among and between City of New Bedford, a body politic and corporate organized under the laws of the Commonwealth of Massachusetts, located at 133 William Street, New Bedford, Massachusetts acting by and through its Airport Commission (hereinafter referred to as the "City" and A-1 Asphalt, Inc. acting by Diamantina M. Mattos, Trustee of the Anthony R. DeCosta Revocable Trust-2016, u/d/t/ April 5, 2016 and its consultants, agents, servants and employees (hereinafter referred to collectively and singly as "A-1") relative to City/Airport property at Shawmut Avenue, New Bedford, Massachusetts (hereinafter the "Premises") as more fully described and shown on the plan which is a part of an Enforcement Order to be issued by the New Bedford Conservation Commission, (hereinafter the "Order") a copy of which is attached hereto as Exhibit A and incorporated by reference

WHEREAS, A-1 has requested that the City permit A-1, its consultant, its employees and subcontractors to enter upon and have access to the Premises in order to perform response actions in accord with the Order:

NOW, THEREFORE, the City and A-1 (herein referred to collectively as the "Parties") agree to terms, conditions and limitations set forth herein as follows:

1. City hereby grants A-1 a license for the purpose of gaining access to the Premises to perform response actions. These activities shall consist of compliance with the City of New Bedford's Conservation Commission's Order to be issued relative to the Premises including soil sample collection and soil excavation and replacement with clean fill as necessary. A-1's access to the Premises (Map 124 Lot 77) shall be from its property on Shawmut Avenue (Map 124 Lot 27) whenever possible. In no event shall A-1 enter Airport property on the Northeast side of Shawmut Ave. A-1 shall give the City a minimum of three (3) days' notice before starting the work. In

impact to the Premises that will be occasioned by the Access. A-1 agrees that, to the extent possible in compliance with the Order, that it will use reasonable efforts to ensure the Premises complies with the Order, and is otherwise returned substantially to its original condition as of the commencement of the access).

7. The City shall provide all available information related to location of subsurface utilities and other subsurface features that could be damaged as a result of activities to be performed under this Agreement.
8. A-1 agrees to provide the City with copies of all data and reports related to the work performed on the Premises by A-1 under this Agreement.
9. The Parties each represent and warrant to the other (i) that each has all requisite authority to enter into this Agreement, (ii) that each has obtained all necessary consents and approvals, and (iii) that this Agreement and all of the obligations of the parties hereunder are the legal, valid, and binding obligations of each, enforceable in accordance with the terms of this Agreement.
10. This Agreement constitutes the entire agreement between the Parties, supersedes any prior agreements and understandings, and incorporates all discussions with respect thereto. No provision of this Agreement may be altered, amended, supplemented, changed, waived, or rescinded except upon the written agreement of both Parties.
11. Nothing herein shall be deemed or otherwise construed as an acknowledgment by any Party in any way relating, directly or indirectly, to the environmental status of the Premises, nor as an admission by any Party of any liability whatsoever, either express or implied. The Parties hereto specifically reserve all and singular their respective legal rights and remedies, and nothing herein shall be deemed or otherwise construed as a waiver by any party.

12. This Agreement, executed in multiple counterparts, shall be construed, governed and enforced pursuant to and in accordance with the law (and not merely the law of conflicts) of the Commonwealth of Massachusetts. The Parties hereto hereby submit to the jurisdiction of the courts of said Commonwealth for all purposes with respect to this Agreement. This Agreement shall be binding upon the Parties hereto and their respective heirs, devisees, administrators, representative, successors, and assigns. In no event shall this Agreement be recorded with the Bristol County Registry of Deeds. In the event of such recording, this access agreement will be contemporaneously terminated and A-1's access to the property shall also be contemporaneously terminated.
13. All notices or other submissions required or appropriate under this Agreement shall be sent by first class mail, facsimile, nationally recognized overnight delivery service or certified mail, return receipt requested. Such notices or submissions shall be sent, unless written notice has been given of a change by either Party, to the following persons:

If to City:

Scot Servis, Manager
New Bedford Reg. Airport
Airport Rd
New Bedford, MA 02740
Tel: (508) 991-6161

If to A-1:

Diamantina M. Mattos

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed under seal as of this date first written above.

City of New Bedford

By: 

Carlos A. DaCunha, Chairperson of
New Bedford Airport Commission

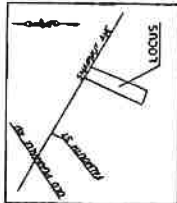
Dated: 1/20/21

A-1

By: _____

Print Name and Title

Dated: _____




MAP 124
CITY OF NEW BEDFORD
AIRPORT COMMISSION

MAP 124
LOT 26
BRISTOL COUNTY
CONSERVATION

MAP 124
LOT 23
MICHAEL & MARY ANN WEST

OWNER/APPLICANT
CITY OF NEW BEDFORD
100 STATE STREET
NEW BEDFORD, MASSACHUSETTS
01909
DATE: 2007.11.15, PAGE 12
ASSASSIN MAP 124 LOT 23

REGISTERED LAND SURVEYOR



C.S. KELLEY LAND SURVEYORS
PEMBROKE & SWANSEA, MA 02369

SCALE: 1"=80'

JANUARY 7, 2007 REV. 0

LEGEND

- PROPERTY LINE - SUBJECT PARCEL
- PROPERTY LINE - ADJUTER



NOTE

- 1) METERS AND LOCATIONS SHOWN FROM PLAN BY CHERRY ASSOCIATES, INC. DATED JULY 12, 2006. PLEASE REFER TO PLAN.
- 2) METERS AND LOCATIONS SHOWN FROM ACTUAL FIELD MEASUREMENT AND PHOTOGRAPHIC SURVEY ON PLAN INTERFERED ABOVE.

THE SURVEYOR HAS BEEN ADVISED BY THE APPLICANT THAT THE PROPERTY IS SUBJECT TO A DEED OF TRUST TO THE CITY OF NEW BEDFORD. THE SURVEYOR HAS REVIEWED THE DEED OF TRUST AND HAS FOUND NO OTHER INTERESTS IN THE PROPERTY. THE SURVEYOR HAS REVIEWED THE DEED OF TRUST AND HAS FOUND NO OTHER INTERESTS IN THE PROPERTY.