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CAPE COD
COMMISSION

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January 25, 2024

Bonnie Heiple, Commissioner
Massachusetts Department of Environmental Protection
100 Cambridge Street, Suite 900
Boston, MA 02114

Dear Commissioner Heiple,

I am writing to you on behalf of the Executive Committee of the Cape Cod and Islands Water Protection Fund (Fund) Management Board. Since its inception, the Fund has awarded approximately \$140 million in subsidies to Cape Cod towns for eligible wastewater and water quality projects listed on the Clean Water Intended Use Plan (IUP). The impact of the Fund subsidy on the ability of towns to advance water pollution abatement efforts is unprecedented.

A cash flow model developed in 2021 by PFM Financial Advisors LLC to support administration of the Fund was supportive of providing a 25% subsidy to eligible projects. While revenues have been consistent with projections, project costs listed on the 2022, 2023, and now draft 2024 IUPs have increased drastically from what was projected. The draft 2024 IUP includes more than four times the project costs anticipated in the initial modeling.

The certainty of the 25% subsidy has helped garner community support for implementation of wastewater projects and has resulted in significant action to improve water quality across Cape Cod. The increased cost of these projects and the local commitment to construction of infrastructure exceeds the ability of the Fund to maintain a 25% subsidy absent additional revenue sources.

At their meeting on Thursday, January 18, 2024, the Executive Committee voted to endorse the attached strategy for meeting the Funds needs. In part, the strategy proposes utilizing funds received by the Clean Water Trust from the federal Bipartisan Infrastructure Law (BIL). On behalf of the Executive Committee, I respectfully request your consideration of this approach and ask for an opportunity to meet to discuss potential application of the BIL funds for this purpose.

Sincerely,

Kristy Senatori
Executive Director

cc: Kevin Galligan, Chair, Cape Cod and Islands Water Protection Fund Management Board
Susan Perez, Executive Director, Massachusetts Clean Water Trust
Nate Keenan, Deputy Director, Massachusetts Clean Water Trust



The following strategy was endorsed by the Executive Committee of the Cape Cod and Islands Water Protection Fund Management Board on January 18, 2024.

Issue Statement:

The Cape Cod and Islands Water Protection Fund (the Fund) is challenged by increased project activity to maintain the 25% principal forgiveness central to its success spurring town projects. While the revenue projections associated with the 2.75% surcharge assessed on overnight stays have met or exceeded expectations, the increased demand on the Fund beyond what was projected or anticipated is creating pressure to reduce the principal forgiveness percentage.

Given the importance of the 25% forgiveness rate to local willingness to move forward with projects, there is a need to supplement the resources available to the Fund through 2029.

Proposed approach:

Additional funds are needed prior to April 2024 to support the expected level of principal forgiveness for the projects appearing on the DEP draft 2024 Clean Water Intended Use Plan (IUP). These projects will go to town meetings in the Spring of 2024 and towns and voters must have clarity on financing terms. A short-term solution to maintain the 25% subsidy for projects listed on the 2024 IUP is needed to ensure these projects are supported by voters. The funding needed to support the Fund and ensure the Fund's Management Board can maintain a 25% subsidy for projects listed in the 2025-2029 IUPs can be addressed separately.

1. Funding for 2024 Cape Cod IUP projects. Seek approval from the Clean Water Trust to apply funds received from the federal Bipartisan Infrastructure Law (BIL) legally required to be used for principal forgiveness at 9% to qualifying Cape projects (Barnstable, Dennis, Falmouth, Harwich, Mashpee, Yarmouth, and Sandwich projects) in disadvantaged communities appearing on the 2023 and 2024 IUPs. The use of BIL funds for forgiveness will replace money from the Fund and allow the aggregate forgiveness for Cape IUP projects to be fully funded at 25%. Those Cape projects (Wellfleet, Chatham, and Provincetown projects) not in towns that meet the disadvantaged definition can be fully funded at 25% using Fund proceeds.

To achieve this objective, a majority vote of the Board of the Clean Water Trust will be needed to establish an allocation of \$32.5 million in BIL funds to the disadvantaged communities of Cape Cod at 9%. No state appropriation is needed for this option to be implemented although it does require a willingness from the CWT Board to vary the application of the disadvantaged community criteria. In addition, the CWT will need to consider this allocation as additional and incremental to any principal forgiveness that would otherwise be allocated by the CWT to these same communities.

2. Funding for 2025 through 2029 Cape Cod IUP projects. Pursue bond fund authorization in the amount of \$292 million to support a projected \$350 million per year (a total of \$1.75 billion) in new IUP project activity from 2025-2029.

The projects identified on the following page are listed on the 2023 and draft 2024 Clean Water IUPs in municipalities designated as disadvantaged communities.

2023 IUP:

Town	Project	SRF ID	Eligible Cost	2023 IUP Cost
Barnstable	Sewer Extension and Vacuum Sewer Removal	7291	\$1,120,000	\$1,120,000
Barnstable	2023 Wastewater Pump Station improvements	7302	\$3,320,000	\$3,320,000
Barnstable	Park City Wind Route Sewer Expansion	7305	\$30,900,000	\$30,900,000
Barnstable	FY24-25 BWPCF Improvements	7346	\$6,121,800	\$6,121,800
Harwich	Harwich Rt 28 Sewer Construction Project	10378	\$8,099,590	\$8,099,590
Harwich	Harwich Phase 3 Sewer Extension	7290	\$48,927,000	\$41,900,410
Mashpee	Phase 1 Treatment and Collection System	7334	\$12,000,000	\$12,000,000
Yarmouth	Phase I - WRRF and Collection System	8349	\$207,244,000	\$50,000,000

Draft 2024 IUP:

Town	Project	SRF ID	Eligible Cost	2024 Draft IUP Cost
Barnstable	Nitrogen Removal Improvements & New Headworks Facility	16677	\$155,265,000	\$30,000,000
Barnstable	Rt 28 West Sewer Expansion Project	16683	\$59,650,000	\$10,000,000
Barnstable	Phinney's Lane Neighborhoods Sewer Expansion	16754	\$38,766,000	\$10,000,000
Dennis	Phase 1 - WRRF and Collection System	16676	\$188,600,000	\$50,000,000
Falmouth	TASA Phase 1 Collection and Recharge	16728	\$41,300,000	\$41,300,000
Harwich	Rt 28 Sewer Project	16674	\$6,500,000	\$6,500,000
Mashpee	Phase 2 Treatment and Collection System	16791	\$80,000,000	\$50,000,000
Sandwich	Sandwich High School WWTF Upgrades	16718	\$9,100,000	\$9,100,000