

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to Accept a Permanent Conservation Easement from Massachusetts Mills III Limited Partnership (“Mass Mills”) to the City of Lowell to allow for the extension of the Lowell Riverwalk along the Merrimack River for the purposes of extending parkland and promoting recreational use by the public.

The extension of the Lowell Riverwalk along the Merrimack River requires access through several parcels of land owned by Mass Mills, located at 159 Bridge Street, 169 Bridge Street and 169.3 Bridge Street.

BE IT VOTED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Manager be and hereby is authorized on behalf of the City of Lowell, to accept a Permanent Conservation Easement from Massachusetts Mills III Limited Partnership to the City of Lowell to allow for the extension of the Lowell Riverwalk along the Merrimack River for the purposes of extending parkland and promoting recreational use by the public. Said Easement shall be in the form or substantially the form attached hereto (Appendix “A”).

BE IT FURTHER VOTED:

That said Easement and vote shall be recorded by the Grantee.

PERMANENT CONSERVATION EASEMENT

MASSACHUSETTS MILLS III LIMITED PARTNERSHIP ("GRANTOR") in consideration of zero (\$0.00) Dollars and other valuable consideration hereby grants a Permanent Conservation Easement to THE CITY OF LOWELL ("GRANTEE") to pass and repass over land, bounded and described as follows:

Beginning at a point on the northerly side of the Concord River and the southwesterly lot corner of Lot 3 as shown on plan entitled "Plan of Land Lowell, Mass" on recorded in Plan Book 152 Plan 138 in the Middlesex North Registry of Deeds; Said point being N 71° 02' 01" W a distance of 37.13 feet, more or less, from an angle point in the concrete retaining wall along the Concord River

- Thence; S 71° 02' 01" W along said concrete wall, a distance of 412.05 feet, more or less, to a point on the concrete wall along the Concord River,
- Thence; N 18° 57' 59" W, a distance of 15.5 feet, more or less, to a point,
- Thence; N 71° 02' 01" E, a distance of 449 feet, more or less, to a point,
- Thence; S 38° 15' 24" E, a distance of 3.14 feet, more or less, to a point,
- Thence; N 80° 34' 04" E, a distance of 178.58 feet, more or less, to a point,
- Thence; S 49° 03' 29" E, a distance of 17.67 feet, more or less, to a point,
- Thence; S 40° 24' 11" W, a distance of 5.58 feet, more or less, to a point,
- Thence; S 84° 47' 55" W, a distance of 63.78 feet, more or less, to a point,
- Thence; S 80° 34' 02" W, a distance of 120.75 feet, more or less, to a point,
- Thence; S 71° 02' 01" W, a distance of 37.13 feet, more or less, to the point of beginning.

Said parcel contains 9,420 sf (0.216 acres), more or less.

The Permanent Conservation Easement hereby granted shall be for the use and benefit of the City of Lowell and its residents, agents, employees, guests, invitees, the general public, and other parties to whom Grantee may give rights to so use the Conservation Easement.

It is the express intent of Grantor that, subject only to the provisions hereof, Grantee shall have such full use, custody, and control over the Conservation Area as Grantee would otherwise have if this were a grant to Grantee of a fee simple interest in the Conservation Area rather than an easement over the Conservation Area.

Witness the execution hereof, under seal as of the ____ day of _____, 2018.

CITY OF LOWELL:

MASSACHUSETTS MILLS III LIMITED PARTNERSHIP

City Manager

Joseph R. Mullins, on behalf of JRM-Mass Mills III Inc, General Partner of Massachusetts Mills III Limited Partnership

APPROVED AS TO FORM:

Christine P. O'Connor
City Solicitor

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 2018, before me the undersigned Notary Public, personally appeared Eileen Donohue, City Manager, who proved to me through satisfactory evidence of identification, which was Notary's personal knowledge of the individual, to be the person whose name is signed on the preceding document, and acknowledge to me that she signed it voluntarily for its stated purpose.

_____, Notary Public
My commission expires: _____

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 2018, before me the undersigned Notary Public, personally appeared Joseph R. Mullins on behalf of JRM-Mass Mills III Inc, General Partner of Massachusetts Mills III Limited Partnership, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding document, and acknowledge to me that he signed it voluntarily for its stated purpose.

_____, Notary Public
My commission expires: _____

APPROVAL BY SECRETARY

On this _____ day of _____, 2018, the undersigned, Secretary of the Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the inhabitants of the City of Lowell has been approved as being in the public interest pursuant to M.G.L. c. 184, §32.

Matthew A. Beaton
Secretary, Executive Office of
Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 2018, before me the undersigned Notary Public, personally appeared _____, Secretary of the Executive Office of Environmental Affairs, proved to me through satisfactory evidence of identification, which was Notary's personal knowledge of the individual, to be the person whose name is signed on the preceding document, and acknowledge to me that he signed it voluntarily for its stated purpose.

_____, Notary Public
My commission expires: _____



Eileen M. Donoghue
City Manager

April 18, 2018

Mayor William Samaras
and
Members of the City Council

SUBJECT: Permanent Conservation Easement Agreement, Permanent Conservation Easement, and Construction Access Agreement between Massachusetts Mills III Limited Partnership and the City of Lowell

Dear Mayor Samaras and Members of the City Council:

Attached please find a (1) Permanent Conservation Easement Agreement between Massachusetts Mills III Limited Partnership and the City of Lowell, (2) Conservation Easement between Massachusetts Mills III Limited Partnership and the City of Lowell, and (3) Construction Access Agreement (159 Bridge Street).

These instruments are intended to work together to facilitate the Merrimack Riverwalk Phase II project. This project is anticipated to begin construction summer 2018 and include an extension of the Riverwalk on the existing sewer interceptor box culvert; a cantilevered overlook at the confluence of the Merrimack and Concord Rivers; incorporation of an existing Riverwalk section built by Massachusetts Mills on its property along the Concord River; and a bridge over the Concord River to Lowell Memorial Auditorium.

The attached instruments would allow the City of Lowell or its contractors to enter upon Massachusetts Mills property, stage and store construction materials in certain areas of its property, and construct permanent elements of the Riverwalk such as the bridge footing on its property.

The permanent conservation easement and agreement would maintain public access over Massachusetts Mills property within the easement area along the Concord River. It would also allow the City to enter onto this easement area for Riverwalk maintenance projects with advance notice. Massachusetts Mills has proposed donating the easement and access rights to the City of Lowell in support of the project.

Please contact Diane Tradd at dtradd@lowellma.gov or 978-674-4252 or me with questions about these instruments.

Sincerely,

Eileen M. Donoghue
City Manager

EMD/ns
Attachment

cc: Diane Tradd, Assistant City Manager/Director DPD
Christine P. O'Connor, City Solicitor
Christopher Glenn Hayes, Transportation Project Manager
Joseph R. Mullins, Massachusetts Mills Limited Partnerships I, II, and III
Jon Rudzinski, MM Picker, LLC