

HOUSE No. 03379

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Nangle

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the land acquisition for Hamilton Crossing .

PETITION OF:

NAME:

DISTRICT/ADDRESS:

David M. Nangle

17th Middlesex

Kevin J. Murphy

18th Middlesex

Thomas A. Golden, Jr.

16th Middlesex

HOUSE No. 03379

By Mr. Nangle of Lowell, a petition (accompanied by bill, House, No. [BILL NUMBER]) of David M. Nangle and others relative to authorizing the Division of Capital Asset Management and Maintenance to release certain property interests and easements in Lowell Heritage State Park. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the land acquisition for Hamilton Crossing .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws
2 and any general or special law to the contrary, the commissioner of capital asset management
3 and maintenance, in consultation with the commissioner of conservation and recreation, may
4 grant to HCL Acquisition LLC or release such real property interests owned by the
5 commonwealth as may be necessary to permit the grantee to acquire fee interests, easements or
6 other rights, for the purpose of constructing, renovating and maintaining pedestrian access
7 bridges, overhead bridges, and utility services in, over and to certain parcels of land within the
8 Lowell Heritage State Park, subject to the provisions of sections 3 and 4 of this act, and to such
9 reasonable additional terms and conditions consistent with this act as the commissioner of capital
10 asset management and maintenance, in consultation with the commissioner of conservation and
11 recreation may prescribe. Such real property interests are currently in the care and control of the

12 division of conservation and recreation and are held for recreation and conservation purposes.
13 Fee interests and easements granted to the grantee and releases of real property interests may be
14 located within such volumetric areas in the air rights above, and the subsurface areas below, such
15 parcels of land as are necessary for such purposes. Such fee interests and easements may also
16 include the right to displace the water in the canals within such parcels to install bridge supports
17 and access for the maintenance, repair and replacement of the bridges and utility services. The
18 areas and volumes of such fee interests, easements or releases shall be substantially as shown on
19 a plan entitled "Hamilton Crossing Bridges, Lowell, MA" dated June 18, 2009, prepared by
20 Durkee, Brown, Viveiros & Werenfels Architects. The plan is filed with the department of
21 conservation and recreation. Modifications to the description set forth in the plan described
22 above may be made in order to conform with a final land survey, as accepted by the division and
23 the department, before any conveyance to carry out the purposes of this act.

24 SECTION 2. There shall be an independent appraisal, or appraisals, of the fee interests,
25 easements or releases described in section 1 to be conveyed as authorized by this act to
26 determine the full and fair market value, or the value in use as proposed, based upon one or more
27 independent professional appraisals as commissioned by the commissioner of capital asset
28 management and maintenance. The grantee shall compensate the commonwealth in an amount
29 greater than, or equal to, the full and fair market value, or the value in use of these fee interests,
30 easements or releases as proposed, whichever is greater, as determined by these independent
31 professional appraisals. For the purposes of the appraisal, the full and fair market value of the
32 area to be conveyed shall be calculated with regard to its full development potential as assembled
33 with other abutting lands owned or otherwise controlled by the grantee, if any. The
34 commissioner of capital asset management and maintenance shall submit these appraisals and a

35 report thereon to the inspector general for his review and comment. Notwithstanding any
36 general or special law to the contrary, the inspector general shall review and approve the
37 appraisal or appraisals, and the review shall include an examination of the methodology used for
38 the appraisal or appraisals. The inspector general shall prepare a report of his review and file the
39 report with the commissioner of capital asset management and maintenance, the house and
40 senate committees on ways and means and the joint committee on bonding, capital expenditures
41 and state assets. The commissioner of capital asset management and maintenance shall, 30 days
42 before the execution of a conveyance authorized by this act, or a subsequent amendment thereto,
43 submit the proposed conveyance or amendment and a report thereon to the inspector general for
44 his review and comment. The inspector general shall issue his review and comment within 15
45 days after receipt of the proposed conveyance or amendment. The commissioner shall submit
46 the proposed conveyance or amendment, and the reports and the comments of the inspector
47 general, if any, to the house and senate committees on ways and means and the joint committee
48 on bonding, capital expenditures and state assets at least 15 days before the execution of the
49 conveyance or amendment.

50 SECTION 3. The grantee shall bear the cost of any surveys and other expenses deemed
51 necessary by the commissioner of capital asset management and maintenance for the granting of
52 fee interests, easements or releases pursuant to this section.

53 SECTION 4. To ensure a no-net-loss of lands protected for conservation and recreation
54 purposes on account of the conveyances and releases authorized in this section, the grantee shall
55 ensure that lands of equal or greater acreage and value, acceptable to the department of
56 conservation and recreation, are permanently protected for such purposes under the ownership of

57 the commonwealth or its designee, following substantial completion of the project to which the
58 conveyances or releases pertain.