

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDER OF TAKING

To Take by Eminent Domain Permanent and Temporary Easements in certain parcels of Land in the City of Lowell for Municipal Purposes, namely the furtherance of the Route 38 Roadway and Intersection Improvement Project.

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The City of Lowell is desirous of improving the roadway on Route 38; and

The City Council of the City of Lowell, in order to accomplish the improvement of said roadway, has the right to exercise its power of eminent domain to acquire certain temporary and permanent easements;

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF LOWELL as follows:

1. That the City of Lowell, by right of eminent domain, pursuant to the applicable provisions of Massachusetts General Laws, Chapter 79 and also Chapter 610 of the Acts of 1967, and of any and every other power granted or implied, hereby takes permanent and temporary easements in certain parcels hereinafter specified, for the City of Lowell by eminent domain for municipal purposes; to wit, improvement of the Route 38 Roadway and Intersection Project;

Said taking by eminent domain is subject to any utility easements to Lowell Gas Company, Mass. Electric Co. or New England Telephone, or the successors of such entities, and any other utility easement as may be recorded at Middlesex North District Registry of Deeds, which easements are specifically excluded from this Order of Taking.

The aforesaid taking of parcels as herein specified are shown on the plans entitled "Easement Plan of a Portion of Route 38 Nesmith Street & Rogers Street in the City of Lowell" which plans pages 1 through 5 shall be recorded with this Order of Taking at Middlesex North District Registry of Deeds, and a copy is attached hereto as Attachment "A".

2. IT IS FURTHER ORDERED that as compensation in full for all damages suffered by or caused to the owner(s) of the said land, with the building thereon, hereby taken, the following sum is hereby awarded for such damages incurred by reason of the taking herein of an easement thereof, reserving the right to amend the award at any time prior to the payment thereof by reason of a change of ownership or for other good cause shown:

Parcels taken and shown and described on Attachment "A" are identified as specified below:

Property Address	Owner's Name	Parcel Number	Deed Reference	Award of Damage
145 Boylston St.	City of Lowell School Department	TE-6  *Temporary Easement (325 Sq. Ft).	Middlesex North District Registry of Deeds Book 458, Page 70	
44 Nesmith St.	City of Lowell Parks Department	TE-10, PUE-3  *Temporary Easement (1153 sq. ft.)  *Permanent Utility Easement (1266 sq. ft.)		
195 Andover St.	First Church of Christ Scientist	TE-9  *Temporary Easement (202 sq. ft.)	Middlesex North District Registry of Deeds Book 1059, Page 486	Donation
358 Fairmount St.	Fairmount St. Realty Trust Zhen Huan Li & Zihua Chen Trustees	TE-2  *Temporary Easement (222 sq. ft.)	Middlesex North District Registry of Deeds Book Book 189, Page 345	Donation
2 Hospital Drive	Lowell General Hospital	TE-30  *Temporary Easement (282 sq. ft.)	Middlesex North District Registry of Deeds Book Book 26153, Page 19	Donation

12 Nesmith St.	12 Nesmith LLC	TE-27 *Temporary Easement (227 sq. ft)	Middlesex North District Registry of Deeds Book 28292, Page 226	Donation
105 Nesmith St.	Robert W. Jacobs	TE-7 *Temporary Easement (55 sq. ft.)	Middlesex North District Registry of Deeds Book 20787, Page 136	Donation
502 Rogers St.	City of Lowell Fire Department	TE-1, PE-3 *Temporary Easement (600 sq. ft.)  *Permanent Easement (3560 sq. ft.)	Middlesex North District Registry of Deeds Book 857, Page 28	Donation
688 Rogers St.	Sotiriou Realty Trust, Sotiris Sotiriou Trustee	TE-32 *Temporary Easement (122 sq. ft.)	Middlesex North District Registry of Deeds Book 10240, Page 186	Donation
700 Rogers St	William M. Alexis Trust, William M. Alexis and Clementine F. Alexis Trustees	TE-33 *Temporary Easement (176 sq. ft.)	Middlesex North District Registry of Deeds Book 30552, Page 105	Donation

6 Laurel St.	Fairmount St. Realty Trust Nitin Patel Trustee	TE-3  *Temporary Easement (998 sq. ft.)	Middlesex North District Registry of Deeds Book 8936, Page 83	\$5,700.00
356 East Merrimack Street	356 East Merrimack St. Realty Trust, Edward P. Saber Trustee	TE-28  *Temporary Easement (22 sq. ft.)	Middlesex North District Registry of Deeds Book 15498, Page 39	\$125.00
25-27 Nesmith St.	25 Nesmith Realty Trust, Steven J. DeRosa Trustee	TE-15, PUE-5, 2-C  *Temporary Easement (1008 sq. ft.)  *Permanent Utility Easement (80 sq. ft.)  *Taking (1 sq. ft.)	Middlesex North District Registry of Deeds Book 23934, Page 68	\$6,900.00
61 Nesmith St.	Perrault Family 2017 Joint Trust, Kevin N. and Cynthia M. Perrault, Trustees	TE-12  *Temporary Easement (398 sq. ft.)	Middlesex North District Registry of Deeds Book 32402, Page 79	\$2,200.00
73 Nesmith St.	Fengbao Xu- Julio Rodriquez	TE-11, E-2, PUE-4 *Temporary Easement (276 sq.ft.)  *Permanent Easement (174 sq. ft.) *Permanent Utility Easement (135 sq.ft.)	Middlesex North District Registry of Deeds Book 28475, Page 110	\$6,500.00

136 Chestnut St.	Ryan M. Rourke	TE-23 *Temporary Easement (491 sq. ft.)	Middlesex North District Registry of Deeds Book 5450, Page 160	\$2,900.00
327-329 East Merrimack St.	Thanh & Kealy Ton	TE-22 *Temporary Easement (129 sq. ft.)	Middlesex North District Registry of Deeds Book 25617, Page 26	\$700.00
376 Fairmount St.	Newton R. Akashian Sr. Living Trust Bruce W & Newton R. Akashian Jr. Trustees	TE-4 *Temporary Easement (243 sq. ft.)	Middlesex North District Registry of Deeds Book 5644, Page 12	\$1,400.00
19 Nesmith St.	Brouillette Family Trust Paul B and Ody P. Brouillette Trustees	TE-16 *Temporary Easement (327 sq. ft.)	Middlesex North District Registry of Deeds Book 14764, Page 257	\$1,700.00
20 Nesmith St.	Josephine McGrath	TE-26 *Temporary Easement (185 sq. ft.)	Middlesex North District Registry of Deeds Book 2378, Page 579	\$1,000.00

24 Nesmith St.	Bryan Cowell	TE-25 *Temporary Easement (91 sq. ft.)	Middlesex North District Registry of Deeds Book 10184, Page 195	\$500.00
43 Nesmith St.	DJM Properties, LLC	TE-14 *Temporary Easement (486 sq. ft.)	Middlesex North District Registry of Deeds Book 22896, Page 113	\$2,900.00
53-59 Nesmith St.	Bison Properties LLC c/o Vista Properties LLC	TE-13 *Temporary Easement (848 sq. ft.)	Middlesex North District Registry of Deeds Book 16318, Page 199	\$2,300.00
517 Rogers St.	Richard N. Namay, Jr.	TE-5, TE-33, E-1 *Temporary Easement (50 sq. ft.)  *Temporary Easement (78 sq. ft.)  *Permanent Easement (150 sq. ft.)	Middlesex North District Registry of Deeds Book 2300, Page 1	\$3,000.00
711 Rogers St.	Sleiman Corporation	PUE-1 *Permanent Utility Easement (*55 sq. ft.)	Middlesex North District Registry of Deeds Book 18230, Page 46	\$1,000.00
<b>TOTAL \$38,825.00</b>				

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GRAND TOTAL SUM OF AWARD OF DAMAGES

\$38,825.00

3. IT IS FURTHER ORDERED that the amount of any unpaid encumbrances and/or taxes will be deducted by the City from any award and paid directly to the party entitled thereto.

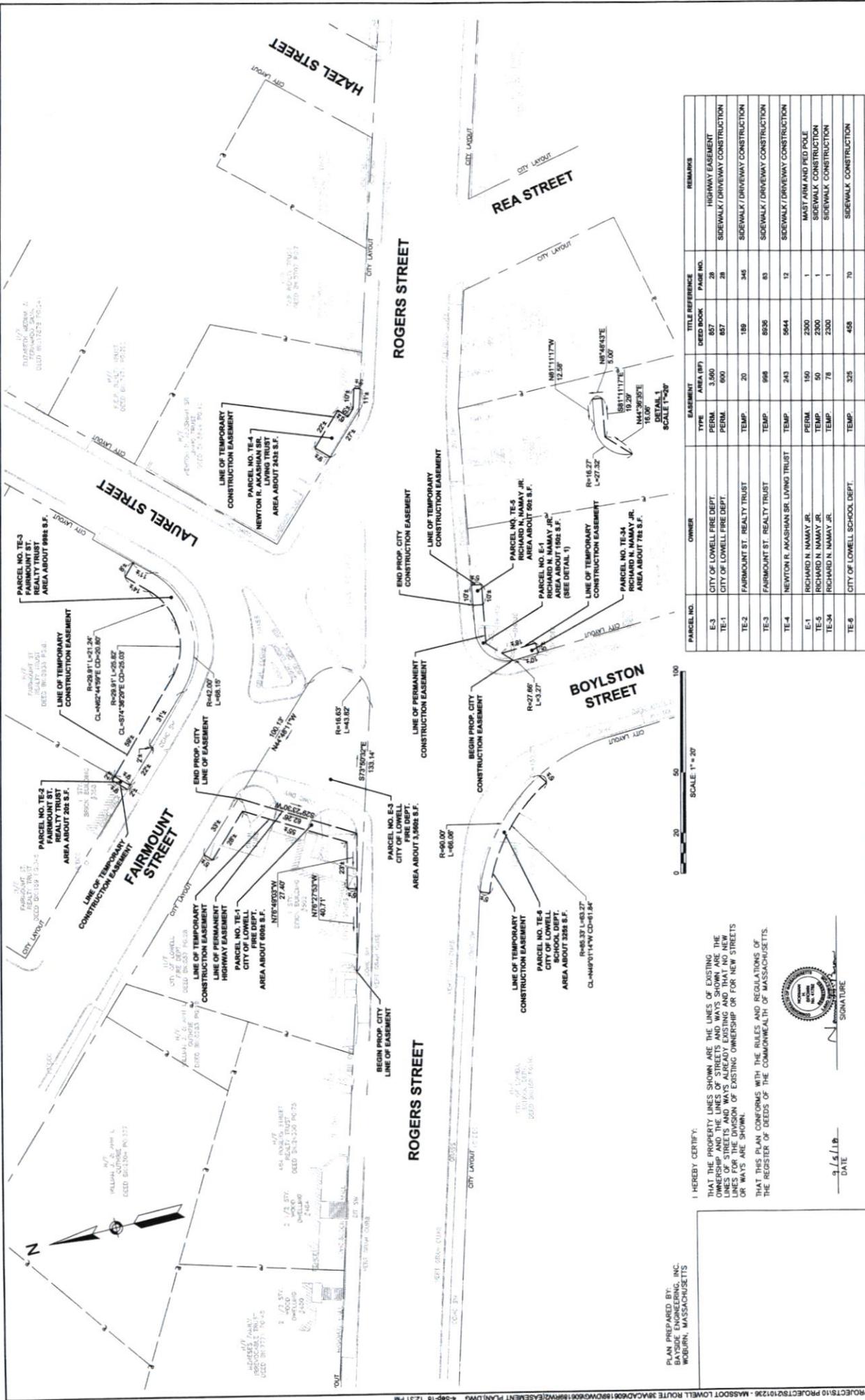
4. IT IS FURTHER ORDERED that a copy of the Order and related Plans, if any, be recorded forthwith in the Middlesex North District Registry of Deeds, and the Land Registration Section thereof, if applicable, in compliance with MGL Chapter 79.

5. IT IS FURTHER ORDERED that the total sum of THIRTY EIGHT THOUSAND EIGHT HUNDRED TWENTY FIVE (\$38,825.00) Dollars for the Takings herein of fee in said parcels of land, with the buildings thereon, for all damages caused in connection with such Taking, plus the cost of recordings and other incidental charges related thereto, be charged against the appropriation entitled:

Acquisition Acct # 01514153-528300

Orderoftakingroute382020





PARCEL NO.	OWNER	EASEMENT TYPE	AREA (SQ FEET)	TITLE REFERENCE	REMARKS
TE-1	CITY OF LOWELL FIRE DEPT.	PERM	3,500	857	HIGHWAY EASEMENT
TE-1	CITY OF LOWELL FIRE DEPT.	PERM	600	857	SIDEWALK / DRIVEWAY CONSTRUCTION
TE-2	FAIRMOUNT ST. REALTY TRUST	TEMP	20	188	SIDEWALK / DRIVEWAY CONSTRUCTION
TE-3	FAIRMOUNT ST. REALTY TRUST	TEMP	998	859	SIDEWALK / DRIVEWAY CONSTRUCTION
TE-4	NEWTON N. AKASHIAN SR LIVING TRUST	TEMP	243	5644	SIDEWALK / DRIVEWAY CONSTRUCTION
E-1	RICHARD N. NAMAY, JR.	PERM	150	2000	MAST ARM AND PED POLE
TE-5	RICHARD N. NAMAY, JR.	TEMP	50	2000	SIDEWALK CONSTRUCTION
TE-3A	RICHARD N. NAMAY, JR.	TEMP	78	2000	SIDEWALK CONSTRUCTION
TE-6	CITY OF LOWELL SCHOOL DEPT.	TEMP	325	458	SIDEWALK CONSTRUCTION

I HEREBY CERTIFY:  
 THAT THE PROPERTY LINES SHOWN ARE THE LINES OF EXISTING OWNERSHIP AND THE LINES OF STREETS AND WAYS SHOWN ARE THE LINES OF STREETS AND WAYS ALREADY EXISTING OR FOR NEW STREETS OR WAYS ARE SHOWN.  
 THAT THIS PLAN CONFORMS WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

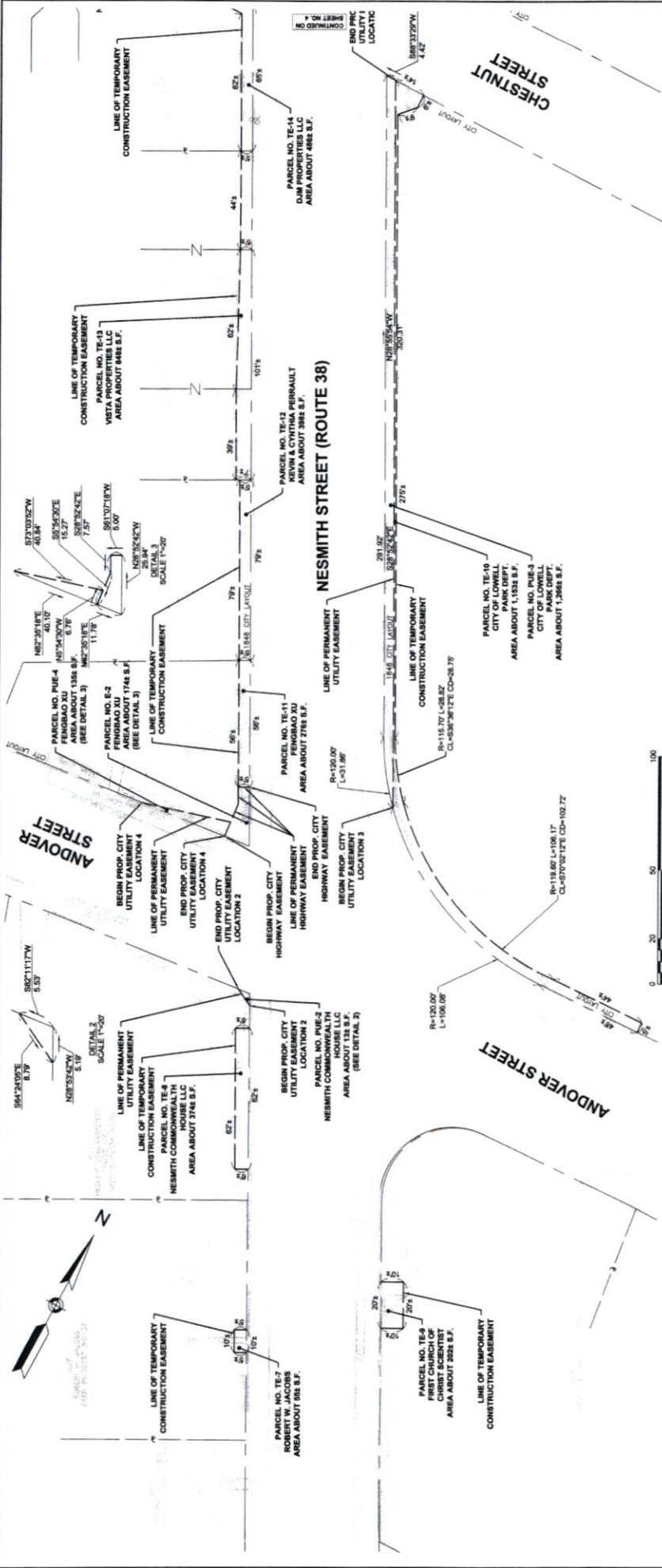
PLAN PREPARED BY:  
 BACOSSE ENGINEERING, INC.  
 WOBURN, MASSACHUSETTS

DATE: 8/11/18  
 SIGNATURE: [Signature]



11A

ROUTE 38 (NESMITH STREET & ROGERS STREET), LOWELL SHEET THREE OF FIVE



PARCEL NO.	OWNER	EASEMENT TYPE	AREA (SQ FT)	TITLE REFERENCE DEED BOOK	PAGE NO.	REMARKS
TE-7	ROBERT W. JACOBS	TEMP.	55	20797	158	STONE WALK, CURB & FENCE WORK
PUE-2	NESMITH COMMONWEALTH HOUSE LLC	PERM.	13	24378	70	AERIAL TRESPASS OVERHEAD WIRES
TE-8	NESMITH COMMONWEALTH HOUSE LLC	TEMP.	374	24378	70	SIDEWALK CONSTRUCTION
TE-9	FIRST CHURCH OF CHRIST SCIENTIST	TEMP.	202	-	-	SIDEWALK / STAIRS CONSTRUCTION
PUE-3	CITY OF LOWELL PARK DEPT.	PERM.	1,266	-	-	AERIAL TRESPASS OVERHEAD WIRES
TE-10	CITY OF LOWELL PARK DEPT.	TEMP.	1,153	-	-	SIDEWALK CONSTRUCTION
E-2	FENGBAO XU	PERM.	174	28475	110	SIDEWALK CONSTRUCTION / MAST ARM & PEDESTRIAN SIGNAL
PUE-4	FENGBAO XU	PERM.	158	28475	110	AERIAL TRESPASS OVERHEAD WIRES
TE-11	FENGBAO XU	TEMP.	270	28475	110	SIDEWALK CONSTRUCTION
TE-12	KEVIN & CYNTHIA PERRAULT	TEMP.	308	9913	62	SIDEWALK / DRIVEWAY CONSTRUCTION
TE-13	VISTA PROPERTIES LLC	TEMP.	848	10318	199	SIDEWALK / DRIVEWAY CONSTRUCTION
TE-14	DJM PROPERTIES LLC	TEMP.	465	22888	113	SIDEWALK CONSTRUCTION

I HEREBY CERTIFY:

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THAT THIS PLAN CONFORMS WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

9/14/16 DATE

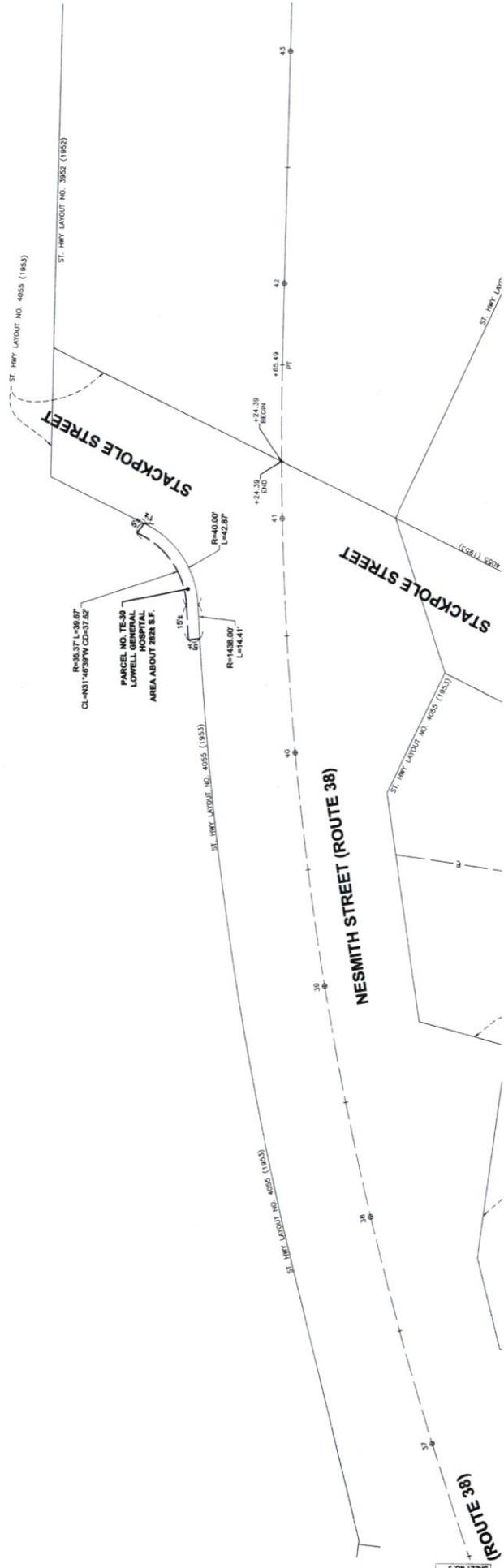
[Signature] SIGNATURE

PLAN PREPARED BY:  
 BAYSIDE ENGINEERING, INC.  
 WOBURN, MASSACHUSETTS

"A"



ROUTE 38 (NESMITH STREET & ROGERS STREET), LOWELL SHEET FIVE OF FIVE



PARCEL NO.	OWNER	EASEMENT TYPE	AREA (SF)	TITLE REFERENCE	REMARKS
TE-30	LOWELL GENERAL HOSPITAL	TEMP	282	28193	TRAFFIC SIGNAL EQUIPMENT



I HEREBY CERTIFY:

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THAT THIS PLAN CONFORMS WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.



\_\_\_\_\_  
SIGNATURE

9/5/18  
DATE

PLAN PREPARED BY:  
BAYSIDE ENGINEERING, INC.  
ROBURN, MASSACHUSETTS

"A"



Christine Clancy, P.E.  
*Commissioner of Public Works*

Date: February 20, 2020

TO: Eileen Donoghue, City Manager

FROM: Christine Clancy, P.E., DPW Commissioner

RE: Route 38 Roadway and Intersection Improvement Project: Request for City Council to authorize the acceptance of easement donations, settlements, and authorize the Taking of remaining easements to be secured.

This is a request for City Council to authorize the acceptance of donated and settled easements and for the request that City Council authorize the takings of 3 easements for the MassDOT Route 38 Roadway and Intersection Improvement Project.

MassDOT will be constructing improvements on Route 38 between Phoenix Avenue and East Merrimack Street. Work includes street resurfacing, traffic signal upgrades, roadway widening on Nesmith Street, additional plantings in Kittredge Park and sidewalk reconstruction.

As part of this project, the City of Lowell is required to secure both permanent and temporary easements. Eleven easements were previously taken by the City at the August of 2018 City Council meeting. Prior to finalizing the remaining 33 easements one of the properties was sold and required the City to negotiate with the new property owner. A Professional appraisal was completed in January 2020 for the 3 easements on the property. The property owner was provided a written offer for the 3 easements. As of February 2020 the City has been unable to come to an agreement. The written notification included a notice that failure to secure the easements would result in a taking for the appraised easement value.

In order to maintain the project schedule, the 3 easements are proposed as takings for the appraised easement values. The 3 easements include a temporary easement to allow for sidewalk grading and restoration to occur, a permanent utility easement to allow for overhead wires and a permanent easement to allow for a sidewalk, traffic mast arm base and a pedestrian signal.

Please let me know if you have any questions or concerns regarding this request. The City Council's authorization of the acceptance of the easements and takings is vital for the project to remain on schedule.