

COMMONWEALTH OF MASSACHUSETTS  
CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to execute a Temporary Access Agreement between the City of Lowell and the Massachusetts Department of Transportation (“MassDOT”), relative to 44 and 71 YMCA Drive, Lowell, MA.

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The City of Lowell owns property at 44 and 71 YMCA Drive, Lowell; and

MassDOT desires to use the premises for the purpose of staging to provide cleanup along the YMCA/Gallagher Terminal/End of the Lowell Connector area; and

A Temporary Access Agreement for such purpose is needed; and

The City of Lowell is willing to grant access to MassDOT, their employees, agents and contractor’s access onto the property for the purpose of staging to provide cleanup along the YMCA/Gallagher Terminal/End of the Lowell Connector area between August 25, 2020 and October 31, 2020.

BE IT VOTED BY A TWO-THIRDS VOTE OF THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Manager be and is hereby authorized to execute a Temporary Access Agreement between the City of Lowell and MassDOT, their employees, agents and contractor’s relative to property at 44 and 71 YMCA Drive for the purpose of staging to provide cleanup along the YMCA/Gallagher Terminal/End of the Lowell Connector area between August 25, 2020 and October 31, 2020.

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

TEMPORARY ACCESS AGREEMENT

THIS TEMPORARY ACCESS AGREEMENT, made at Lowell, Middlesex County, Massachusetts, between the CITY OF LOWELL, a municipal corporation of the Commonwealth of Massachusetts hereinafter called the "City" and the Massachusetts Department of Transportation having its principal offices at Ten Park Plaza, Suite 4160, Boston, Massachusetts 02116 hereinafter called "MassDOT," WITNESSETH THAT:

The City owns the property known as 44 and 71 YMCA Drive, in the City of Lowell, hereinafter called the "SITE", attached hereto as Exhibit "A" and made a part hereof; and

MassDOT desires to use the premises for the purpose of staging to provide cleanup along the YMCA/Gallagher Terminal/End of the Lowell Connector area. The work by MassDOT would include associated MassDOT subcontractors, and

NOW, THEREFORE:

1. The City hereby grants to MassDOT temporary access to encroach upon and use the SITE as shown on the plan marked "Exhibit "A" and made a part hereof, for the purpose of staging. The City and MassDOT shall be subject to the following applicable terms:

2. MassDOT shall notify the City Engineer of the schedule of work to be conducted between August 25, 2020 and October 31, 2020.

3. MassDOT shall maintain the SITE area free and clear of all debris, litter, and nuisance during the Temporary Access Agreement period.

4. MassDOT shall be responsible for the safety of the site by excluding any use of areas unsuitable and/or unsafe for the work, as in, embankments, walls, grades, access areas, etc.

5. MassDOT shall be responsible for any necessary security, maintenance of the Site, necessitated by the work. The City shall make no improvements.

6. MassDOT shall assume all liability for the use of the SITE and provide the City with insurance documentation.

7. It is agreed that this is a Temporary Access Agreement only, that MassDOT shall, at all times, maintain sufficient insurance policies in an amount not less than \$500,000.00 on the premises, naming the City as one of the "insured", and agrees to hold the City harmless from any and all injuries resulting from said use of the property under this Temporary Access Agreement. The City shall have the right to inspect the property at any time during the period of said Temporary Access Agreement granted hereunder.

8. If the insurance policy is cancelled or lapses without being immediately renewed, or replaced or for any other breach of the Temporary Access Agreement provisions, then the agreement granted hereunder shall be forthwith terminated and MassDOT shall have to cease and desist from said use of the Site. Evidence of insurance shall, at all times, be sent to the Law Department of the City of Lowell.

9. The Temporary Access Agreement shall be predicated upon and shall not be in effect until adequate insurance coverage, satisfactory to the Law Department of the City of Lowell, naming the City as an insured party, which coverage shall be kept in force so long as the use of the premises continues under this Temporary Access Agreement.

10. The Temporary Access Agreement is issued under the authority and in accordance with the Vote of the City Council of Lowell on this subject dated August 25, 2020.

11. MassDOT releases and agrees to indemnify and hold harmless the City of Lowell, its agents, officers, servants and employees from any and all claims, demands and liabilities, including attorney's fees, whatsoever from any and all claims for damage or injury to persons or property which might occur on account of the Temporary Access Agreement use of the Site.

12. MassDOT hereby warrants and guarantees that upon termination of this Temporary Access Agreement that the premises shall be returned to such condition as currently exists or August 25, 2020. MassDOT hereby agrees to be responsible for, and to pay for the cost of any damage to the City regarding the premises.

13. Inherent in this Temporary Access Agreement is the unilateral right of the City to cancel this Temporary Access Agreement at any time upon written notice thereof to MassDOT for any reason.

14. It is understood and agreed that this Temporary Access Agreement does not grant any ownership interest to the Site in the Temporary Access Agreement area.

Signed and sealed this     day of \_\_\_\_\_ 2020.

CITY OF LOWELL

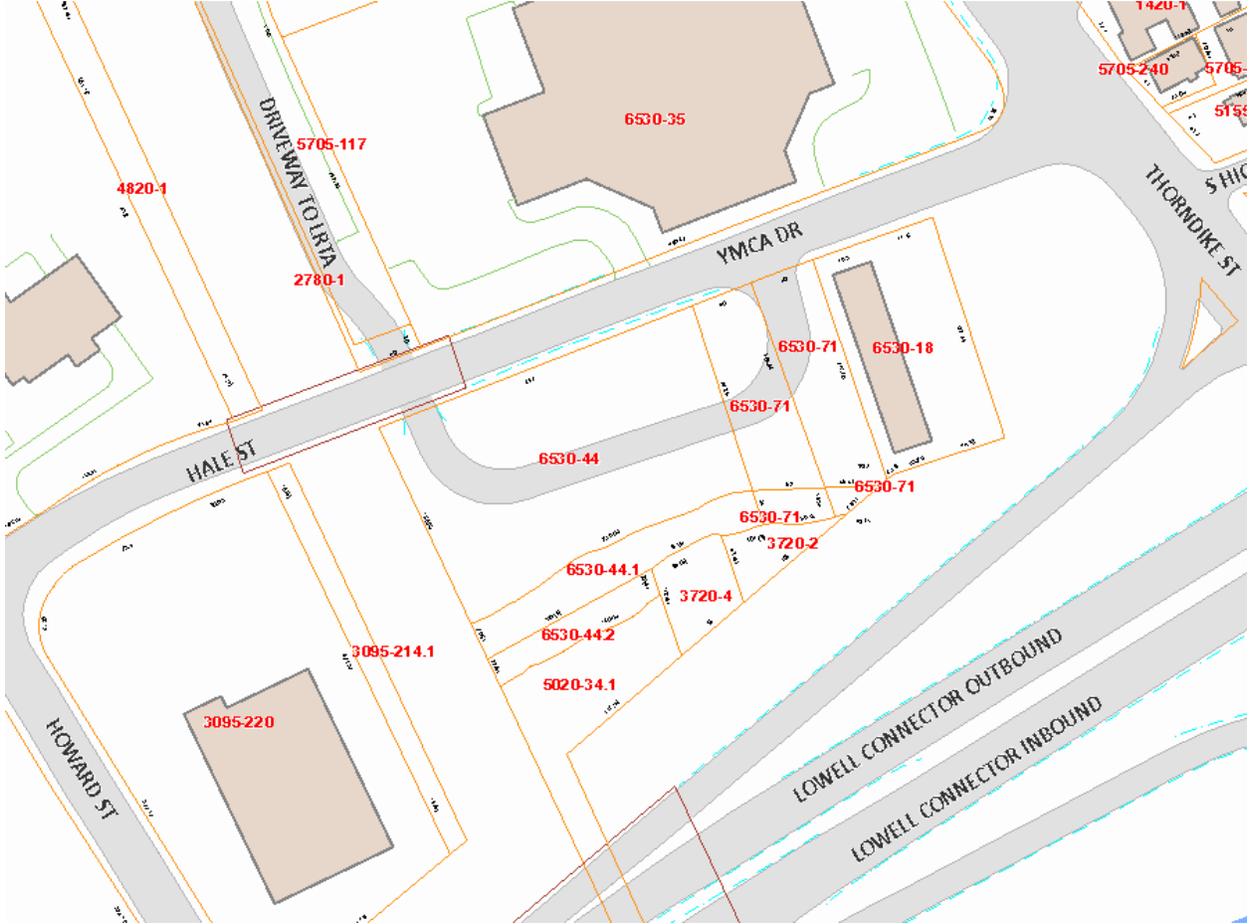
\_\_\_\_\_  
Eileen M. Donoghue  
City Manager

\_\_\_\_\_  
MassDOT

APPROVED AS TO FORM:

\_\_\_\_\_  
Christine P. O'Connor  
City Solicitor

EXHIBIT "A"  
44 and 71 YMCA Drive





Eileen M. Donoghue  
City Manager

Kara Keefe Mullin  
Assistant City Manager

August 25, 2020

Mayor John Leahy  
and  
Members of the City Council

REFERENCE: Temporary Access Agreement 44 and 71 YMCA Drive

Dear Mayor Leahy and Members of the City Council:

Attached please find a Temporary Access Agreement for the City of Lowell owned property located at 44 and 71 YMCA Drive and as depicted in Exhibit "A" attached.

The Massachusetts Department of Transportation (MassDOT) has requested a Temporary Access Agreement for use of this property, as shown in Exhibit "A", between August 25, 2020 and October 31, 2020. MassDOT would utilize the property for the purpose of staging for cleanup along the YMCA/Gallagher Terminal/End of the Lowell Connector area.

The Department of Planning and Development (DPD) recommends this Temporary Access Agreement in order to allow the cleanup of these areas.

If you have any questions or need any assistance in this matter, please contact Diane Tradd, Assistant City Manager at (978) 674-1401 or me.

Sincerely,

Eileen M. Donoghue  
City Manager

EMD/ns

Attachment

cc: Diane N. Tradd, Assistant City Manager/DPD Director  
Christine P. O'Connor, City Solicitor  
Ting Chang, City Engineer  
Craig Thomas, Deputy Director  
Patricia Lucken, Asset Manager