

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 MassDot, relative to 179 Bridge Street, Lowell, MA.

The City of Lowell owns property at 179 Bridge Street, Lowell, and

MassDot has requested access to said property for the purpose of dropping a barge into the Merrimack River with a manlift to inspect for potential structural steel repairs and, if necessary, provide temporary repairs to the John E. Cox Bridge; and

A Temporary Access Agreement for such purpose is needed; and

The City of Lowell is willing to grant temporary access to MassDot, their employees, agents and contractor's access onto the property for the purpose of dropping a barge into the Merrimack River with a manlift to inspect for potential structural steel repairs and, if necessary, provide temporary repairs to the John E. Cox Bridge for a term not to exceed 2 days commencing from the date of the agreement.

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 she 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 179 Bridge Street for the purpose of dropping a barge into the Merrimack River with a manlift to inspect for potential structural steel repairs and, if necessary, provide temporary repairs to the John E. Cox Bridge for a term not to exceed 2 days commencing from the date of the agreement, all as more fully described in the form, or substantially the form, attached hereto.

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 179 Bridge Street, 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 dropping a barge into the Merrimack River with a manlift to inspect for potential structural steel repairs and, if necessary, provide temporary repairs to the John E. Cox Bridge, 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 dropping a barge into the Merrimack River with a manlift to inspect for potential structural steel repairs and, if necessary, to provide temporary repairs to the John E. Cox Bridge. The City and MassDOT shall be subject to the following applicable terms:
2. MassDOT shall obtain daily authorization for use of the SITE from the City Engineer for the work to be conducted over a two day period occurring between the months of June and July 2020.
3. MassDOT shall maintain the SITE area free and clear of all debris, liter, 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 _____, 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 on June 20, 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