

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to execute a Memorandum of Understanding and Temporary Access Agreement with the Wexford Development, LLC relative to the development of Parcel 15 within the City of Lowell's Hamilton Canal Innovation District.

Wexford Development, LLC and the City of Lowell have entered into this Memorandum of Understanding and Temporary Access Agreement concerning the development of Parcel 15 within the City of Lowell's Hamilton Canal Innovation District; and

The City Council must authorize the City Manager to execute said Memorandum of Understanding and Temporary Access Agreement with Wexford Development, LLC.

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

That the City Council of the City of Lowell hereby authorizes the City Manager to execute on behalf of the City of Lowell, a Memorandum of Understanding and Temporary Access Agreement with the Wexford Development, LLC relative to the development of Parcel 15 within the City of Lowell's Hamilton Canal Innovation District. Said Memorandum of Understanding and Temporary Access Agreement shall be in the form or substantially the form attached hereto.

BE IT FURTHER VOTED:

That any cost of recording the Memorandum of Understanding and Temporary Access Agreement, description and related Plans shall be at the expense of the Wexford Development, LLC.

MEMORANDUM OF UNDERSTANDING

by and between

the City of Lowell

and

Wexford Development, LLC

This Memorandum of Understanding (“MOU”) is made as of this ____ day of _____, 2025, by and between the City of Lowell, a municipal organization organized and operating under the laws of the Commonwealth of Massachusetts, having an address at 375 Merrimack Street, Lowell, Massachusetts 01852 (hereinafter, the “City”) and Wexford Development, LLC, a Delaware limited liability company, with an address of 4 N. Martin Luther King Jr Boulevard, Suite 500, Baltimore, Maryland 21201 (hereinafter, “Wexford”) in regards to the development of Parcel 15 within the City’s Hamilton Canal Innovation District. The City and Wexford are sometimes collectively referred to as the “Parties” and individually referred to as a “Party”.

RECITALS

WHEREAS, Wexford seeks to develop a microelectronics facility on Parcel 15 in the Hamilton Canal Innovation District (“HCID”);

WHEREAS, the City seeks a development partner for Parcel 15 in the HCID; and

WHEREAS, Wexford’s development concept for Parcel 15 would create a two (2) story approximately 75,000 square foot research and development facility.

NOW, THEREFORE, in consideration of their mutual promises set forth herein, the Parties hereby agree as follows:

1. The City and Wexford have a strong and mutual interest in the future development of Parcel 15 by Wexford, and this MOU shall constitute a formal expression of that interest and a preliminary outline of initial business terms for the anticipated development. The Parties agree that this MOU does not constitute a formal or binding agreement. However, following acceptance of this MOU by the Lowell City Council, the City and Wexford will negotiate a mutually agreeable Land Disposition Agreement (“LDA”) based on, but not constrained or limited to, the terms of this MOU. Upon successful negotiation of the terms and conditions to be included in the LDA, and Wexford satisfying the milestones set forth herein, it is the intention of the City Manager to obtain approval from the Lowell City Council to execute the LDA.
2. LDA Provisions. Without limiting the generality of the foregoing, the Parties agree and acknowledge that:
 - (a) Wexford proposes to develop and construct a two (2) story, approximately 75,000 square foot research and development facility (the “Proposed Project”);

- (b) Any design shall be in compliance with the Master Plan and Form-Based Code, as amended from time to time. The final design shall be to the reasonable satisfaction of the City, acting through the City Manager;
 - (c) Wexford shall comply with the City’s permitting process;
 - (d) Wexford shall be responsible for all costs associated with its development of Parcel 15 including, but not limited to, its legal fees, permitting fees, and design fees;
 - (e) The Parties agree to negotiate in good faith regarding the grant of a construction easement over Parcel 16 for staging and a crane swing;
 - (f) The City shall deliver Parcel 15 clear of dirt, debris and other obstructions;
 - (g) The City shall work with the National Park Service to obtain all necessary releases related to Parcel 15;
 - (h) The Parties agree to cooperate with one another in good faith in Wexford’s efforts to obtain all permits and approvals required for the development, and as part of this cooperation, the City, subject to the review and approval of the City Council, shall provide three (3) dedicated handicap parking spaces adjacent to Parcel 15; and
 - (i) Parcel 15 is subject to an Activity and Use Limitation (“AUL”) and the City is also sampling soil at Parcel 15; the City will cooperate with Wexford in its efforts to obtain all available information regarding existing site conditions at Parcel 15.
3. Due Diligence. Upon execution of this MOU and the contemporaneous execution of a separate license agreement with the City (the “License Agreement”), Wexford will have the ability and access to perform due diligence on Parcel 15, including but not limited to physical inspection, surveys, environmental, geotechnical, and engineering reviews, and an examination for any documents relevant to Parcel 15. This ability and access will be governed by the License Agreement and continue for one hundred twenty (120) days from the date the license is executed (the “Due Diligence Period”).
4. During the Due Diligence Period, the Parties will work in good faith to negotiate: (i) a purchase price for Parcel 15, and (ii) the terms and conditions to be included in the LDA.
5. The Parties anticipate the following development schedule:
- (a) Design/entitlement/permitting: March 2025-September 2025
 - (b) Construction: October 2025-May 2027
6. As a condition for continuing negotiations of the LDA, Wexford shall, by the conclusion of the Due Diligence Period accomplish the following:

- (a) Provide the City with: (i) evidence of necessary financing and equity to complete the Proposed Project, or (ii) a plan to secure the necessary financing and equity to complete the Proposed Project;
 - (b) Provide the City with a construction schedule for the Proposed Project that is to the reasonable satisfaction to the City;
 - (c) Provide the City with schematic design drawings, including floor plans, elevations, exterior finishes, and façade treatments, and site plans for the Proposed Project that are to the reasonable satisfaction of the City; and
 - (d) Provide the City with a list of the major approvals necessary to complete the Proposed Project.
7. Deposit. At the conclusion of the Due Diligence Period and should Wexford wish to proceed with the redevelopment of Parcel 15, Wexford will make a deposit of \$10,000.00 (Ten Thousand Dollars) to the City (the “Deposit”). The Deposit will be credited toward the ultimate purchase price for Parcel 15 and will become non-refundable upon the execution of the LDA.
 8. LDA Timing. It is the intention of the Parties to finalize and execute the LDA within ninety (90) days of the conclusion of the Due Diligence Period, or such time as required to obtain City Council approval.
 9. Amendments. This MOU may be amended only by written instrument signed by the Parties.
 10. Limitation of Liability. The liability of the Parties and their successors and assigns arising under this MOU shall be limited solely to the interests of each Party in this MOU and no partner, affiliate, venturer, trustee, beneficiary, shareholder, officer, director, member, manager, employee or the like of the Parties, or their successors or assigns, or any person or entity directly holding any interests in any of the foregoing, from time to time, or any such person’s or entity’s separate assets or property shall have or be subject to any personal liability with respect to any obligation or liability hereunder, nor shall the Parties, their successors or assigns be answerable or liable hereunder in any equitable proceeding or beyond the extent of its interest in this MOU.
 11. Notices. All notices or other communications required or permitted to be given under this MOU shall be in writing, signed by a duly authorized officer or representative of the City or Wexford, as the case may be, and shall be either hand delivered, emailed or mailed postage pre-paid, by registered or certified mail, return receipt requested, and shall be deemed given when delivered, if by hand, on receipt of electronic confirmation if by email, or when deposited with the U.S. Postal Service, if mailed to the principal office of the party to which it is directed, which is as follows, unless otherwise designated by written notice to the other party:

City:

City of Lowell
Lowell City Hall

375 Merrimack Street
Lowell, Massachusetts
01852
Attention: City Manager
Email: tomgolden@lowellma.gov

with a copy to: City of Lowell
Lowell City Hall
375 Merrimack Street
Lowell, Massachusetts
01852
Attention: City Solicitor
Email: cwilliams@lowellma.gov

Wexford: Wexford Development, LLC
4 N Martin Luther King Jr Boulevard
Baltimore, Maryland 21201
Attention: Danielle Howarth, Vice President, Chief
Financial Officer and General Counsel
Email: Danielle.howarth@wefordscitech.com

with a copy to: Ballard Spahr LLP
1735 Market Street
Philadelphia, Pennsylvania 19103
Attention: Bart Mellits, Esq.
Email: mellits@ballardspahr.com

12. Term. The MOU shall expire upon the earlier of: (a) the execution of the LDA, or (b) the termination of this MOU.
13. Termination. At any time prior to the execution of the LDA, either Party may terminate this MOU for any reason, without liability or obligation, by providing written notice to the other Party in accordance with Section 11 of this MOU, in which event the Deposit shall be returned to Wexford. If the Parties execute the LDA, this MOU shall be deemed terminated.
14. Severability. If any term or provisions of this MOU, or the application thereof to any person or circumstance shall to any extent be invalid and unenforceable, the remainder of this MOU, or the application of such terms to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this MOU shall be valid and shall be enforced to the extent permitted by law.
15. Counterparts. This MOU may be executed in counterparts. All such counterparts shall be deemed to be originals and, together, shall constitute but one and the same instrument. The Parties have agreed to execute multiple original copies of the MOU.

[SIGNATURE PAGE FOLLOWS]

CITY OF LOWELL

Accepted by:

Thomas Golden, Jr., City Manager
On behalf of the City Council

Date:

Approved to as to Form:

Corey F. Williams
City Solicitor, City of Lowell

Date:

WEXFORD DEVELOPMENT, LLC

Accepted by:

By: _____
John Grady, Senior Vice President

Date:

TEMPORARY ACCESS AGREEMENT

This Temporary Access Agreement (the "Agreement") is entered into this the ____ day of _____, 2025 by and between the CITY OF LOWELL, a municipal corporation with principal offices at 375 Merrimack Street, City Hall, Lowell, MA 01852, (the "City") and Wexford Development, LLC, a Delaware limited liability company, with an address of 4 N. Martin Luther King Jr. Boulevard, Suite 500, Baltimore, Maryland 21201 (hereinafter, "Wexford"). The City and Wexford are sometimes collectively referred to as the "Parties," and individually referred to as a "Party."

WHEREAS, the City is the current owner of land known as Parcel 15 (the "Property") in the Hamilton Canal Innovation District ("HCID"); and

WHEREAS, the City and Wexford are parties to that certain Memorandum of Understanding (the "MOU") dated _____, 2025, concerning Wexford's interest in developing the Property to create a two (2) story approximately, 75,000 square foot research and development facility;

WHEREAS, the City is willing to grant temporary access for the purpose of allowing Wexford to access the Property to conduct its Due Diligence (as hereinafter defined) for a limited time pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. Access Granted:** The City hereby grants to Wexford, its contractors, agents and employees (the "Wexford Parties"), a non-exclusive license (the "License") to enter the Property for the purposing of conducting Due Diligence in relation to the above referenced MOU. The definition of Due Diligence includes but is not limited to physical inspection, surveys, environmental, geotechnical, engineering reviews, and an examination of any documents related to the Property. The City shall allow access to the Property during normal business hours.
- 2. Access Area Defined:** Wexford shall have permission to access and use the entirety of the Property, known as Parcel 15, as is identified in Attachment "A".
- 3. Duration:** This Agreement is intended and shall be construed only to grant the License and not as a grant of easement of any other permanent interest in the Property. This License shall expire one hundred twenty (120) days from the date of execution of this Agreement, or upon completion of Wexford's Due Diligence on the Property, whichever occurs sooner. Notwithstanding the foregoing, this Agreement may be extended by mutual agreement of the Parties.
- 4. No Representations or Warranties:** Wexford and the City acknowledge that the City makes no representations or warranties regarding the condition or safety of its property and that entry upon the property is at the risk of the Wexford Parties. The City shall not be responsible for any personal injury or property damage suffered by any party or person that arises in any way

out of the activities contemplated in this Agreement, except to the extent that such injury or damage is a direct result of negligence of the City and subject to the limits set forth in Chapter 258 of the Massachusetts General Laws.

5. Insurance: Wexford agrees to purchase and maintain a commercial general liability insurance policy in the amount of at least \$100,000 for bodily injury to one person and or property and the amount of at least \$300,000 for bodily injury to more than one person and or property naming the City as an additional insured.

6. Indemnification: Wexford agrees to defend, indemnify and hold the City, its officers, officials, agents and employees harmless from and against any suits, claims, actions, costs, expenses, fees, liability, losses and damages that may be asserted against, imposed upon, or incurred by the City, its officers, officials, employees and agents, as a result of, relating to, or arising from any act or omission of the Wexford Parties that is directly associated or in connection with the grant of the License. However, the foregoing indemnity shall not extend to that portion of any claim arising from the willful misconduct or negligence of the City.

7. Termination: The City shall have the right to terminate this Agreement for any reason or no reason at all with fourteen (14) days' notice.

8. Assignment: Except as set forth hereinafter, this Agreement cannot be assigned by either party without the prior written consent of the other, which consent shall not be unreasonably withheld. This Agreement is binding upon, and shall inure to the benefit of, all heirs, successors and assigns of the Parties.

9. Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and of equal force and effect. This Agreement shall not be recorded in any form.

10. Signing Authority: Each of the undersigned hereby represents and warrants that it is authorized to execute this Agreement on behalf of the respective Party to the Agreement and that this Agreement, when executed by those Parties, shall become a valid and binding obligation, enforceable in accordance with its terms.

11. Amendments: Any amendments to this Agreement shall be effective only when duly executed by both parties.

12. Notice: When notice is required pursuant to this Agreement, it shall be provided both via e-mail, if possible, and via delivery by a reputable overnight delivery service to the following:

CITY OF LOWELL

City of Lowell
Attention: Thomas A. Golden, Jr, City Manager
375 Merrimack Street, 2nd Floor,
Lowell, MA 01852

With copies to: City of Lowell
Attention: Timothy A. French, Asst. Solicitor
City of Lowell
375 Merrimack Street, 3rd Floor,
Lowell, MA 01852
tfrench@lowellma.gov

Wexford
With copies to: Wexford Development, LLC 4 N Martin Luther King
Jr Boulevard Baltimore, Maryland 21201
Attention: Danielle Howarth, Vice President, Chief
Operating Officer and General Counsel
Danielle.howarth@wefordscitech.com

with a copy to Ballard Spahr LLP
1735 Market Street
Philadelphia, Pennsylvania 19103
Attention: Bart Mellits, Esq.
mellits@ballardspahr.com

IN WITNESS WHEREOF, the Parties have executed this Agreement as a contract under seal this the _____ day of _____ 2025.

CITY OF LOWELL, MA

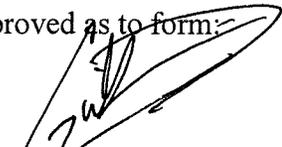
WEXFORD DEVELOPMENT, LLC

By: _____
Thomas A. Golden, Jr.,
City Manager

By: _____
,

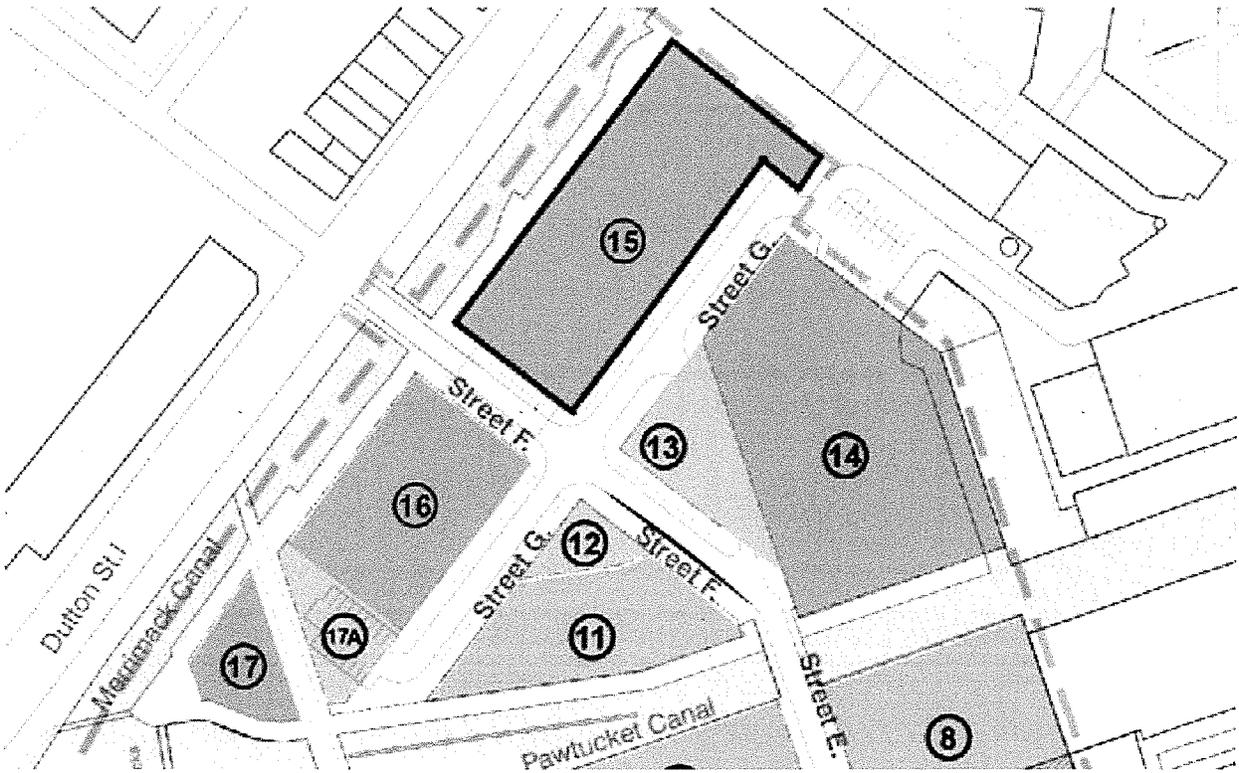
Its _____

Approved as to form:



Corey Williams
City Solicitor

Attachment A





Thomas A. Golden, Jr.
City Manager

May 8, 2025

Mayor Daniel Rourke
and
Members of the Lowell City Council

RE: MOU and Access Agreement with Wexford Development LLC

Dear Mayor Rourke and Members of the Lowell City Council,

The Department of Planning and Development (DPD) is requesting the Council vote to approve the execution of a Memorandum of Understanding (MOU) and Temporary Access Agreement between the City of Lowell and Wexford Development LLC.

For the last several months DPD and Law Department staff have been in negotiations with Wexford Development regarding their interest in parcel 15 in the Hamilton Canal Innovation District. The MOU and Access Agreement represent the kickoff of a due diligence period for Wexford with a number of milestones to be achieved during that time. It is our hope this due diligence work will result in the successful negotiation of a Land Disposition Agreement for this parcel.

Wexford is proposing the development of a 75,000 SF research and development facility. Both parties have invested significant time in negotiating this MOU and are eager to continue working towards a successful project. More details about the planned project and expected milestones can be found in the attached MOU.

If you have any questions, please don't hesitate to contact Assistant City Manager/DPD Director Yovani Baez-Rose at: 978-674-4252.

Sincerely,

Thomas A. Golden Jr.
City Manager

Attachments