

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 Broadway Street Holdings, Inc. relative to 234 Mount Vernon Street, 268 Mount Vernon Street, and 5 Farnham Street (also known as the Soucy Site), Lowell, MA.

The City of Lowell owns property at 234 Mount Vernon Street, 268 Mount Vernon Street, and 5 Farnham Street (also known as the Soucy Site), Lowell, and

Broadway Street Holdings, Inc., has requested temporary access to said property for the purpose of Surveying and Geotechnical Investigation work for a term commencing December 12, 2017 through June 30, 2018; and

A Temporary Access Agreement for such purpose is needed; and

The City of Lowell is willing to grant temporary access to Broadway Street Holdings, Inc., their employees, agents and contractor's access onto the property for the purpose of "Surveying and Geotechnical Investigation" for a term commencing December 12, 2017 through June 30, 2018.

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 he is hereby authorized to execute a Temporary Access Agreement between the City of Lowell and Broadway Street Holdings, Inc., their employees, agents and contractor's relative to property at 234 Mount Vernon Street, 268 Mount Vernon Street, and 5 Farnham Street (also known as the Soucy Site) for the purpose of surveying and geotechnical investigation work for a term commencing December 12, 2017 through June 30, 2018, all as more fully described in the form, or substantially the form, attached hereto.

TEMPORARY ACCESS AGREEMENT

This Temporary Access Agreement is entered into this the 12th day of December 2017 by and between the CITY OF LOWELL, a Massachusetts municipal corporation, owner of the properties located at 234 Mount Vernon Street, 268 Mount Vernon Street, and 5 Farnham Street (also known as the Soucy Site) in the Acre Urban Revitalization and Development Plan Area, in said Lowell and BROADWAY STREET HOLDINGS, INC., 706 Broadway Street, Lowell, Massachusetts 01854.

Whereas, Broadway Street Holdings, Inc. has requested access to said properties as depicted in Exhibit "A" for the purpose of Surveying and Geotechnical Investigation;

and

Whereas, the CITY OF LOWELL is willing to grant access to the properties as shown in Exhibit "A" for the purpose of the Surveying and Geotechnical Investigation during the period of December 12, 2017 through June 30, 2018;

Now, therefore, in consideration of the mutual promises contained herein and other good and valuable consideration, the Parties hereby agree as follows:

1. The CITY OF LOWELL hereby grants to Broadway Street Holdings, Inc. its employees, agents, and contractors, access onto the properties for the purpose of Surveying and Geotechnical Investigation;
2. Broadway Street Holdings, Inc., shall provide a complete Scope of Work for all Surveying and Geotechnical Investigation for review by the City of Lowell prior to the start of work;
3. Broadway Street Holdings, Inc., shall be responsible for the safety and security of the site;
4. Broadway Street Holdings, Inc., shall obtain all necessary permitting, approvals, and authorizations, specifically required for the work;
5. Broadway Street Holdings, Inc., shall secure the site and restrict public pedestrian and vehicle traffic onto the site during the work;
6. Broadway Street Holdings, Inc., shall not interfere or deter the City of Lowell work and activities on the site at any time;
7. Broadway Street Holdings, Inc., shall restore the site to its original condition upon completion of the work;
8. Broadway Street Holdings, Inc., shall provide one (1) hard copy and one (1) electronic copy of all final surveying and geotechnical investigation reports to the City of Lowell;
9. Broadway Street Holdings, Inc., and the CITY OF LOWELL acknowledge that the City makes no representations or warranties regarding the condition or safety of its property and that entry upon the property are at the risk of Broadway Street Holdings, Inc., and its employees, agents, and

contractors. The CITY OF LOWELL 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 OF LOWELL, and subject to the limits set forth in MGL Chapter 258. Broadway Street Holdings, Inc., agrees to purchase and maintain a public/ liability insurance policy in the amount of \$250,000 for injury to one person and or property and the amount of \$500,000 for injury to more than one person and or property naming the City as an additional insured.

10. Broadway Street Holdings, Inc., agrees to defend, indemnify and hold the CITY OF LOWELL, 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 OF LOWELL, its officers, officials, employees and agents, as a result of, relating to, or arising from any act or omission of Broadway Street Holdings, Inc., or its employees, agents, and contractors that is directly associated or in connection with the grant of access as set forth herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement as a contract under seal this the day (___th) day of December 2017.

CITY OF LOWELL, MA

Broadway Street Holdings, Inc.

By: _____
Kevin J. Murphy, City Manager

By: _____
Steven A. Ploof, President

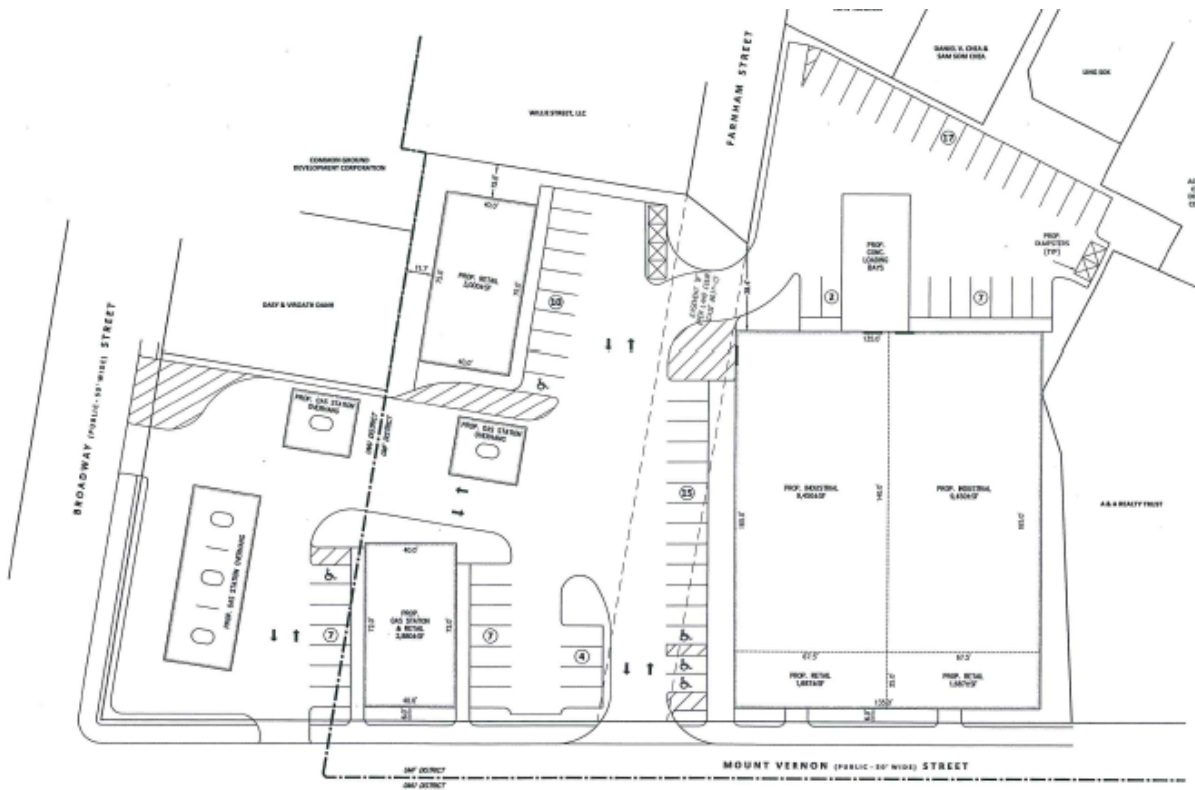
Approved as to form:

Christine P. O'Connor, City Solicitor

EXHIBIT "A"



City Owned 234 Mount Vernon Street, 268 Mount Vernon Street, and 5 Farnham Street
Privately owned (S&R Corporation) 232 Mount Vernon Street and 498 Broadway Street



S&R Corporation, Owl Stamp Visual Solutions, Megan House Foundation Initial Proposal Layout



Kevin J. Murphy
City Manager

December 7, 2017

Mayor Edward J. Kennedy
and
Members of the City Council

REFERENCE: Temporary Access Agreement for 234 Mount Vernon Street,
268 Mount Vernon Street, and 5 Farnham Street (the Soucy Site)

Dear Mayor Kennedy and Members of the City Council:

Broadway Street Holdings has requested access to the City owned property located at 234 Mount Vernon Street, 268 Mount Vernon Street, and 5 Farnham Street, also known as the Soucy Site, in the Acre Urban Revitalization and Development Plan Area.

The Lowell City Council approved the sale of the referenced properties on October 3, 2017. The property would be accessed between December 12, 2017 and June 30, 2018 to conduct surveying and geotechnical investigation to determine the suitability of the new construction. The Access Agreement indemnifies the City from injury to persons and property damage. The Agreement requires the contractor to obtain all necessary permitting approvals and restore the site to its original condition upon completion of the agreement.

If you have any questions or need any assistance in this matter, please contact Diane Tradd, Assistant City Manager at (978) 674-4252 or me.

Sincerely,


Kevin J. Murphy
City Manager

KJM/ns

Attachment

cc: Diane Tradd, Assistant City Manager/DPD Director
Christine P. O'Connor, City Solicitor
Patricia Lucken, Asset Manager
Joseph Giniewicz, Urban Renewal Project Manager