

HOUSE No. 3970

The Commonwealth of Massachusetts

House of Representatives, January 25, 2016.

The committee on Ways and Means, to whom was referred the Bill authorizing the Division of Capital Asset Management and Maintenance to grant an easement in certain land in the city of Salem (House, No. 2838, changed), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 3970).

For the committee,

BRIAN S. DEMPSEY.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act authorizing the Division of Capital Asset Management and Maintenance to grant an easement in certain land in the city of Salem.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to grant forthwith an easement for access to property, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding sections 32 to 38, inclusive, of chapter 7C of the General
2 Laws or any other general or special law to the contrary, the commissioner of capital asset
3 management and maintenance, in consultation with the president of Salem State University, may
4 grant to the City of Salem the following easements:

5 (a) a permanent exclusive easement under, over, in and through a parcel of land
6 containing approximately 120,936 square feet, more or less, located on the O’Keefe Center
7 Parking Lot off Canal street in the city of Salem, currently under the control of Salem State
8 University and held for educational purposes, to the City of Salem, for the purpose of locating
9 certain above and below ground improvements, including an above ground pumping station
10 building associated with a below ground stormwater drainage system to be operated by the City
11 of Salem, such stormwater drainage system improvements to be installed as shown on certain

12 plans on file with the Commission prepared by Woodard & Curran Inc. dated December 22,
13 2014, entitled “Figure 1 City of Salem Stormwater Drainage System Improvements – Site Plan
14 and Permanent Easement” and “Figure 2 City of Salem Stormwater Drainage System
15 Improvements –Temporary Easements”;

16 (b) a temporary easement for lay-down area for the construction of the stormwater
17 drainage system improvements;

18 (c) a permanent subsurface easement for the purpose of locating certain below ground
19 improvements, including drainage pipes and treatment and retention facilities associated with the
20 stormwater drainage system improvements;

21 (d) a permanent easement for access and egress to those portions of the city’s stormwater
22 drainage system improvements located under, over, in and through the O’Keefe Center parking
23 lot on the campus of Salem State University for the purpose of operating, maintaining, repairing
24 and replacing the stormwater drainage system improvements; and

25 (e) a permanent easement for access and egress to those portions of the city’s sewer
26 system consisting of a 36-inch sewer and associated appurtenances located under, in and though
27 the O’Keefe Center parking lot on the campus of Salem State University for the purpose of
28 operating, maintaining, repairing and replacing the sewer system as shown on certain plans on
29 file with the commissioner dated January 22, 2014, entitled “Site Utility Asbuilt, Salem
30 State/University Fitness and Recreation Center” and further to amend the existing easement, if
31 any, in favor of the city for the relocation of such sewer line as shown on said plan.

32 SECTION 2. The easements authorized by section 1 shall be granted on such terms and
33 conditions as the commissioner of capital asset management and maintenance may require. The
34 exact boundaries of the easements shall be determined by the commissioner based upon a survey.

35 SECTION 3. The easements authorized by section 1 shall be solely for use by city of
36 Salem and its authorized agents for the construction, operation, repair and replacement of the
37 stormwater drainage system and sewer system referred to in Section 1 and, in the event the City
38 of Salem ceases to use the property for such purpose, the easements granted herein shall
39 terminate upon notice from said commissioner to the city of Salem and an opportunity to cure.

40 SECTION 4. The consideration for the grant of the easements authorized by section 1
41 shall be nominal. The easements shall be granted without warranties or representations by the
42 commonwealth.

43 SECTION 5. The easements authorized by section 1 shall only be granted if the City of
44 Salem, the grantee, agrees to assume all costs associated with any engineering, surveys,
45 recording fees, deed or grant of easement preparation and any other expenses that the
46 commissioner of capital asset management and maintenance deems necessary to effectuate the
47 conveyance.

48 SECTION 6. The easements authorized by section 1 shall be subject to the following
49 conditions: the grant of easements shall include a reversionary clause stipulating that such
50 easement shall be extinguished if it ceases to be used and maintained for the express purposes
51 and conditions for which it was granted, following notice of such to the grantees by the division
52 of capital asset management and maintenance and a failure by the grantees to cure the violation
53 to the satisfaction of the division.