

HOUSE No. 4813

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 25, 2018.

The committee on Ways and Means, to whom was referred the Bill authorizing the grant of easements relative to the Obery Street Roadway Improvement Project to the town of Plymouth (House, No. 4477), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4813) [Local Approval Received].

For the committee,

JEFFREY SÁNCHEZ.

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**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act authorizing the grant of easements relative to the Obery Street Roadway Improvement Project to the town of Plymouth.

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 37, inclusive, of chapter 7C of the General
2 Laws or any general or special law to the contrary, the commissioner of capital asset
3 management and maintenance may convey to the town of Plymouth for highway, utility, and
4 other purposes as are necessary to carry out the Obery Street Roadway Improvement Project,
5 hereinafter the project, permanent and temporary easements in lands of the commonwealth
6 located on Obery street in the town of Plymouth in the locations approximately shown on a plan,
7 comprised of 26 sheets, entitled “Massachusetts Department of Transportation Highway Division
8 Plan and Profile of Obery Street Roadway Improvements in the Town of Plymouth, Plymouth
9 County, Preliminary Right of Way Plans”, dated 10/2/2011, last rev. 4/25/2018, prepared by
10 Jacobs, hereinafter the project plan. The grant of said easements shall be subject to the
11 requirements of sections 2, 3 and 4 of this act and to such additional terms and conditions
12 consistent with this act as the commissioner of capital asset management and maintenance may
13 reasonably require consistent with the project purposes. Prior to finalizing the transaction or

14 making the conveyance authorized herein, the town, with the consent of the commissioner of
15 capital asset management and maintenance, may make minor modifications to the plan and
16 easement areas in order to carry out the purposes of this act.

17 SECTION 2. The town of Plymouth shall assume any and all costs associated with
18 engineering, surveys, appraisals, deed preparation and other expenses necessary to execute the
19 conveyances authorized by this act.

20 SECTION 3. An independent appraisal of the fair market value and value in use of the
21 easements described in section 1 shall be prepared in accordance with the usual and customary
22 professional appraisal practices by a qualified appraiser commissioned by the commissioner of
23 capital asset management and maintenance. Consideration for the grants of the easements
24 pursuant to section 1 shall be the full and fair market value or the value in proposed use,
25 whichever is greater, as determined by the commissioner of capital asset management and
26 maintenance. The commissioner of capital asset management and maintenance shall submit the
27 appraisal to the inspector general for his or her review and comment. The inspector general shall
28 review and approve the appraisal, and the review shall include an examination of the
29 methodology utilized for the appraisal or appraisals. The inspector general shall prepare a report
30 of his or her review and file the report with the commissioner of capital asset management and
31 maintenance. After receiving the report, the commissioner shall submit copies of the report to the
32 house and senate committees on ways and means and the joint committee on state administration
33 and regulatory oversight at least 15 days prior to the execution of documents affecting the
34 transfers described in section 1.

35 SECTION 4. No instrument executed pursuant to this act shall be valid unless it provides
36 that the easements shall be used solely for the purposes described in section 1. The instrument or
37 instruments authorized in section 1 shall include a reversionary clause that stipulates the
38 easements shall terminate, upon such terms and conditions as the commissioner of capital asset
39 management and maintenance may determine, if the property ceases to be used for the express
40 purposes authorized in this act, following notice of such to the town of Plymouth by the division
41 of capital asset management and maintenance and a failure by the town to cure the violation to
42 the satisfaction of the division. If any interest reverts to the commonwealth, any further
43 disposition shall be subject to sections 34 to 37, inclusive, of chapter 7C of the General Laws and
44 the prior approval of the general court.

45 SECTION 5. Notwithstanding chapter 44B of the General Laws or any general or special
46 law to the contrary, the town of Plymouth, acting by and through its board of selectmen, may
47 acquire from the county of Plymouth such permanent and temporary easements in certain lands
48 of the county located on Obery street in the town of Plymouth, for highway, utility, and other
49 purposes as are needed to carry out the project in the locations approximately shown on the
50 project plan, and may release to said county, upon such terms as the town and the county may
51 agree, the conservation restriction now held by the town of Plymouth and recorded with the
52 Plymouth registry of deeds in book 36713, page 87, to the extent such restriction burdens the
53 lands of the county made subject to project easements; provided, however, that the conservation
54 restriction shall remain in force and effect for all other portions of the land not impacted by such
55 easements.

56 SECTION 6. Upon release of the conservation restriction pursuant to section 5, the town
57 of Plymouth shall place or acquire a conservation restriction consistent with the provisions of

58 sections 31 to 33, inclusive, of chapter 184 of the General Laws, on land of an area at least equal
59 to the area of land subject to said conservation restriction, which land Plymouth may acquire,
60 hold, convey, or arrange for conveyance by others.

61 SECTION 7. Chapter 30B of the General Laws, and any rights of first refusal held by the
62 commonwealth under the provisions of section 14 of chapter 34 of the General Laws, shall not
63 be applicable to the grant of easements by the county pursuant to section 5, or to the transaction
64 authorized in section 6.

65 SECTION 8. This act shall take effect upon its passage.