HOUSE DOCKET, NO. 4894 FILED ON: 7/6/2016

HOUSE . . . . . No. 4540

The Commonwealth of Massachusetts

PRESENTED BY:

Aaron Michlewitz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing the commissioner of capital asset management and maintenance to convey an easement over certain park land to the city of Boston.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Aaron Michlewitz	*3rd Suffolk*

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By Mr. Michlewitz of Boston, a petition (subject to Joint Rule 12) of Aaron Michlewitz that the commissioner of Capital Asset Management and Maintenance be authorized to grant an easement to the city of Boston for subsurface storm water drain pipe purposes. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

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

An Act authorizing the commissioner of capital asset management and maintenance to convey an easement over certain park land to the city of Boston.

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

SECTION 1. Notwithstanding sections 32 to 38, inclusive of chapter 7C of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may grant an easement to the city of Boston and its successors and assigns, to lay, construct, access, maintain, and operate a subsurface storm water drain pipe and maintaining the same on land described in section 2 and located in the city of Boston, and said land being currently owned by the commonwealth, cared for and controlled by the department of conservation and recreation for recreation and conservation purposes.

SECTION 2. The easement authorized by section 1 is for a 16+/- inch subsurface drain pipe in Prince street park, Commercial street, Boston. The easement described above is approximately 495 square feet of land and begins at the northwest corner of 585 Commercial

12 street, Boston. The dimensions of the easement area are further detailed on a plan of land
13 entitled, “Storm Water Drain Easement Eliot Innovation School,” dated June 28, 2016 and
14 prepared by Nitsch Engineering. The dimensions of the easement will be further reviewed and
15 confirmed by the commissioner of capital asset management and maintenance in consultation
16 with the commissioner of conservation and recreation after review of the survey details.
17 Modifications to the easement description set forth in the plan may be made by the
18 commonwealth for conformance with this act. The easement shall be granted without warranties
19 or representations by the commonwealth. The final plan and grant of easement shall be recorded
20 in the Suffolk district registry of deeds.

21 SECTION 3. The fair market value of the easement described above and further detailed
22 in the recordable plan, shall be based on an independent professional appraisal, as commissioned
23 by the commissioner of capital asset management and maintenance. To ensure a no-net-loss of
24 lands protected for natural resource purposes and as a condition of the grant of easement
25 authorized in section 2, the city of Boston shall compensate the commonwealth in an amount
26 equal to the full and fair market value, or the value in use of the easement as proposed,
27 whichever is greater, as determined by the independent appraisal . The payment shall be
28 deposited in the Conservation Trust established in section 1 of chapter 132A of the General Laws
29 and used by the commonwealth to fund the acquisition of land or an interest therein. In addition,
30 the city of Boston shall assume all costs associated with any engineering, survey, appraisal, deed
31 preparation and other expenses deemed necessary by the commissioner of capital asset
32 management and maintenance to execute the grant of easement authorized by this act. Also, the
33 commissioner of capital asset management and maintenance shall submit the appraisal and a
34 report thereon to the inspector general. The inspector general shall review and approve the

35 appraisal and the review shall include an examination of the methodology utilized for the
36 appraisal. The inspector general shall prepare a report of the review and file the report with the
37 commissioner of capital asset management and maintenance. The commissioner shall submit
38 copies of the appraisal, the report thereon and the inspector general's review and approval, and
39 comments, if any, to the house and senate committees on ways and means and the senate and
40 house chairs of the joint committee on state administration and regulatory oversight prior to the
41 execution of the grant of easement authorized by this act.

42 SECTION 4. Notwithstanding any general or special law to the contrary, from and after
43 the effective date of this act, the department of conservation and recreation may grant a
44 temporary license, not to exceed two (2) years, at a nominal amount to the city of Boston in order
45 to provide the city of Boston with immediate and complete access to, control of and liability and
46 responsibility for the property described in section 2, and for the purposes of this act govern until
47 the grant of easement authorized by this act takes effect.

48 SECTION 5. No instrument granting by or on behalf of the commonwealth any easement
49 described in section 2 shall be valid unless such instrument provides that the easement shall be
50 used solely for the purposes described in this act. The easement instrument shall include a
51 provision which shall state that in the event that the easement ceases to be used by the city of
52 Boston, or its successors or assigns, for the purposes described in this act, the easement shall
53 revert to the commonwealth under the control of and use by the department of conservation and
54 recreation, upon such terms and conditions as the commissioner of capital asset management and
55 maintenance may determine. If the easement reverts to the commonwealth, any further
56 disposition of the easement shall be subject to sections 32 to 38, inclusive, of chapter 7C of the
57 General Laws and the prior approval of the general court. The terms of the easement shall

58 require that for any installation, maintenance, repair or other work performed in the easement
59 area, the easement holder shall not limit surface access to parkland for a period of time longer
60 than that deemed acceptable by the department of conservation and recreation and shall restore
61 the surface condition to the equivalent or better condition as determined by the department.