

**HOUSE . . . . . No. 3379**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*David M. Nangle*

*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 relative to the land acquisition for Hamilton Crossing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David M. Nangle</i>	<i>17th Middlesex</i>	<i>1/20/2011</i>
<i>Kevin J. Murphy</i>	<i>18th Middlesex</i>	<i>2/3/2011</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>2/4/2011</i>

**HOUSE . . . . . No. 3379**

By Mr. Nangle of Lowell, a petition (subject to Joint Rule 9) (accompanied by bill, House, No. 3379) of David M. Nangle, Kevin J. Murphy and Thomas A. Golden, Jr. relative to authorizing the Division of Capital Asset Management and Maintenance to release certain property interests and easements in Lowell Heritage State Park. State Administration and Regulatory Oversight.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Eleven**

An Act relative to the land acquisition for Hamilton Crossing.

*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 40E to 40J, inclusive, of chapter 7 of the General  
2 Laws and any general or special law to the contrary, the commissioner of capital asset  
3 management and maintenance, in consultation with the commissioner of conservation and  
4 recreation, may grant to HCL Acquisition LLC or release such real property interests owned by  
5 the commonwealth as may be necessary to permit the grantee to acquire fee interests, easements  
6 or other rights, for the purpose of constructing, renovating and maintaining pedestrian access  
7 bridges, overhead bridges, and utility services in, over and to certain parcels of land within the  
8 Lowell Heritage State Park, subject to the provisions of sections 3 and 4 of this act, and to such  
9 reasonable additional terms and conditions consistent with this act as the commissioner of capital  
10 asset management and maintenance, in consultation with the commissioner of conservation and  
11 recreation may prescribe. Such real property interests are currently in the care and control of the  
12 division of conservation and recreation and are held for recreation and conservation purposes.

13 Fee interests and easements granted to the grantee and releases of real property interests may be  
14 located within such volumetric areas in the air rights above, and the subsurface areas below, such  
15 parcels of land as are necessary for such purposes. Such fee interests and easements may also  
16 include the right to displace the water in the canals within such parcels to install bridge supports  
17 and access for the maintenance, repair and replacement of the bridges and utility services. The  
18 areas and volumes of such fee interests, easements or releases shall be substantially as shown on  
19 a plan entitled "Hamilton Crossing Bridges, Lowell, MA" dated June 18, 2009, prepared by  
20 Durkee, Brown, Viveiros & Werenfels Architects. The plan is filed with the department of  
21 conservation and recreation. Modifications to the description set forth in the plan described  
22 above may be made in order to conform with a final land survey, as accepted by the division and  
23 the department, before any conveyance to carry out the purposes of this act.

24 SECTION 2. There shall be an independent appraisal, or appraisals, of the fee interests,  
25 easements or releases described in section 1 to be conveyed as authorized by this act to  
26 determine the full and fair market value, or the value in use as proposed, based upon one or more  
27 independent professional appraisals as commissioned by the commissioner of capital asset  
28 management and maintenance. The grantee shall compensate the commonwealth in an amount  
29 greater than, or equal to, the full and fair market value, or the value in use of these fee interests,  
30 easements or releases as proposed, whichever is greater, as determined by these independent  
31 professional appraisals. For the purposes of the appraisal, the full and fair market value of the  
32 area to be conveyed shall be calculated with regard to its full development potential as assembled  
33 with other abutting lands owned or otherwise controlled by the grantee, if any. The  
34 commissioner of capital asset management and maintenance shall submit these appraisals and a  
35 report thereon to the inspector general for his review and comment. Notwithstanding any

36 general or special law to the contrary, the inspector general shall review and approve the  
37 appraisal or appraisals, and the review shall include an examination of the methodology used for  
38 the appraisal or appraisals. The inspector general shall prepare a report of his review and file the  
39 report with the commissioner of capital asset management and maintenance, the house and  
40 senate committees on ways and means and the joint committee on bonding, capital expenditures  
41 and state assets. The commissioner of capital asset management and maintenance shall, 30 days  
42 before the execution of a conveyance authorized by this act, or a subsequent amendment thereto,  
43 submit the proposed conveyance or amendment and a report thereon to the inspector general for  
44 his review and comment. The inspector general shall issue his review and comment within 15  
45 days after receipt of the proposed conveyance or amendment. The commissioner shall submit  
46 the proposed conveyance or amendment, and the reports and the comments of the inspector  
47 general, if any, to the house and senate committees on ways and means and the joint committee  
48 on bonding, capital expenditures and state assets at least 15 days before the execution of the  
49 conveyance or amendment.

50 SECTION 3. The grantee shall bear the cost of any surveys and other expenses deemed  
51 necessary by the commissioner of capital asset management and maintenance for the granting of  
52 fee interests, easements or releases pursuant to this section.

53 SECTION 4. To ensure a no-net-loss of lands protected for conservation and recreation  
54 purposes on account of the conveyances and releases authorized in this section, the grantee shall  
55 ensure that lands of equal or greater acreage and value, acceptable to the department of  
56 conservation and recreation, are permanently protected for such purposes under the ownership of  
57 the commonwealth or its designee, following substantial completion of the project to which the  
58 conveyances or releases pertain.