

**HOUSE . . . . . No. 3750**

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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 authorizing the city of Lowell to transfer and have air rights over certain parcels of park and state land.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David M. Nangle</i>	<i>17th Middlesex</i>	<i>2/21/2019</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>2/22/2019</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>	<i>2/27/2019</i>
<i>Edward J. Kennedy</i>	<i>First Middlesex</i>	<i>2/22/2019</i>

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By Mr. Nangle of Lowell, a petition (subject to Joint Rule 12) of David M. Nangle and others (with the approval of the city council) that the city of Lowell be authorized to transfer and have air rights over certain parcels of park and state land. State Administration and Regulatory Oversight. [Local Approval Received.]

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
\_\_\_\_\_

An Act authorizing the city of Lowell to transfer and have air rights over certain parcels of park and state land.

*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 any general or special law to the contrary, the City of  
2 Lowell may transfer from the care and custody of the Board of Parks certain air rights over and  
3 above the following parcels of land currently used for park, open space, or recreational purposes,  
4 to the care and custody of the Lowell School Department for the construction of pedestrian  
5 bridges for a new high school. The parcels of land over which the subject air rights reside are:

6           (i)     Lucy Larcom Park, located between the Merrimack Canal and Anne Street,  
7 Lowell, approximately shown on Plan 1176-17 as Parcel No. 5, being part of land described in  
8 the deed at 450-431 (Lowell Copies 46-138).

9           SECTION 2. Notwithstanding any general or special law to the contrary, the City of  
10 Lowell may transfer from the care and custody of the Massachusetts Department of Conservation  
11 and Recreation certain air rights over and above the following artificial waterway currently used

12 for park, open space, or recreational purposes, to the care and custody of the Lowell School  
13 Department for the construction of pedestrian bridges for a new high school. The artificial  
14 waterway over which the subject air rights reside are

15 (ii) The fee interest in the Merrimack Canal and bounded by Moody Street on the  
16 southwest and French Street/Father Morissette Boulevard on the northeast, shown approximately  
17 on Plan 176-17 as Parcel 3. The owner of record of the fee interest in the locus is presently Boott  
18 Hydropower, Inc., under the deed at Book 2690, Page 542, subject to easements held by the  
19 Commonwealth of Massachusetts under the taking at Book 3830, page 70 and by the United  
20 States of America under deed at Book 5925, Page 56.

21 SECTION 3. After the completion of the construction of the pedestrian bridges in the air  
22 rights over and above the artificial waterway authorized in Section 2, the Massachusetts  
23 Department of Conservation and Recreation shall grant to the Lowell School Department a  
24 permanent easement of air rights for the use, maintenance, and repair of the pedestrian bridges.

25 SECTION 4. As a condition of the transfers of air rights authorized in Sections 1-2 and  
26 the granting of a permanent easement authorized in Section 3, the City of Lowell shall  
27 financially compensate the Massachusetts Department of Conservation and Recreation in lieu of  
28 reciprocal land and/or facilities for park, open space, or recreational purposes.

29 SECTION 5. Upon completion of the construction of the pedestrian bridges, any and all  
30 unused air rights over the affected locus as set forth in Sections 1-2 shall revert back to the  
31 Department of Conservation and Recreation and to the Board of Parks in the City of Lowell,  
32 respectively, for park, open space, or recreation purposes.

33           SECTION 6. If the air rights transferred pursuant to Section 1 are not developed for  
34 school purposes within five years from the date this bill is enacted, those portions shall revert  
35 back to the state through its Department of Conservation and Recreation and to the Board of  
36 Parks in the City of Lowell, respectively, for park, open space, or recreation purposes.

37           SECTION 7. In submitting this legislation, the City of Lowell authorizes the City  
38 Manager to create and provide to the General Court and state agencies any and all additional  
39 information that may be necessary for passage; and

40           SECTION 8. In submitting this legislation, the City of Lowell authorizes the General  
41 Court to make any and all such changes in the drafting process as are necessary for passage; and

42           SECTION 9. This act shall take effect upon its passage during the current year.