

HOUSE No. 3750

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>

HOUSE No. 3750

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.]

The Commonwealth of Massachusetts

**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.