

**HOUSE . . . . . No. 3036**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Sean Garballey*

*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 to allow the city of Medford to transfer conservation land.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/20/2023</i>

**HOUSE . . . . . No. 3036**

By Representative Garballey of Arlington, a petition (accompanied by bill, House, No. 3036) of Sean Garballey that the commissioner of Capital Asset Management and Maintenance be authorized to grant an easement and right-of-way for certain conservation land in the city of Medford to Boston Gas Company. State Administration and Regulatory Oversight.

**The Commonwealth of Massachusetts**

In the One Hundred and Ninety-Third General Court  
(2023-2024)

An Act to allow the city of Medford to transfer conservation 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. (a) Notwithstanding sections 34 to 37 of chapter 7C of the General Laws or  
2 any other general or special law to the contrary, the commissioner of capital asset management  
3 and maintenance, in consultation with the commissioner of conservation and recreation, may  
4 grant a perpetual, permanent subsurface easement and right-of-way for the purposes of installing,  
5 construction, re-constructing, repairing, replacing, adding to, operating and maintaining  
6 subsurface gas facilities, including, but not limited to, gas mains, lines and/or pipes, together  
7 with all necessary appurtenances and accessories thereto, on portions of land under the care and  
8 control of the department of conservation and recreation in the city of Medford, to Boston Gas  
9 Company and its successors and assigns. The subsurface easement and right-of-way shall be 20  
10 feet in width with the gas facilities being the centerline and run over, under and through portions  
11 of land on the northerly and southerly side of the Mystic river known as the Mystic river state

12 reservation, on the easterly side of Winthrop street, between the Mystic Valley parkway and  
13 South street in the city of Medford.

14           The portions of land, over, under and through which the easement and right-of-way shall  
15 be granted are more particularly described as land subject to an order of taking dated November  
16 26, 1899 and recorded in Middlesex south registry of deeds in book 2787, page 537 and under  
17 the control of and used by the department of conservation and restriction. The subsurface gas  
18 facilities and the associated permanent 20-foot wide easement and right-of-way shall be situated  
19 on land between the Winthrop street municipal right-of-way boundary and traversing southerly  
20 under the Mystic river to the South street municipal right-of-way boundary and shall apply to  
21 approximately 2.4 acres of land in the aggregate, more or less (the “Easement Area”), as shown  
22 on a plan entitled “Proposed Easement Plan, Proposed Gas Main Installation, 12” MDPE and 12”  
23 HDPE (25 PSIG), Winthrop Street, Medford, MA”, prepared by BL Companies and dated  
24 01/13/2023 (the “Easement Plan”). The permanent 20 foot wide easement and right-of-way shall  
25 grant the right to install, construct, reconstruct, repair, replace, relocate, add to, operate and  
26 maintain subsurface gas facilities, including, but not limited to, gas mains, lines and/or pipes, and  
27 all necessary appurtenances and accessories thereto (the “Gas Facilities”); together with the  
28 perpetual right and easement to pass and repass on foot and with vehicles and equipment within  
29 and along the Easement Area and to access the Easement Area as reasonably required over the  
30 adjoining lands of the grantor to and from the public ways, the perpetual right and easement to  
31 clear and keep cleared the Easement Area of trees, underbrush and obstructions that may  
32 interfere with the Gas Facilities or access thereto, the perpetual right and easement at any time  
33 and at all times to renew, replace, remove, add to, modify and otherwise change the Gas  
34 Facilities and the locations thereof within the Easement Area; and the perpetual right and

35 easement to change the grade of the Easement Area but only as is reasonable, necessary and  
36 proper in connection with the exercise of the foregoing rights and easements, subject, however,  
37 to the provisions of sections 3 and 4 below.

38 (b) The exact boundaries of the Easement Area are as shown on the Easement Plan,  
39 which Easement Plan shall be recorded with the Middlesex south registry of deeds. The  
40 easement shall be subject to such additional terms and conditions as the commissioner of capital  
41 asset management and maintenance, in consultation with the commissioner of conservation and  
42 recreation, may prescribe, to ensure that environmental impacts associated with the use of the  
43 parcels are addressed and that the conveyance results in a net benefit to the park system. The  
44 easement shall contain a restriction that the easement shall only be used for the purpose of  
45 installing, constructing, reconstructing, repairing, replacing, adding to, operating, and  
46 maintaining the Gas Facilities.

47 SECTION 2. The consideration for the easement shall be the full and fair market value or  
48 the value in use, whichever is greater, of the easement as determined by the commissioner of  
49 capital asset management and maintenance pursuant to an independent professional appraisal  
50 contracted by the division. An appraisal for the full and fair market value and the value in use of  
51 the easement shall be prepared in accordance with usual and customary professional appraisal  
52 practices by a qualified appraiser commissioned by the commissioner of capital asset  
53 management and maintenance. The inspector general shall review and approve the appraisal. The  
54 inspector general shall prepare a report of the review of the methodology utilized for the  
55 appraisal and shall file the report with the commissioner of capital asset management and  
56 maintenance, the house and senate committees on ways and means and the joint committee on  
57 state administration and regulatory oversight. The commissioner of capital asset management

58 and maintenance shall, 30 days before the grant of an easement authorized by this act, or any  
59 subsequent amendment thereto, submit the proposed easement and a report thereon to the  
60 inspector general for review and comment. The inspector general shall issue his review and  
61 comment within 15 days after receipt of the proposed easement or amendment. The  
62 commissioner shall submit the proposed easement or amendment and the reports and comments  
63 of the inspector general, if any, to the house and senate committees on ways and means and the  
64 joint committee on state administration and regulatory oversight at least 15 days before the  
65 execution of the easement or amendment.

66 SECTION 3. To ensure a no-net-loss of lands protected for conservation purposes, and to  
67 mitigate impacts upon parkland, in addition to the consideration due under section 2, the grant of  
68 easement shall only occur if the grantee has mitigated the impact of its activities to the  
69 satisfaction of the commissioner of conservation and recreation and commissioner of the division  
70 of capital asset management and maintenance. Mitigation shall include payment of a sum equal  
71 to such appraised fair market value or value in use or the sum of \$5,000.00, whichever is greater,  
72 for the funding of the acquisition of land or an interest therein to be under the care and control of  
73 the department for conservation and recreation purposes. The funding shall be acceptable to the  
74 department of conservation and recreation and shall be deposited in the Conservation Trust  
75 established in section 1 of chapter 132A of the General Laws. Any land or interest therein  
76 acquired by the department with such funding shall be permanently held and managed for  
77 conservation and recreation purposes by the department.

78 SECTION 4. Notwithstanding any general or special law to the contrary, Boston Gas  
79 Company shall be responsible for all costs and expenses including, but not limited to, actual

80 costs incurred in connection with any engineering, surveys, appraisals and easement preparation  
81 related to the easement authorized in this act.