

CITY OF NEW BEDFORD

IN CITY COUNCIL

June 27, 2019

REGISTERED LAND

WHEREAS, the common necessity and convenience of the inhabitants of the City of New Bedford require the taking of land hereinafter described for the purpose of altering and improving Kings Highway, including but not limited to the installation and maintenance of sidewalks, traffic signals, signs and overhead appurtenances, and for all other uses incidental to said municipal purposes; and

WHEREAS, the Department of Public Infrastructure of the City of New Bedford has requested that said land be taken for said purposes; and

WHEREAS, an appraisal of said land has been made on behalf of the taking authority in accordance with Massachusetts General Laws Chapter 79, Section 7A, and has been filed with said authority; and

WHEREAS, an appropriation has been made for the general purpose for which said land is needed;

NOW, THEREFORE, IT IS HEREBY ORDERED, that the City of New Bedford, acting by and through the City Council, and under applicable provisions of Massachusetts General Laws, Chapter 79, and under any and every other power to it granted or implied, hereby takes for itself, by eminent domain, temporary and permanent easements, located in New Bedford as hereinafter described, for the purpose of altering and improving Kings Highway, including but not limited to the installation and maintenance of sidewalks, traffic signals, signs and overhead appurtenances, and for all other uses incidental to said municipal purposes:

Permanent Easement U-1: An easement over a parcel of land being shown as U-1 on a plan entitled "Easement Plan of Land, Kings Highway and Tarkiln Hill Road, New Bedford, MA (Bristol County)", dated April 24, 2019, prepared by Surveying and Mapping Consultants, 325 Wood Road, Suite 109, Braintree, MA, recorded herewith (the "Plan"), said easement being more particularly bounded and described as follows:

Beginning at a point on the northerly sideline of Tarkiln Hill Road, bearing N 3° 37' 49" E 33.00 feet from station 31+06.53 on Tarkiln Hill Road Baseline, thence

N 3° 37' 49" E a distance of 4.00 feet to a point, thence

S 86° 22' 11" E a distance of 6.00 feet to a point, thence

S 3° 37' 49" W a distance of 4.00 feet to a point in the northerly sideline of Tarkiln Hill Road, thence

N 86° 22' 11" W a distance of 6.00 feet to the point of beginning. Said easement contains an area of 24 square feet, more or less.

Permanent Easement U-5: An easement over a parcel of land being shown as U-5 on a plan entitled "Easement Plan of Land, Kings Highway and Tarkiln Hill Road, New Bedford, MA (Bristol County)", dated April 24, 2019, prepared by Surveying and Mapping Consultants, 325 Wood Road, Suite 109, Braintree, MA, recorded herewith (the "Plan"), said easement being more particularly bounded and described as follows:

Beginning at a point on the northerly sideline of Tarkiln Hill Road, bearing N 32° 51' 31"W 33.00 feet from station 36+48.44 on Tarkiln Hill Road Baseline, thence

N 9° 04' 51" W a distance of 5.68 feet to a point, thence

N 57° 08' 29" E a distance of 54.24 feet to a point, thence

S 8° 53' 32" E a distance of 5.69 feet to a point, thence

S 57° 08' 29" W a distance of 54.22 feet by the sideline of Tarkiln Hill Road to the point of beginning. Said easement contains an area of 282 square feet, more or less.

Permanent Easement U-7: An easement over a parcel of land being shown as U-7 on a plan entitled "Easement Plan of Land, Kings Highway and Tarkiln Hill Road, New Bedford, MA (Bristol County)", dated April 24, 2019, prepared by Surveying and Mapping Consultants, 325 Wood Road, Suite 109, Braintree, MA, recorded herewith (the "Plan"), said easement being more particularly bounded and described as follows:

Beginning at a point on the westerly sideline of Church Street, bearing N 32° 51' 31"W 124.23 feet from station 39+01.82 on Tarkiln Hill Road Baseline, thence

S 81° 16' 28" W a distance of 16.00 feet to a point, thence

N 09° 05' 51" W a distance of 4.00 feet to a point, thence

N 80° 54' 09" E a distance of 16.00 feet to a point, thence

S 9° 05' 51" E a distance of 4.10 feet by the sideline of Church Street to the point of beginning. Said easement contains an area of 65 square feet, more or less.

Permanent Easement U-8: An easement over a parcel of land being shown as U-8 on a plan entitled "Easement Plan of Land, Kings Highway and Tarkiln Hill Road, New Bedford, MA (Bristol County)", dated April 24, 2019, prepared by Surveying and Mapping Consultants, 325 Wood Road, Suite 109, Braintree, MA, recorded herewith (the "Plan"), said easement being more particularly bounded and described as follows:

Beginning at a point on the northerly sideline of Tarkiln Hill Road, bearing N 32° 51'

31"W 33.00 feet from station 39+57.87 on Tarkiln Hill Road Baseline, thence northwesterly

By a curve turning to the right, having a radius of 20.00 feet and a length of 39.71 feet, to a point, thence

N 9° 05' 51" W a distance of 6.65 feet to a point, thence southeasterly

By a curve turning to the left, having a radius of 20.00 feet and a length of 39.60 feet, to a point, thence

N 57° 27' 49" E a distance of 73.07 feet to a point, thence

S 9° 05' 48" E a distance of 6.20 feet to a point in the northerly sideline of Tarkiln Hill Road, thence

S 57° 08' 29" W a distance of 73.14 feet by the sideline of Tarkiln Hill Road to the point of beginning. Said easement contains an area of 615 square feet, more or less.

Permanent Easement U-9: An easement over a parcel of land being shown as U-9 on a plan entitled "Easement Plan of Land, Kings Highway and Tarkiln Hill Road, New Bedford, MA (Bristol County)", dated April 24, 2019, prepared by Surveying and Mapping Consultants, 325 Wood Road, Suite 109, Braintree, MA, recorded herewith (the "Plan"), said easement being more particularly bounded and described as follows:

Beginning at a point on the northerly sideline of Tarkiln Hill Road, bearing N 32° 51' 31"W 33.00 feet from station 41+18.01 on Tarkiln Hill Road Baseline, thence

S 57° 08' 29" W a distance of 87.01 feet along Tarkiln Hill Road to a point, thence

N 9° 05' 48" W a distance of 6.20 feet to a point, thence

N 57° 25' 49" E a distance of 86.80 feet to a point, thence

S 9° 03' 56" E a distance of 5.67 feet by the sideline of Oliver Street to the point of beginning. Said easement contains an area of 472 square feet, more or less.

The temporary easements taken herein consist of the right to enter upon said lands at any time during the effective period of the easements for the alteration and improvement of Kings Highway, including all other uses incidental to said municipal purpose. Said easements are temporary in nature and are to be in effect for three years from the date of this instrument, through June 26, 2022.

TE-03

Beginning at a point in the northerly sideline of Tarkiln Hill Road, thence

Northerly by land now or formerly of Tarkiln Hill Realty Corp 8 feet more or less, thence

Easterly by land now or formerly of Tarkiln Hill Realty Corp 199 feet more or less, thence

Southeasterly by land now or formerly of Tarkiln Hill Realty Corp 8 feet more or less, thence

Westerly along the northerly sideline of Tarkiln Hill Road 145 feet more or less, thence

Northerly by Permanent Utility Easement U-1 4 feet more or less, thence

Westerly by Permanent Utility Easement U-1 6 feet more or less, thence

Southerly by Permanent Utility Easement U-1 4 feet more or less, thence

Westerly along the northerly sideline of Tarkiln Hill Road 50 feet more or less to the point of beginning, said Temporary Easement comprises an area of 1,571 square feet, more or less.

TE-10

Beginning at a point in the easterly sideline of Worcester Street, thence

Northerly along the easterly sideline of Worcester Street 16 feet more or less, thence

Southeasterly by land now or formerly of Mouratidis, Stathis S & Mouratidis, Polly 13 feet more or less, thence

Northeasterly by land now or formerly of Mouratidis, Stathis S & Mouratidis, Polly 43 feet more or less, thence

Southerly by land now or formerly of BRI Inc. 4 feet more or less, thence

Southwesterly along the northwesterly line of Permanent Utility Easement U-5 54 feet more or less to the point of beginning, said Temporary Easement comprises an area of 269 square feet, more or less.

TE-12

Beginning at a point in the easterly sideline of Church Street, thence

Easterly by land now or formerly of Paul Pelletier Revocable Trust 2 feet more or less, thence

Southeasterly by land now or formerly of Paul Pelletier Revocable Trust by a curve deflecting to the left a distance of 35 feet more or less, thence

Northeasterly by land now or formerly of Paul Pelletier Revocable Trust 74 feet more or less, thence

Southerly by land now or formerly of Lombard, Mark E 3 feet more or less, thence

Southwesterly along Permanent Utility Easement U-8 73 feet more or less, thence

Northwesterly along Permanent Utility Easement U-8 by a curve deflecting to the right a

distance of 40 feet more or less to the point of beginning, said Temporary Easement comprises an area of 234 square feet, more or less.

TE-13

Beginning at a point in the northerly line of Permanent Utility Easement U-9, thence

Northeasterly by land now or formerly of Paul Pelletier Revocable Trust 3 feet more or less, thence

Easterly by land now or formerly of Lombard, Mark E 87 feet more or less, thence

Southwesterly along the northwesterly sideline of Oliver Street 2 feet more or less, thence

Westerly along Permanent Utility Easement U-9 87 feet more or less to the point of beginning, said Temporary Easement comprises an area of 187 square feet, more or less.

No trees on the land taken and no structures affixed thereto are included in the taking, and the owners of the property are allowed (30) days from and after recording of this instrument in the Registry of Deeds by the City in which to remove and take away from the land any trees or structures. Notwithstanding anything to the contrary contained herein, the owners of the property shall not be required to take away from the land any such trees or structures.

IT IS FURTHERED ORDERED, in accordance with the provisions of said Chapter 79, that the following amounts are awarded as compensation for damages sustained by the owner or owners of the property and all other persons, including all mortgagees of record, having any and all interest in the property taken and entitled to any damages by reason of the taking hereby made:

| <u>EASEMENT OR PARCEL #</u> | <u>NEW BEDFORD ASSESSOR'S PLAT & LOT #</u> | <u>NAME OF SUPPOSED OWNER</u> | <u>AWARD OF DAMAGES</u> |
|-----------------------------|--|--|-------------------------|
| U-5 | 127A-2 | Stathis Mouratidis | \$9,300.00 |
| TE-10 | | Polly Mouratidis 587 Tarkiln Hill Rd. New Bedford, MA 027445 | \$3,920.00 |
| U-7 | 127A-32, 33 &34 | Patricia W. Vagos 555 Church St. New Bedford, MA 02745 | \$2,400.00 |

Mortgagee:

| | | | |
|--------------|---------|--|---------------------------|
| | | Santander Bank, N.A. formerly Sovereign Bank 450 Penn St. Reading, PA 19602 | |
| U-8 TE-12 | 127A-53 | Paul Pelletier Revocable Trust Paul R. Pelletier & Cathy Pelletier, Trustees 3 Walnut St. Assonet, MA 02702 | \$15,920.00 \$5,385.00 |
| U-9 TE-13 | 127A-68 | Mark E. Lombard 543 Tarkiln Hill Rd. New Bedford, MA 02745 | \$13,200.00 \$4,525.00 |
| | | <u>Mortgagee:</u> Webster Bank formerly First Federal Savings Bank of America One Firstfed Park Swansea, MA 02777 | |
| | | <u>Mortgagee:</u> Southcoast Health System Federal Credit Union 101 Page St. New Bedford, MA 02740 | |
| U-1 TE-3 | 125-13 | Tarkiln Hill Realty Corp. 150 Herman Melville Blvd. New Bedford, MA 02740 | \$940.00 \$19,750.00 |
| | | <u>Easement:</u> Commonwealth Electric Company One Main St. Cambridge, MA 02142 | |
| | | <u>Mortgagee:</u> Santander Bank, N.A. formerly Compass Bank for Savings 75 State St. Boston, MA 02109 | |
| | | <u>Order of Conditions:</u> City of New Bedford 133 William St. New Bedford, MA 02740 | |
| | | <u>Lessee:</u> MW Cell REIT 1 LLC 11900 W. Olympic Blvd. Suite 400 Los Angeles, CA 90064 | |

IT IS FURTHER ORDERED, that in addition to the above amount, there is also awarded as damages the following sum estimated to be equal to that portion of the taxes assessed upon the property herein taken for Fiscal Year 2019 and 2020 in accordance with the provisions of Massachusetts General Laws, Chapter 79, Section 12, which amount, together with the damages awarded in the preceding paragraph, shall constitute full compensation for the taking herein ordered.

TAXES FOR FISCAL YEAR 2019-2020

| <u>EASEMENT OR PARCEL #</u> | <u>NEW BEDFORD ASSESSOR'S PLAT & LOT #</u> | <u>NAME OF SUPPOSED OWNER</u> | <u>TAX AWARD</u> |
|-----------------------------|--|---|------------------|
| U-5 TE-10 | 127A-2 | Stathis Mouratidis Polly Mouratidis 587 Tarkiln Hill Rd. New Bedford, MA 027445 | NONE |
| U-7 | 127A-32, 33 &34 | Patricia W. Vagos 555 Church St. New Bedford, MA 02745 | NONE |
| U-8 TE-12 | 127A-53 | Paul Pelletier Revocable Trust Paul R. Pelletier & Cathy Pelletier, Trustees 3 Walnut St. Assonet, MA 02702 | NONE |
| U-9 TE-13 | 127A-68 | Mark E. Lombard 543 Tarkiln Hill Rd. New Bedford, MA 02745 | NONE |
| U-1 TE-3 | 125-13 | Tarkiln Hill Realty Corp. 150 Herman Melville Blvd. New Bedford, MA 02740 | NONE |

IT IS FURTHER EXPRESSED AND STIPULATED that the order of taking and the awarding damages herein contained does not relieve the owners of land taken from liability for taxes now uncollected for the Fiscal Year 2020 and any prior year, if the same remain unpaid as of the date of this order.

AND BE IT FURTHER ORDERED, that the City Clerk cause a copy of this order of taking herein made, certified by her, to be recorded on behalf of the City of New Bedford

in the Registry of Deeds for the Southern District of Bristol County, and to give such other notices as are required by General Laws.

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