

Appendix J  
Section 4(f)



North Station Draw One Bridge Replacement

# Environmental Assessment

Analysis of Potential Use of  
Section 4(f) Properties



January 15, 2025

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# ATTACHMENTS

- 1. FINAL SECTION 4(F) AGREEMENT
- 2. DRAFT SECTION 4(F) AGREEMENT
- 3. CHARLES RIVER WATER SHEET – CORRESPONDENCE



# ACRONYMS

<b>ACHP</b>	Advisory Council on Historic Preservation
<b>ADA</b>	American Disabilities Act
<b>APE</b>	Area of Potential Effects
<b>AREMA</b>	American Railway Engineering and Maintenance-of-Way Association
<b>B&amp;MRR</b>	Boston & Maine Railroad
<b>BET</b>	Boston Engine Terminal
<b>CFR</b>	Code of Federal Regulations
<b>CPs</b>	Consulting Parties
<b>CRMF</b>	Commuter Rail Maintenance Facility
<b>DCR</b>	Department of Conservation and Recreation
<b>DFE</b>	Design Flood Elevation
<b>EA</b>	Environmental Assessment
<b>FTA</b>	Federal Transit Administration
<b>GIS</b>	Geographic Information Systems
<b>MEP</b>	Mechanical, Electrical and Plumbing
<b>MGH</b>	Massachusetts General Hospital
<b>MGL</b>	Massachusetts General Law
<b>MHD</b>	Massachusetts Highway Department
<b>NHPA</b>	National Historic Preservation Act
<b>NRHP</b>	National Register of Historic Places
<b>OWJ</b>	Official(s) with Jurisdiction
<b>SHPO</b>	State Historic Preservation Office
<b>SIHs</b>	Signal Instrument Houses
<b>SPMTs</b>	self-propelled modular transporters
<b>THPO</b>	Tribal Historic Preservation Officer
<b>USC</b>	United States Code
<b>USDOT</b>	United States Department of Transportation
<b>Zakim Bridge</b>	Leonard P. Zakim Bunker Hill Memorial Bridge

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# 1.0 INTRODUCTION

This chapter has been prepared pursuant to the requirements of Section 4(f) of the United States Department of Transportation (USDOT) Act of 1966. Section 4(f) of the Department of Transportation Act of 1966, codified at 23 U.S.C. §138 and 49 U.S.C. §303, articulates a National policy affirming that a special effort shall be made to preserve the natural beauty of the countryside, public park and recreational lands, wildlife and waterfowl refuges, and historic sites. Pursuant to 23 CFR 774.3, the Secretary of Transportation may not approve transportation projects that require use of such properties unless a determination is made that there is no feasible and prudent alternative, and that all possible planning has been done to minimize harm to Section 4(f) land(s) resulting from such use.

The Massachusetts Bay Transportation Authority (MBTA) is seeking funds to be provided through the Federal Transit Administration (FTA) as the lead federal agency for the Draw One Bridge Replacement Project (the Proposed Project). The Proposed Project would replace the existing two structures comprising the Draw One Bridge over the Charles River with three new vertical lift bridge structures. Associated activities include replacement of the adjacent Signal Tower A, replacement of the approach trestles, related adjustments and upgrades to track alignments, and communications and signaling systems. **Figure 1-1** highlights the direct footprint of the work area including the temporary impacts (shown on figures as “Temporary Limits of Work (LOW)”) and permanent impact areas (shown on figures as “Permanent Limits of Work (LOW)”) for the Proposed Project. “Project Site” is used throughout the document to refer to the “Temporary LOW” and “Permanent LOW.” The Project Site, comprising approximately eight acres, is roughly located within the bounds of the Charles River (in the same area as the previous Draw One Bridge) but extends 200 feet upstream and 300 feet downstream of the existing Draw One Bridge. The purpose of the Proposed Project is to bring the Draw One Bridge into a state of good repair, improving the reliability and safety of MBTA Commuter Rail and Amtrak service.

North Station Draw One Bridge Replacement



Figure 1-1: Project Location



## 2.0 REGULATORY CONTEXT AND METHODOLOGY

The “use” of each protected Section 4(f) property, and the attributes that qualify it as a Section 4(f) property, are defined in 23 CFR §774 of the USDOT Act of 1966 and outlined below:

### 2.1 SECTION 4(f) PROPERTY DEFINITION

- Any publicly owned parkland, recreation area, or wildlife and waterfowl refuge of national, state, or local significance; or
- Any land from a historic site of national, state, or local significance. Section 4(f) historic properties are those listed, or eligible for listing, on the National Register of Historic Places (NRHP). Archaeological resources are only protected resources when their importance is centered around the location of the resource.

A desktop review of available aerial photography, local land use plans, landowner identification, and other applicable plans have provided the baseline information needed to map and list parks, recreation areas, and wildlife/waterfowl refuges within the Project Site. Historic sites listed or eligible for listing on the NRHP within the Project Site have been identified through consultation under Section 106 of the National Historic Preservation Act (NHPA) of 1966 as described. Existing Section 4(f) properties in the Project Site have been mapped using Geographic Information Systems (GIS) and documented by type (e.g., parks, recreation areas, wildlife and waterfowl refuges, historic sites, etc.), approximate acreage and amenities.

For parks, recreation areas, and wildlife/waterfowl refuges that qualify for protection under Section 4(f), FTA must coordinate with the official(s) with jurisdiction (OWJ) of the agency or agencies that own or administer the property in question, and with staff who are empowered to represent the agency on matters related to the property. The OWJ for parks/recreational areas will depend on the ownership (e.g., relevant city or county).

For historic Section 4(f) properties, the applicable State Historic Preservation Office (SHPO) is an OWJ for the properties that are eligible for or listed on the NRHP except when a Tribal Historic Preservation Officer (THPO) is an OWJ. When the Advisory Council on Historic Preservation (ACHP) is participating in the Section 106 process as a consulting party, the agency is an OWJ for properties that are eligible for, or listed on, the NRHP.

### 2.2 SECTION 4(f) USE

A project “use” of a Section 4(f) property occurs when the project either temporarily or permanently impacts the property occupied by the Section 4(f) property. Different Section 4(f) “uses” are Direct Use, *de minimis* (a type of Direct Use), Temporary Use, and Constructive Use. These “uses,” as well as Section 4(f) Exceptions, are described in more detail in the following sections.

### 2.2.1 DIRECT USE

A Direct Use of a Section 4(f) property occurs when property is permanently incorporated into a proposed transportation project. This may occur from a partial or full acquisition, permanent easement, or temporary easement.

#### **Section 4(f) *de minimis* Use**

In some instances, the FTA may decide the use of the Section 4(f) property is *de minimis*. This is still a Direct Use but is typically a smaller impact, with all the criteria below being true. Under 23 Code of Federal Regulations (CFR) Part 774.3(b), a *de minimis* impact decision incorporates all possible planning to minimize harm by reducing the impacts on a Section 4(f) property to a *de minimis* standard.

Under 49 United States Code (U.S.C.) 303(d)(3) parks, recreation sites, or wildlife or waterfowl refuges, the FTA may make a *de minimis* impact decision only if:

- After public notice and opportunity for public review and comment, FTA finds that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and
- The finding has received concurrence from the OWJ over the park, recreation area, or wildlife or waterfowl refuge.

Under 49 U.S.C. 303(d)(2), the FTA may make a *de minimis* determination on a historic property only if the following Section 106 consultation process is followed:

- The transportation program or project will have no adverse effect on the historic site, or there will be no historic properties affected by the transportation program or project;
- FTA's finding has received written concurrence from the SHPO or THPO (and from the ACHP if the ACHP is participating in the consultation process); and
- FTA has developed its finding with consulting parties (CPs) as part of the Section 106 consultation process.

### 2.2.2 SECTION 4(f) TEMPORARY USE

Temporary Use is when a project temporarily occupies Section 4(f) property in a manner that is adverse in terms of the statute's preservation purpose, such as during construction, but has no permanent impact to the Section 4(f) property. A temporary use of a Section 4(f) property occurs when the conditions below are satisfied.

1. Duration is less than the time needed for construction of the project and there is no change in ownership of the land;
2. The nature and magnitude of the changes to the Section 4(f) property are minimal;
3. There are no anticipated permanent adverse physical impacts, nor is there interference with the protected activities, features, or attributes of the property on either a temporary or permanent basis;

4. The land being used will be fully returned to a condition at least as good as that which existed prior to the project; and
5. There is a documented agreement of the OWJ over the Section 4(f) property regarding the above conditions.

### 2.2.3 SECTION 4(f) CONSTRUCTIVE USE

A Constructive Use of a Section 4(f) property occurs when a transportation project does not incorporate land from the property, but the proximity of the project results in impacts so severe that the protected activities, features, or attributes which qualify the property for protection under Section 4(f) are substantially impaired (23 CFR 774.15). FTA has determined the Proposed Project will not result in the constructive use of any Section 4(f) properties in the Project Site.

### 2.2.4 SECTION 4(f) EXCEPTION

Section 4(f) Temporary Occupancy Exception occurs when the project does not have an overall negative impact on the Section 4(f) property and may even have a net benefit. Under 23 CFR 774.13(d), temporary occupancy exceptions to Section 4(f) have been established where all of the following apply:

- The duration of use must be less than the full time needed for construction of the project;
- There is no change in ownership of the land;
- The nature and the magnitude of the changes to the Section 4(f) property are minimal;
- There are no anticipated permanent adverse impacts;
- There will be no temporary or permanent interference with the activities, features, or attributes of the Section 4(f) property;
- The land being used must be fully restored to a condition which is at least as good as that which existed prior to the project; and
- There must be documented agreement of the official(s) with jurisdiction over the Section 4(f) property regarding the above conditions.

Transportation enhancement activities, transportation alternatives projects, and mitigation activities, where:

- The use of the Section 4(f) property is only for the purpose of preserving or enhancing an activity, feature, or attribute that qualifies the property for Section 4(f) protection;
- The OWJ of the property agrees in writing to the bullet point above; and
- That the project includes all possible planning to minimize harm to the Section 4(f) property.

Under 23 CFR 774.13(a)(2) exceptions to Section 4(f) have been established that include but are not limited to the use of historic transportation facilities; these include improvement of rail transit lines that are in use for the transportation of goods or passengers (e.g., maintenance, preservation, rehabilitation, operation, modernization, reconstruction, and replacement of railroad or rail transit line elements).

## 3.0 PROJECT INFORMATION

### 3.1 PURPOSE AND NEED

The existing Draw One Bridge movable spans present an ongoing maintenance challenge and are found to be beyond repair. Similarly, the approach trestles and the existing Signal Tower A are at the end of their useful life. Therefore, the Draw One Bridge, the existing Signal Tower A, and approach trestles need to be replaced.

The Proposed Project addresses the critical need to bring the Draw One Bridge into a state of good repair and improve the reliability and safety of MBTA commuter rail and Amtrak services. MBTA has identified specific goals for the Proposed Project, which include:

- Maintaining current operations for MBTA commuter rail and Amtrak *Downeaster* service throughout construction;
- Maintaining marine traffic beneath the bridges;
- Providing operational flexibility and redundancy;
- Accommodating potential future MBTA commuter rail and Amtrak *Downeaster* rail operations;
- Minimizing impacts on the built and natural environment, and
- Improving resiliency of the Draw One Bridge to severe storm events.

#### 3.1.1 PROJECT DESCRIPTION – BUILD ALTERNATIVE

The Proposed Project includes the demolition and replacement of the superstructure and substructures of the two Draw One Bridge spans over the Charles River, as well as the adjoining existing Signal Tower A, and related repairs and adjustments to the approach trestles, track alignments, and communications and signaling systems.

The Draw One Bridge has two remaining operational rolling lift movable spans (out of the original four) that each carry two tracks. Portions of the two disused bridges, which have been partially demolished, are located to the west of the operational bridges. The Proposed Project includes the replacement of these structures with three vertical lift bridge structures.

The Proposed Project also includes the demolition and replacement of the existing Boston & Maine Rail Road (B&MRR) Signal Tower A building, which housed the operations control desk for the Draw One Bridge. The B&MRR Signal Tower A building is located on the north bank of the Charles River in Cambridge, immediately to the east of the mainline tracks. An adjacent temporary steel frame control tower houses bridge controls that were relocated from the existing Tower A building, which has been deemed unsafe for occupancy.

The Proposed Project would upgrade service across the Charles River from four bridge tracks to six and upgrade the number of usable tracks north of the river by matching the eight mainline tracks. In other words, the bridge approach trackwork through the Project Site will be upgraded from 10-4-7-8 to 12-6-8-8. This proposed alignment allows all station tracks to access the Commuter Rail Maintenance Facility (CRMF – also known as Boston Engine Terminal [BET]), a maintenance facility for the MBTA commuter rail train sets, which is located north of the Tower A Interlocking. Trackwork is also necessary north of the

Draw One Bridge to align the tracks associated with the northernmost replacement bridge into the existing track configuration. The Proposed Project would upgrade all wayside devices, cables, and infrastructure, along with making modifications to the microprocessor controller equipment for each of the Signal Instrument Houses (SIHs) within the Proposed Project limits. This will support the new track and signal system configuration throughout the Project Site, along with the required construction staging.

During construction of the Proposed Project, a minimum of four active tracks over the Charles River and a minimum of eight active tracks at North Station will be maintained during weekday operations, thereby limiting public transportation disruptions. There are three major stages relating to the Bridge work. The first stage would consist of constructing the first replacement movable bridge to the west, along with the proposed approach spans on each side and the proposed Signal Tower A. It is anticipated that the selected contractor would need to install a temporary trestle over the water immediately upstream of the proposed construction area to support these construction activities. The second stage of construction would consist of the replacement of the existing western bridge. During this phase of work, the north and south approach spans would be constructed to the limits that are available without impacting active tracks. The third phase would consist of the replacement of the existing east bridge and associated approach spans. Construction of the movable spans and north approach can be performed with little impact on the active portions of the track structure.

The Massachusetts Department of Conservation and Recreation (DCR) currently has plans to develop a pedestrian structure connecting Nashua Street Park over the MBTA tracks to a proposed park in the location of the currently vacant DCR parcel between the Leverett Circle Connector Bridge and the Leonard P. Zakim Bunker Hill Memorial Bridge (Zakim Bridge). The new South Bank Park will be developed on the site of a portion of an existing DCR parking lot (referred to as DCR Vacant Parcel within this document) and a portion of the Gridley Locks Footpath, generally located below the I-93 and Route 1 elevated highway on the south side of the Charles River. The Proposed Project would not preclude the implementation of the South Bank Park; however, DCR plans to begin construction as early as 2026. As such, there is the potential for concurrent construction activities, but activities would be coordinated to avoid disruption to either construction program.

The South Bank Bridge will provide pedestrian and bicycle access to the new park over the MBTA ROW just west of North Station, connecting it to Nashua Street Park. The bridge is proposed pursuant to a commitment of the Massachusetts General Law (MGL) Chapter 91, 310 CMR 9.00 permitting for the Massachusetts Highway Department (MHD) Central Artery Tunnel Project. There is currently no timeline for construction or completion of this project. The Proposed Project would not preclude the implementation of the South Bank Bridge; however, construction activities supporting the latter could not begin until after the substantial completion of the construction for the Proposed Project, assuming that the limits of construction for the two areas overlap. It is anticipated that throughout its design and construction planning, the implementation of the South Bank Bridge would be undertaken in coordination with agencies responsible for the properties.

A Cross River Bridge that would connect Nashua Street Park to North Point Park was proposed in 1995 by the Metropolitan District Commission, the predecessor agency to DCR, as a separate Charles River crossing for cyclists and pedestrians. It is not yet designed or planned for construction, though as currently contemplated it would cross the Charles River near, and to the west of, Draw One Bridge, connecting North Point Park with Nashua Street Park and/or the proposed new South Bank Park via the proposed

South Bank Bridge. The Proposed Project would not preclude the Cross River Bridge from being constructed in the future.

## 4.0 IDENTIFICATION AND POTENTIAL USE OF SECTION 4(F) PROPERTIES

The list below identifies nine publicly owned parks and recreational areas within the Project Site. A determination as to whether the Proposed Project would result in the use of each Section 4(f) property is also included in the paragraphs following. **Figure 4-1** shows locations of each Section 4(f) property. The potential impacts to Section 4(f) properties are shown on **Figure 4-2** through **Figure 4-5**.

### 4.1 PARKLANDS AND RECREATIONAL RESOURCES

The Project Site is near nine DCR-owned parks and recreation areas, each of which are considered a Section 4(f) property:

- Galvin Memorial Park
- Lynch Family Skatepark
- Nashua Street Park
- Paul Revere Park
- Gridley Locks Footpath (DCR Proposed South Bank Park)
- DCR Parking Lot and Adjacent Vacant Parcel (DCR Proposed South Bank Park)
- North Point Park
- North Bank Bridge
- DCR Pier and Riverfront Walkway

The Proposed Project will not require permanent easements or acquisition of parkland. An evaluation of the Proposed Project's use of Section 4(f) parks and recreational properties is provided below.

Analysis of Potential Use of Section 4(f) Properties  
 MBTA Draw One Bridge Replacement Project





### **NO SECTION 4(F) USE**

Three Section 4(f) properties have been identified within the Project Site that would not experience a use with the Proposed Project, as defined in 23 CFR 774.17: Galvin Memorial Park, Lynch Family Skatepark, and Nashua Street Park. FTA has made this determination based on the following:

- The Proposed Project would not permanently incorporate land into a transportation facility;
- The Proposed Project would result in a temporary occupancy of land that is adverse in the terms of the statute's preservation purpose as determined by the criteria in 23 CFR 774.13(d); and
- The Proposed Project would not result in a constructive use of the above referenced Section 4(f) properties as determined by 23 CFR 774.15.

FTA has determined no further coordination pursuant to 23 CFR 774 is required for Galvin Memorial Park, Lynch Family Skatepark, and Nashua Street Park.

### **SECTION 4(F) PROPERTIES DE MINIMIS USE**

As discussed further below, six Section 4(f) properties within the Project Site have been identified that, with the implementation of measures to minimize harm, would experience *de minimis* impacts as a result of the Proposed Project. FTA intends to make a *de minimis* impact finding for these properties pursuant to 23 CFR 774.3(b), 23 CFR 774.5(b)(2)(ii), and 23 CFR 774.17. A *de minimis* impact is one that will not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).

#### **Gridley Locks Footpath and Parcel (Proposed South Bank Park)**

*Section 4(f) Property No. 4 on Figure 4-1 and shown on Figure 4-4*

*Temporary Impacts: 7,000 Square Feet (0.16 acre)*

The Gridley Locks Footpath and Parcel (proposed South Bank Park) is a 670-foot walking path along the Charles River through the Gridley lock system. The recreational trail and parcel are situated in Boston on the south bank of the Charles River, both east of the Leonard P. Zakim Bunker Hill Memorial Bridge (Zakim Bridge), and northeast of Beverly Street. The Proposed Project would require the construction of a temporary construction road in the parking area on the property. The details of the proposed impact are shown on Figure 4-4. The impact would affect the use of the driveway on the property when deliveries are made to the Proposed Project. The temporary construction access would be in place for approximately three years, which is significantly less than the duration of the construction of the Proposed Project, currently anticipated to be eight years. Construction access is needed to support the movement of equipment and materials to and from the Proposed Project construction site. The area of the proposed impact is approximately 7,000 Square Feet (0.16 acre). The location of the proposed impact is detailed in Figure 4-4.

To minimize the impact, MBTA proposes to repair paved surfaces within the impacted area to a condition as good or better than the existing condition. The impacts from the Proposed Project would not preclude any future development of the property. No recreational qualities of the footpath would experience an impact from the Proposed Project. The Proposed Project would not preclude any future improvements planned by DCR for the proposed South Bank Park. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to Gridley Locks

Footpath and Parcel (proposed South Bank Park) are consistent with the definition of Section 4(f) *de minimis* impact pursuant to 23 CFR 774.17.

#### **DCR Vacant Parcel (Proposed South Bank Park)**

*Section 4(f) Property No. 6 on Figure 4-1 and shown on Figure 4-4*

*Permanent Impacts: Less than 1,000 Square Feet (0.02 acre)*

*Temporary Impacts: 16,000 Square Feet (0.36 acre)*

The DCR Vacant Parcel (proposed South Bank Park) is situated on the south bank of the Charles River, beneath the Zakim Bridge, adjacent to its eastern abutment. DCR proposes to develop this 1.67-acre parcel with landscape plantings to reduce impervious surfaces, providing public recreational amenities and improving accommodations for bicycles and pedestrians. In the future with the Proposed Project, construction access for vehicles and materials would be provided in the proposed South Bank Park, temporarily displacing all ten of the northern parking spaces and six of the seven boat trailer parking spaces that would be provided at the proposed park. Proposed Project impacts include the installation of a new manhole for access to newly installed and extant subterranean infrastructure. The duration of the proposed impact is anticipated to last three years, which is significantly less than the duration of the construction of the Proposed Project, currently anticipated to be eight years. The extant recreational walkway along the Charles River is to remain open during the Proposed Project, except during material deliveries when conditions are not safe for the general public. The area of the proposed temporary and permanent impact is approximately 16,000 square feet (0.36 acre). The location of the proposed impact is detailed in Figure 4-4.

To minimize the impact, MBTA proposes to repair paved surfaces within the impacted area to a condition as good or better than the existing condition. The impacts from the Proposed Project would not preclude any future development of the property. No recreational qualities of the footpath would experience an impact from the Proposed Project. The Proposed Project would not preclude any future improvements planned by DCR for the proposed South Bank Park. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to the Vacant Parcel (proposed South Bank Park) are consistent with the definition of Section 4(f) *de minimis* impact pursuant to 23 CFR 774.17.

#### **North Bank Bridge**

*Section 4(f) Property No. 8 on Figure 4-1 and shown on Figure 4-3 and 4-5*

*Impacts: Temporary Closure*

The North Bank Bridge is a 690-foot multi-use bridge that carries users under the Zakim Bridge and over the MBTA commuter rail tracks which lead to and from North Station. The North Bank Bridge is situated in Cambridge on the north bank of the Charles River. Three piers supporting the North Bank Bridge – numbered three, four, and five – are on MBTA property. Pier Three conflicts with railroad track realignment and construction within MBTA right-of-way. To allow for construction of the Proposed Project, the North Bank Bridge would be required to be raised one foot. This would entail relocating two bridge supports – Piers Three and Four – and constructing one additional bridge support – Pier 4A, modifying the bridge truss structure, and modifying and the lengthening the landings of the bridge within North Point Park and Paul Revere Park. The details of the proposed impact are shown on Figures 4-3 and

4-5. These construction activities would result in multiple closures of the North Bank Bridge for up to two weeks at a time. The total duration of anticipated closures is approximately 30 days. The closures are anticipated to place within a six-month period, which is significantly less than the duration of the construction of the Proposed Project, currently anticipated to be eight years.

To minimize the impact to users of the recreational path, MBTA will coordinate with DCR to develop a detour to connect North Point Park and Paul Revere Park. A signed detour would be posted for path users during construction activities. MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the Proposed Project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. Further, MBTA will coordinate with DCR to review and comment on plans for raising the North Bank Bridge at 30%, 50%, 75%, 100% and Final for Construction benchmarks. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to North Bank Bridge are consistent with the definition of Section 4(f) *de minimis* impact pursuant to 23 CFR 774.17.

### **Pier and Riverfront Walkway**

*Section 4(f) Property No. 9 on Figure 4-1 and shown on Figure 4-2*

*Temporary Impacts: 5,000 Square Feet (0.11 acre)*

The Pier and Riverfront Walkway is a waterfront feature on the south bank of the Charles River situated north of the Massachusetts General Hospital administration building, east of Nashua Street Park, and just west of the tracks at the north end of North Station. The Pier and Riverfront Walkway are shown in detail on Figure 4-2. The Proposed Project would require closing the pier for recreational use to allow the contractor to access the south trestle for construction activities. The duration of the closure is anticipated to be five years, which is less than the duration of the Proposed Project, currently anticipated to be eight years. Construction related activities on the Pier and Riverfront Walkway include removing trees to facilitate access for construction vehicles and materials. Multiple deliveries would occur each day at this location. The Riverfront Walkway between the DCR Pier and the fence of the west side of North Station would be temporarily closed during material deliveries. The area of the proposed impact is anticipated to be less than 5,000 square feet (0.11 acre).

To minimize the impact to the Pier and Riverfront Walkway, MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the Proposed Project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to Pier and Riverfront Walkway are consistent with the definition of Section 4(f) *de minimis* impact pursuant to 23 CFR 774.17.

### **Paul Revere Park**

*Section 4(f) Property No. 5 on Figure 4-1 and shown on Figure 4-3*

*Permanent Impacts: 155 Square Feet (< 0.01 acre)*

*Temporary Impacts: 47,045 Square Feet (1.08 acres)*

Paul Revere Park at N. Washington Street in Boston is a 7.5-acre publicly-owned, public park situated east of the Zakim Bridge on the north bank of the Charles River and north of Gridley Locks. Features of the park include open greenspace for passive recreation, paved multi-use paths, and a children's playground. The Proposed Project would impact Paul Revere Park for modifications to the east landing of the North Bank Bridge. The details of the proposed impact are shown on Figure 4-3. Anticipated construction activities comprise approximately 47,045 square feet (1.08 acres) to allow access for vehicles and equipment, jacking the North Bank Bridge abutment, and regrading and planting. Impacts to trees and landscaping plantings would occur within areas of construction activity. Construction activities would require temporary closures of three walkways for up to two weeks at a time. The total duration of anticipated closures is approximately 30 days. The closures are anticipated to take place within a six-month period, which is significantly less than the duration of the construction of the Proposed Project, currently anticipated to be eight years.

To minimize the impact to users of the recreational path, MBTA will coordinate with DCR to develop a detour to connect North Point Park and Paul Revere Park. A signed detour would be posted for path users during construction activities. MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the Proposed Project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to Paul Revere Park are consistent with the definition of Section 4(f) *de minimis* impact pursuant to 23 CFR 774.17.

### **North Point Park**

*Section 4(f) Property No. 7 on Figure 4-1 and shown on Figure 4-5*

*Temporary Impacts: 37,500 Square Feet (0.84 acre)*

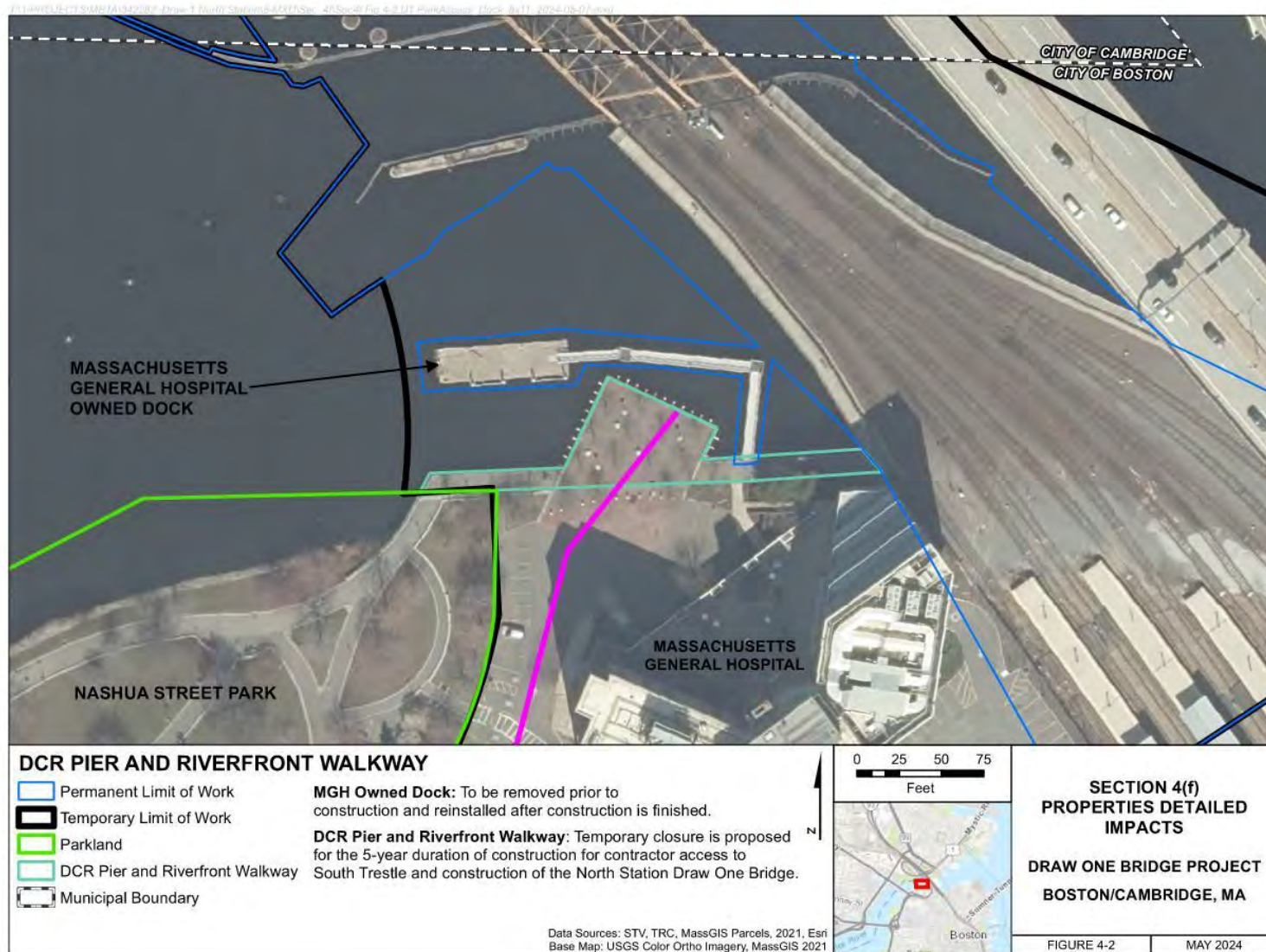
*Permanent Impacts: 400 Square Feet (0.04 acre)*

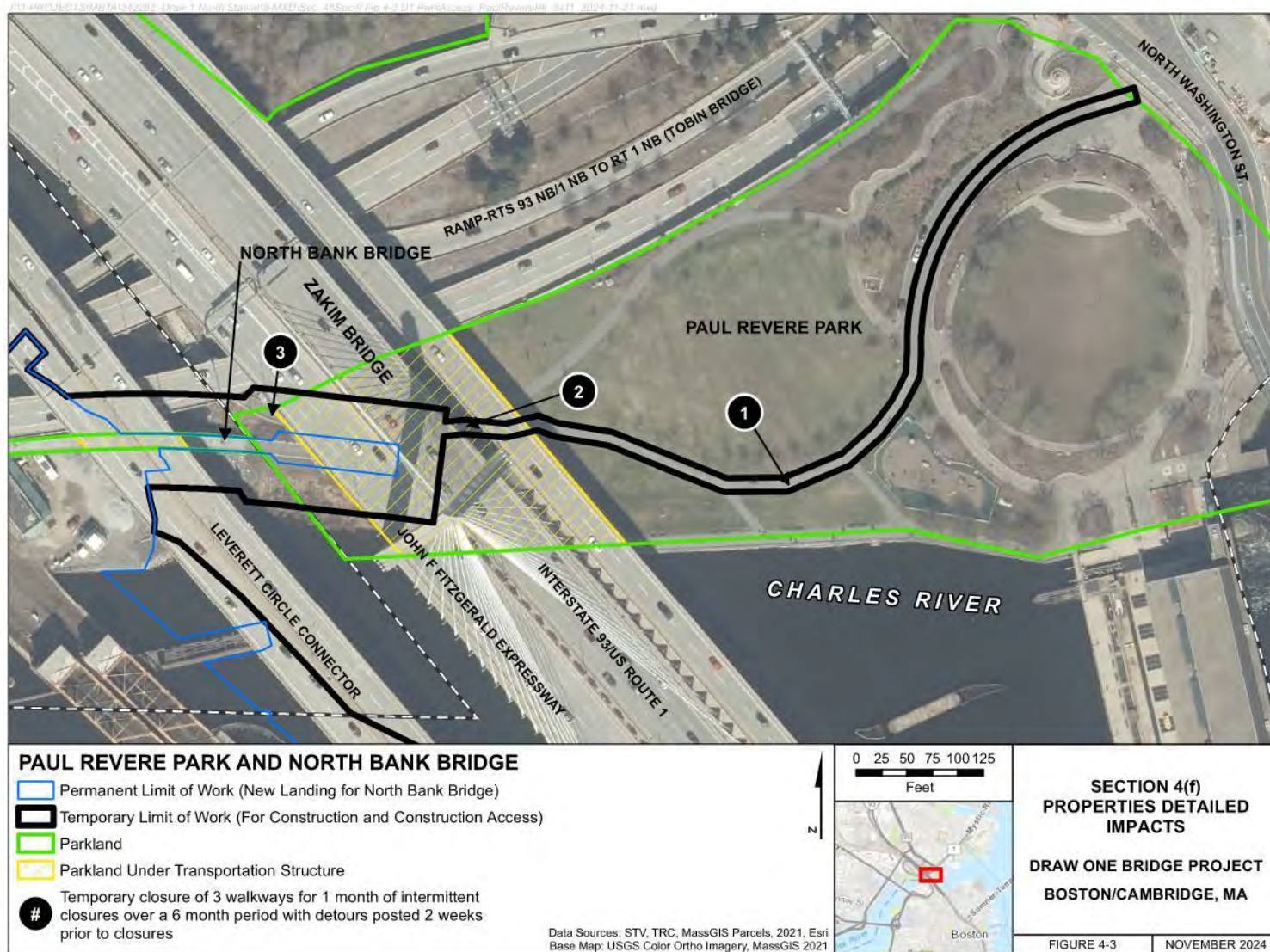
North Point Park at 6 Museum Way in Cambridge is an 8-acre publicly-owned, public park situated northwest of Draw One and south of the Leverett Circle Connector. Features of the park include a playground, boat docks, greenspace, multi-use paths, and a waterfront promenade. The Proposed Project would impact North Point Park through modifications to the west landing of the North Bank Bridge. The modification would require erecting three shoring towers under the North Bank Bridge. Each tower would have a footprint of approximately 100 square feet. Construction activities would be staged from the north side of the bridge where there are limited opportunities for recreational activities. Modifications to the North Bank Bridge east landing would permanently impact approximately 140 feet of walkway at the existing abutment. The total anticipated impacts to North Point Park are approximately 37,500 square feet (0.84 acre). The details of the proposed impact are shown on Figure 4-5. Construction activities would require temporary closures of three walkways for up to two weeks at a time. The total duration of anticipated closures is approximately 30 days. The closures are anticipated to place within a

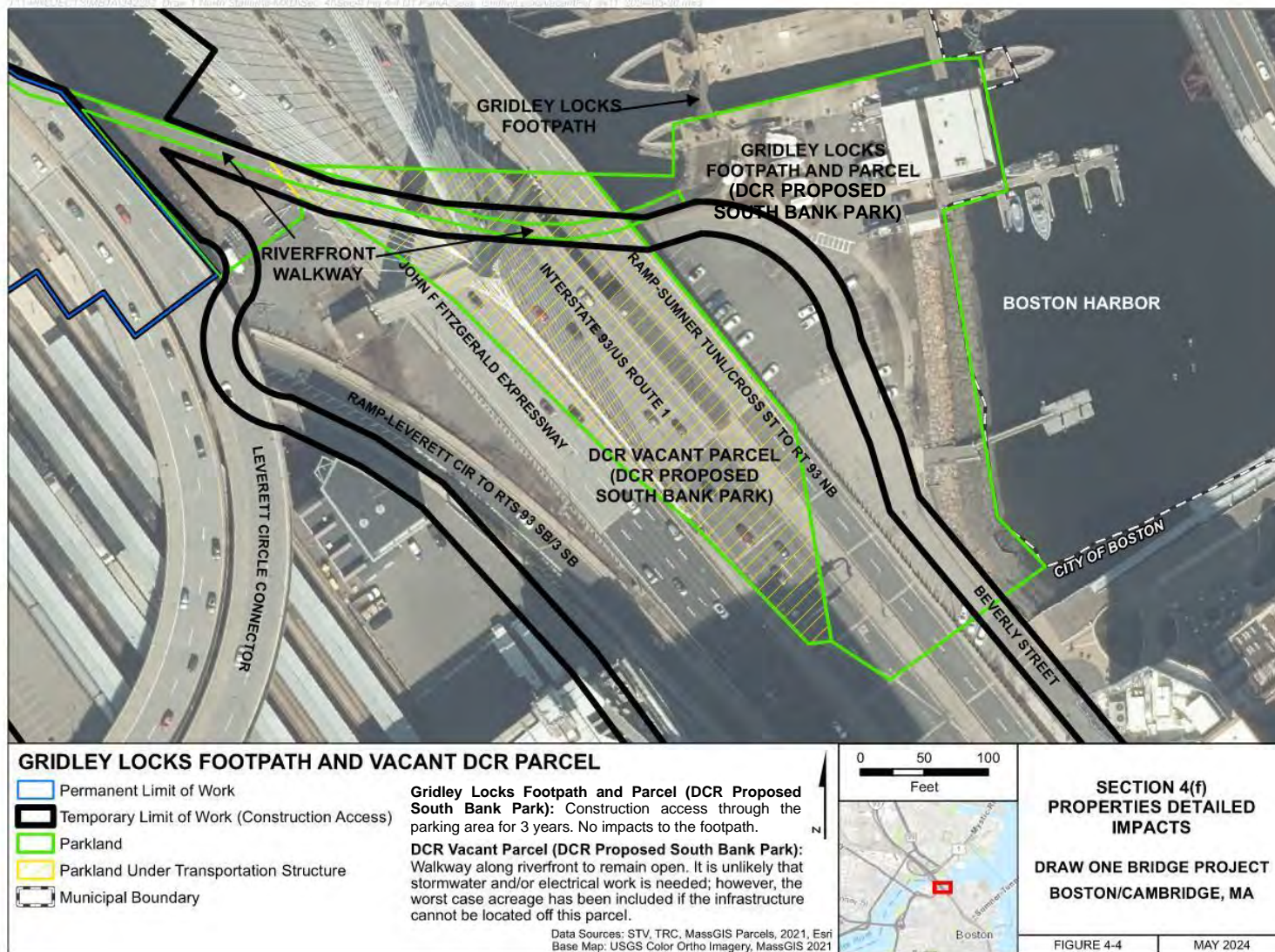


six- month period, which is significantly less than the duration of the construction of the Proposed Project, currently anticipated to be eight years.

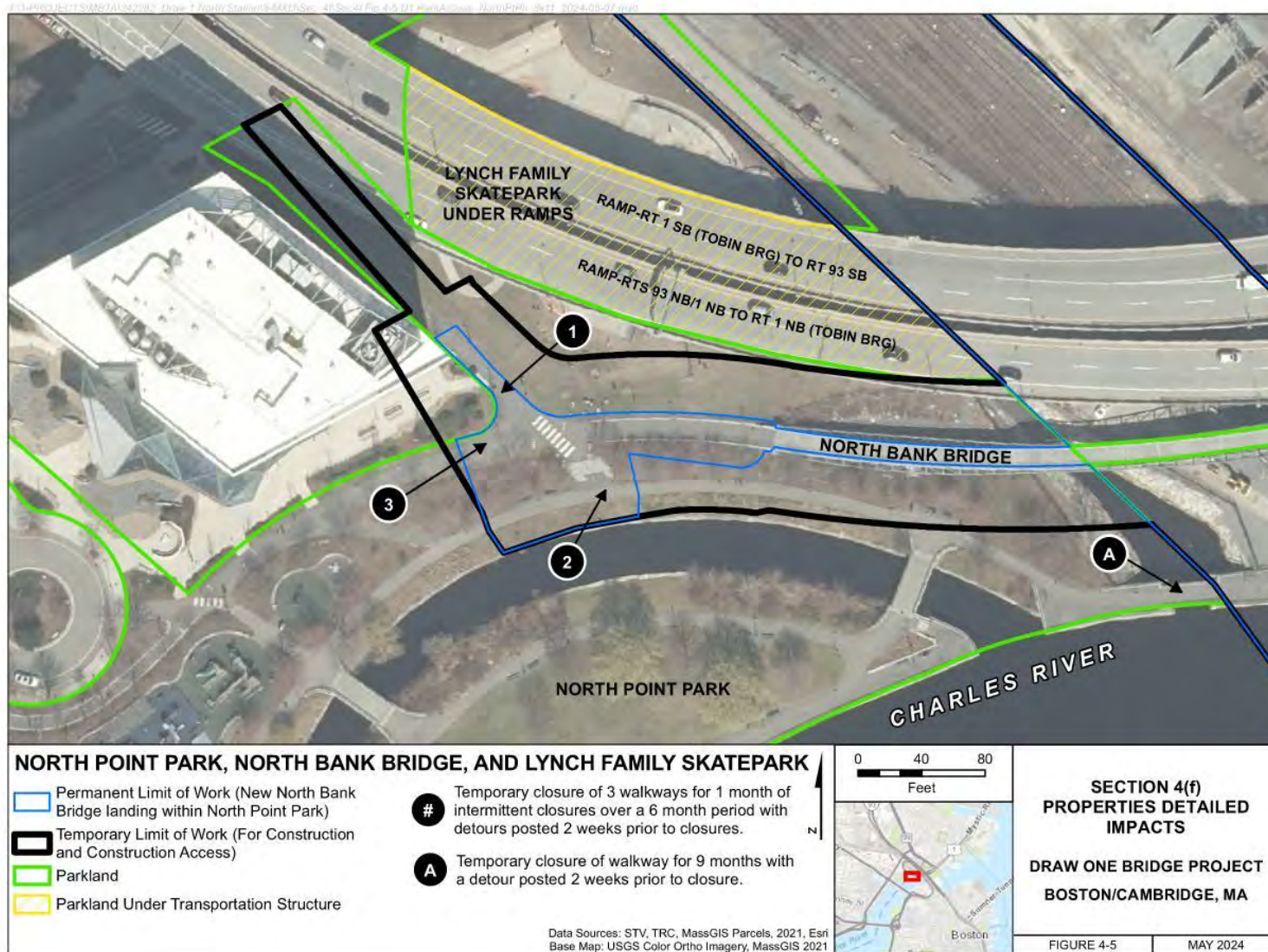
To minimize the impact to users of the recreational path, MBTA will coordinate with DCR to develop a detour to connect North Point Park and Paul Revere Park. A signed detour would be posted for path users during construction activities. MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the Proposed Project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to North Point Park are consistent with the definition of Section 4(f) *de minimis* impact pursuant to 23 CFR 774.17.











## 4.2 HISTORIC RESOURCES

A Historic Architectural Survey and Assessment of Effects identified two historic resources that are considered to be Section 4(f) properties within the Project Site: B&MRR Signal Tower A, commonly known as 'Tower A,' and Draw One Bridge (see **Figure 1-1**). They are both eligible to be listed on the NRHP. In May 2024, FTA determined the Draw One Bridge and Tower A are excepted from consideration as 4(f) properties consistent with 23 CFR 774.13(a)(2) as an exception for historic rail lines and elements thereof.

## 4.3 WILDLIFE OR WATERFOWL REFUGES

No wildlife or waterfowl refuges were identified within the Project Site.

## 5.0 MEASURES TO MINIMIZE HARM

DCR concurred with FTA on January 8, 2025, that the Proposed Project would not adversely affect the recreational activities, features, or attributes that qualified the properties for Section 4(f) protection (see **Attachment 1**). Measures to minimize harm to parklands and public recreation areas in the vicinity of the Proposed Project are set forth in an agreement between DCR and FTA.<sup>1</sup> Potential measures to minimize harm may include signed detours for pedestrians and bicyclists posted for each walking/biking path affected during construction activities. Regrading; seeding; planting trees, shrubs, and other permanent plantings; and/or general landscaping are other possibilities for areas disturbed by construction.

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<sup>1</sup> The temporary construction easement at Paul Revere Park was previously assumed to be approximately 0.86 acre, which is reflected in the draft Section 4(f) agreement between MBTA and DCR in **Attachment 2**. However, based on DCR review and comment, the easement has been slightly increased to approximately 1.08 acre to accommodate an extension of the access drive.

## 6.0 COORDINATION

### 6.1 DEPARTMENT OF CONSERVATION AND RECREATION DCR

MBTA held a meeting with DCR on June 5, 2024, to provide an overview of the Proposed Project and discuss the potential use of Section 4(f) properties and proposed mitigation measures. DCR concurred with FTA on January 8, 2025, that the Proposed Project would not adversely affect the recreational activities, features, or attributes that qualified the properties for Section 4(f) protection. Measures to minimize harm, and mitigation for impacts are set forth in an agreement between DCR and MBTA (see **Attachment 1** and **Attachment 3**).

### 6.2 PUBLIC INVOLVEMENT

A public meeting was held on June 6, 2024, to discuss the Proposed Project and provide an update on the status of Section 106 consultation and 4(f) impacts. FTA will utilize the public comment period associated with the Environmental Assessment (EA) to comply with the requirements of 23 CFR 774.5(b)(2)(i) and (ii) prior to seeking concurrence from DCR, as the official with jurisdiction, on FTA's intent to make a *de minimis* impact determination for the minor Section 4(f) use of parks under DCR's jurisdiction. Any agency or public comments received during the review period will be addressed.

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Attachment 1  
Final Section 4(f) Agreement



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

REGION 1  
Connecticut, Maine,  
Massachusetts,  
New Hampshire,  
Rhode Island, Vermont

Volpe Center  
220 Binney Street  
Floor 9-940  
Cambridge, MA 02142-1026

November 29, 2024

Brian Arrigo, Commissioner  
Massachusetts Department of Conservation & Recreation  
10 Park Plaza  
Suite 6620  
Boston, MA 02116

**RE: MBTA North Station Draw One Bridge Replacement Project,  
Boston and Cambridge, MA  
Section 4(f) Coordination with Official with Jurisdiction  
Determinations for DCR Review and Concurrence**

Dear Brian Arrigo:

The Federal Transit Administration (FTA) is providing financial assistance to the Massachusetts Bay Transportation Authority (MBTA) for the Draw One Bridge Replacement Project in Boston and Cambridge, Massachusetts. The scope of the undertaking involves demolishing the two existing bascule lift spans and replacing them with three vertical lift bridges. Owing to the strategic importance of the Charles River crossing, MBTA will maintain rail service to North Station through the duration of the project. Construction is anticipated to begin in April 2026 and be completed by November 2034.

As shown in **Attachment 1, Figure 1-1**, the proposed project would result in impacts to a variety of publicly-owned, public-parks and recreational properties managed by the Department of Conservation and Recreation (DCR). Due to the use of FTA funds for this transportation project, the properties discussed in this letter are subject to protection under Section 4(f) of the U.S. Department of Transportation (U.S. DOT) Act of 1966. Projects that require a federal action and that use Section 4(f) property require approval by the lead federal agency, unless the work meets one of the exceptions identified at 23 CFR 774.13.

This letter describes the potential impacts to or use of six publicly-owned, public parks and recreational properties managed by DCR: Gridley Locks Footpath and Parcel (Proposed South Bank Park), DCR Unnamed Vacant Parcel (part of Proposed South Bank Park), North Bank Bridge, Pier and Riverfront Walkway, Paul Revere Park, and North Point Park. The Section 4(f) properties, the project's proposed impacts or use, and measures to minimize harm are described below. Figures showing the location of the Section 4(f) properties within the project area and the



impacts to these 4(f) properties associated with the proposed Draw One Bridge Replacement Project are enclosed as **Attachment 1**.

The purpose of this letter is to inform DCR of FTA's intention to make a determination of Section 4(f) *de minimis* impacts to the Section 4(f) properties under the agency's jurisdiction. Pursuant to the coordination requirements at 23 CFR 774.5(b)(2)(i), FTA will publish this information in the Environmental Assessment (EA) being prepared to satisfy the requirements of the National Environmental Policy Act (NEPA) for the proposed project. FTA will utilize the 30-day public comment period for the EA to allow an opportunity for public review and comment on the FTA's intention to make a determination of Section 4(f) *de minimis* impacts. Following the conclusion of the public comment period, FTA will review and consider any relevant comments and provide them to DCR for review and consideration. After consideration of any comments from the public, FTA will then make a *de minimis* impact determination if DCR concurs that the proposed project, after measures to minimize harm are employed, would not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection.

### **Project Impacts to Section 4(f) Properties**

#### No Section 4(f) Use

FTA has identified three Section 4(f) properties within the project area that would not experience a use from the proposed project, as defined in 23 CFR 774.17: Galvin Memorial Park, Lynch Family Skatepark, and Nashua Street Park. FTA has made this determination based on the following:

- The proposed project would not permanently incorporate land into a transportation facility;
- The proposed project would result in a temporary occupancy of land that is adverse in the terms of the statute's preservation purpose as determined by the criteria in 23 CFR 774.13(d); and
- The proposed project would not result in a constructive use of the above referenced Section 4(f) properties as determined by 23 CFR 774.15.

FTA has determined no further coordination pursuant to 23 CFR 774 is required for Galvin Memorial Park, Lynch Family Skatepark, and Nashua Street Park.

#### Project Impacts to Section 4(f) Properties

FTA has identified six Section 4(f) properties within the project area, discussed further below, that including measures to minimize harm, would experience *de minimis impacts* from the project, for which FTA intends to make a *de minimis* impact finding pursuant to 23 CFR 774.3(b), 23 CFR 774.5(b)(2)(ii), and 23 CFR 774.17. A *de minimis* impact is one that will not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).

*Gridley Locks Footpath and Parcel (Proposed South Bank Park)*  
*Section 4(f) Property No. 5 on Figure 1-2 in Attachment 1.*  
*Temporary Impacts: 7,000 Square Feet (0.16 Acres)*

The Gridley Locks Footpath and Parcel (Proposed South Bank Park) is a 670-foot walking path along the Charles River through the Gridley lock system. The recreational trail and parcel are situated in Boston on the south bank of the Charles River, both east of the Leonard P. Zakim Bunker Hill Memorial Bridge (Zakim Bridge), and northeast of Beverly Street. The proposed project would require the construction of a temporary construction road in the parking area on the property. The details of the proposed impact are shown on **Figure 1-5**. The impact would affect the use of approximately 16 of the 77 parking spaces on the property. The temporary construction access would be in place for approximately three years, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. Construction access is needed to support the movement of equipment and materials to and from the project construction site. The area of the proposed impact is approximately 7,000 Square Feet (0.16 Acres). The location of the proposed impact is detailed in **Figure 1-5**. To minimize the impact, MBTA proposes to repair paved surfaces within the impacted area to a condition as good or better than the existing condition. The impacts from the proposed project would not preclude any future development of the property. No recreational qualities of the footpath would experience an impact from the proposed project. The proposed project would not preclude any future improvements planned by DCR for the proposed South Bank Park. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to Gridley Locks Footpath and Parcel (proposed South Bank Park) are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

*DCR Vacant Parcel*  
*(Proposed South Bank Park)*  
*Section 4(f) Property No. 6 on Figure 1-2 in Attachment 1*  
*Permanent Impacts: Less than 1000 Square Feet (0.02 Acres)*  
*Temporary Impacts: 16,000 Square Feet (0.36 Acres)*

This Vacant Parcel is part of the Proposed South Bank Park and is situated on the south bank of the Charles River, beneath the Zakim Bridge, adjacent to its eastern abutment. DCR proposes to develop this 1.67-acre parcel with landscape plantings to reduce impervious surfaces, providing public recreational amenities and improving accommodations for bicycles and pedestrians. The proposed project would impact the Proposed South Bank Park by providing construction access for vehicles and materials. Project impacts include the installation of a new manhole for access to newly installed and extant subterranean infrastructure. The duration of the proposed impact is anticipated to last three years, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. The extant recreational walkway along the Charles River is to remain open during the project, except during material deliveries when

conditions are not safe for the general public. The area of the proposed temporary and permanent impact is approximately 16,000 Square Feet (0.36 Acres). The location of the proposed impact is detailed in **Figure 1-5**. To minimize the impact, MBTA proposes to repair paved surfaces within the impacted area to a condition as good or better than the existing condition. The impacts from the proposed project would not preclude any future development of the property. No recreational qualities of the footpath would experience an impact from the proposed project. The proposed project would not preclude any future improvements planned by DCR for the proposed South Bank Park. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to the Vacant Parcel (proposed South Bank Park) are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

#### *North Bank Bridge*

*Section 4(f) Property No. 8 on Figure 1-2 in Attachment 1*

*Impacts: Temporary Closure*

The North Bank Bridge is a 690-foot multi-use bridge that carries users under the Zakim Bridge and over the MBTA commuter rail tracks which lead to and from North Station. The North Bank Bridge is situated in Cambridge on the north bank of the Charles River. Three piers supporting the North Bank Bridge – numbered three, four, and five – are on MBTA property. Pier Three conflicts with railroad track realignment and construction within MBTA right-of-way. To allow for construction of the proposed project, the North Bank Bridge would be required to be raised one foot. This would entail relocating two bridge supports – Piers Three and Four – and constructing one additional bridge support – Pier 4A, modifying the bridge truss structure, and modifying and the lengthening the landings of the bridge within North Point Park and Paul Revere Park. The details of the proposed impact are shown on **Figures 1-4 and 1-6**. These construction activities would result in multiple closures of the North Bank Bridge for up to two weeks at a time. The total duration of anticipated closures is approximately 30 days. The closures are anticipated to place within a six-month period, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. To minimize the impact to users of the recreational path, MBTA will coordinate with DCR to develop a detour to connect North Point Park and Paul Revere Park. A signed detour would be posted for path users during construction activities. MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the proposed project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. Further, MBTA will coordinate with DCR to review and comment on plans for raising the North Bank Bridge at 30%, 50%, 75%, 100% and Final for Construction benchmarks. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed

impacts to North Bank Bridge are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

*Pier and Riverfront Walkway*

*Section 4(f) Property No. 10 on Figure 1-2 in Attachment 1*

*Temporary Impacts: 5,000 Square Feet (0.11 Acres)*

The Pier and Riverfront Walkway is a waterfront feature on the south bank of the Charles River situated north of the Massachusetts General Hospital Building, east of Nashua Street Park, and just west of the tracks at the north end of North Station. The Pier and Riverfront Walkway are shown in detail on **Figure 1-3**. The proposed project would require closing the pier for recreational use to allow the contractor to access the south trestle for construction activities. The duration of the closure is anticipated to be five years, which is less than the duration of the project, currently anticipated to be eight years. Construction related activities on the Pier and Riverfront Walkway include removing trees to facilitate access for construction vehicles and materials. Multiple deliveries would occur each day at this location. The Riverfront Walkway between the DCR Pier and the fence of the west side of North Station would be temporarily closed during material deliveries. The area of the proposed impact is anticipated to be less than 5,000 square feet (0.11 Acres). To minimize the impact to the Pier and Riverfront Walkway, MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the proposed project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to Pier and Riverfront Walkway are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

*Paul Revere Park*

*Section 4(f) Property No. 4 on Figure 1-2 in Attachment 1*

*Permanent Impacts: 155 Square Feet (< 0.01 Acres)*

*Temporary Impacts: 37,500 Square Feet (0.86 Acres)*

Paul Revere Park at N. Washington Street in Boston is a 7.5-acre publicly-owned, public park situated east of the Zakim Bridge on the north bank of the Charles River and north of Gridley Locks. Features of the park include open greenspace for passive recreation, paved multi-use paths, and a children's playground. The proposed project would impact Paul Revere Park for modifications to the east landing of the North Bank Bridge. The details of the proposed impact are shown on **Figure 1-4**. Anticipated construction activities comprise approximately 37,500 Square Feet (0.86 Acres) to allow access for vehicles and equipment, jacking the North Bank

Bridge abutment, and regrading and planting. Impacts to trees and landscaping plantings would occur within areas of construction activity. Construction activities would require temporary closures of three walkways for up to two weeks at a time. The total duration of anticipated closures is approximately 30 days. The closures are anticipated to take place within a six-month period, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. To minimize the impact to users of the recreational path, MBTA will coordinate with DCR to develop a detour to connect North Point Park and Paul Revere Park. A signed detour would be posted for path users during construction activities. MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the proposed project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to Paul Revere Park are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

*North Point Park*

*Section 4(f) Property No. 7 on Figure 1-2 in attachment 1*

*Temporary Impacts: 37,500 Square Feet (0.84 Acres)*

*Permanent Impacts: 400 Square Feet (0.04 Acres)*

North Point Park at 6 Museum Way in Cambridge is an 8-acre publicly-owned, public park situated northwest of Draw One and south of the Leverett Circle Connector. Features of the park include a playground, boat docks, greenspace, multi-use paths, and a waterfront promenade. The proposed project would impact North Point Park through modifications to the west landing of the North Bank Bridge. The modification would require erecting three shoring towers under the North Bank Bridge. Each tower would have a footprint of approximately 100 Square Feet. Construction activities would be staged from the north side of the bridge where there are limited opportunities for recreational activities. Modifications to the North Bank Bridge east landing would permanently impact approximately 140 feet of walkway at the existing abutment. The total anticipated impacts to North Point Park are approximately 37,500 Square Feet (0.84 Acres). The details of the proposed impact are shown on **Figure 1-6**. Construction activities would require temporary closures of three walkways for up to two weeks at a time. The total duration of anticipated closures is approximately 30 days. The closures are anticipated to place within a six-month period, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. To minimize the impact to users of the recreational path, MBTA will coordinate with DCR to develop a detour to connect North Point Park and Paul Revere Park. A signed detour would be posted for path users during construction activities. MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the proposed project. Landscaping plans shall be developed in coordination with DCR for the

restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to North Point Park are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

### **Request for Concurrence**

FTA requests your concurrence, as the official with jurisdiction, with its determination that the impacts to Gridley Locks Footpath and Parcel (Proposed South Bank Park), DCR Unnamed Vacant Parcel (part of Proposed South Bank Park), North Bank Bridge, Pier and Riverfront Walkway, Paul Revere Park, and North Point Park are consistent with the definition of Section 4(f) *de minimis impact* at 23 CFR 774.17. Pursuant to the coordination requirements at 23 CFR 774.5(b)(2)(i), FTA will publish this information in the Environmental Assessment (EA) being prepared to satisfy the requirements of the National Environmental Policy Act (NEPA) for the proposed project. Following the conclusion of the public comment period, FTA will review and consider any relevant comments and provide them to DCR for review and consideration. After consideration of any comments from the public, FTA would then make a *de minimis impact* determination, if DCR concurs that the proposed project, after measures to minimize harm are employed, would not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection.

By signing your concurrence below, you indicate DCR agrees the proposed project, after consideration of any comments from the public and after measures to minimize harm are employed, would not adversely affect the activities, features or attributes that make the property eligible for Section 4(f) protection and that the agency concurs with FTA's Section 4(f) *de minimis impact* determination.

Thank you for your time and cooperation on this matter. Should you have any questions or concerns or require additional information about the project, please contact Jonathan Schmidt, Environmental Protection Specialist, at 617-494-4742 or via email at [Jonathan.Schmidt@dot.gov](mailto:Jonathan.Schmidt@dot.gov).

Thank you for your review and coordination on this project.

Sincerely,

PETER SHANNON BUTLER  
Digitally signed by PETER SHANNON BUTLER  
Date: 2024.11.20 08:12:19 -05'00'

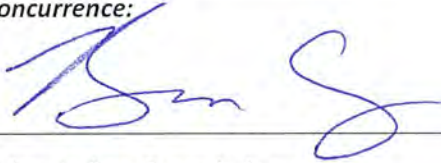
Peter S. Butler  
Regional Administrator  
FTA Region 1

Attachments:

Attachment 1. Maps and Figures of Proposed Impacts to Section 4(f) Properties

cc: Karl Eckstrom, Senior Director, Bridge & Structures Program, MBTA  
Kim Hanton, Chief of Staff, DCR  
Meredith Sandberg, Chief of Quality, Compliance & Oversight, MBTA  
Tess Paganelli, Director of Environmental Review and Permitting, MBTA

**Concurrence:**



1.8.25

Brian Arrigo, Commissioner  
Massachusetts Department of Conservation and Recreation

Date

Attachment 2  
Draft Section 4(f) Agreement





U.S. Department  
of Transportation  
**Federal Transit  
Administration**

REGION 1  
Connecticut, Maine,  
Massachusetts,  
New Hampshire,  
Rhode Island, Vermont

Volpe Center  
220 Binney Street  
Floor 9-940  
Cambridge, MA 02142-1026

November 29, 2024

Brian Arrigo, Commissioner  
Massachusetts Department of Conservation & Recreation  
10 Park Plaza  
Suite 6620  
Boston, MA 02116

**RE: MBTA North Station Draw One Bridge Replacement Project,  
Boston and Cambridge, MA  
Section 4(f) Coordination with Official with Jurisdiction  
Determinations for DCR Review and Concurrence**

Dear Brian Arrigo:

The Federal Transit Administration (FTA) is providing financial assistance to the Massachusetts Bay Transportation Authority (MBTA) for the Draw One Bridge Replacement Project in Boston and Cambridge, Massachusetts. The scope of the undertaking involves demolishing the two existing bascule lift spans and replacing them with three vertical lift bridges. Owing to the strategic importance of the Charles River crossing, MBTA will maintain rail service to North Station through the duration of the project. Construction is anticipated to begin in April 2026 and be completed by November 2034.

As shown in **Attachment 1, Figure 1-1**, the proposed project would result in impacts to a variety of publicly-owned, public-parks and recreational properties managed by the Department of Conservation and Recreation (DCR). Due to the use of FTA funds for this transportation project, the properties discussed in this letter are subject to protection under Section 4(f) of the U.S. Department of Transportation (U.S. DOT) Act of 1966. Projects that require a federal action and that use Section 4(f) property require approval by the lead federal agency, unless the work meets one of the exceptions identified at 23 CFR 774.13.

This letter describes the potential impacts to or use of six publicly-owned, public parks and recreational properties managed by DCR: Gridley Locks Footpath and Parcel (Proposed South Bank Park), DCR Unnamed Vacant Parcel (part of Proposed South Bank Park), North Bank Bridge, Pier and Riverfront Walkway, Paul Revere Park, and North Point Park. The Section 4(f) properties, the project's proposed impacts or use, and measures to minimize harm are described below. Figures showing the location of the Section 4(f) properties within the project area and the

impacts to these 4(f) properties associated with the proposed Draw One Bridge Replacement Project are enclosed as **Attachment 1**.

The purpose of this letter is to inform DCR of FTA's intention to make a determination of Section 4(f) *de minimis* impacts to the Section 4(f) properties under the agency's jurisdiction. Pursuant to the coordination requirements at 23 CFR 774.5(b)(2)(i), FTA will publish this information in the Environmental Assessment (EA) being prepared to satisfy the requirements of the National Environmental Policy Act (NEPA) for the proposed project. FTA will utilize the 30-day public comment period for the EA to allow an opportunity for public review and comment on the FTA's intention to make a determination of Section 4(f) *de minimis* impacts. Following the conclusion of the public comment period, FTA will review and consider any relevant comments and provide them to DCR for review and consideration. After consideration of any comments from the public, FTA will then make a *de minimis* impact determination if DCR concurs that the proposed project, after measures to minimize harm are employed, would not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection.

### **Project Impacts to Section 4(f) Properties**

#### No Section 4(f) Use

FTA has identified three Section 4(f) properties within the project area that would not experience a use from the proposed project, as defined in 23 CFR 774.17: Galvin Memorial Park, Lynch Family Skatepark, and Nashua Street Park. FTA has made this determination based on the following:

- The proposed project would not permanently incorporate land into a transportation facility;
- The proposed project would result in a temporary occupancy of land that is adverse in the terms of the statute's preservation purpose as determined by the criteria in 23 CFR 774.13(d); and
- The proposed project would not result in a constructive use of the above referenced Section 4(f) properties as determined by 23 CFR 774.15.

FTA has determined no further coordination pursuant to 23 CFR 774 is required for Galvin Memorial Park, Lynch Family Skatepark, and Nashua Street Park.

#### Project Impacts to Section 4(f) Properties

FTA has identified six Section 4(f) properties within the project area, discussed further below, that including measures to minimize harm, would experience *de minimis impacts* from the project, for which FTA intends to make a *de minimis* impact finding pursuant to 23 CFR 774.3(b), 23 CFR 774.5(b)(2)(ii), and 23 CFR 774.17. A *de minimis* impact is one that will not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).

*Gridley Locks Footpath and Parcel (Proposed South Bank Park)*

*Section 4(f) Property No. 5 on Figure 1-2 in Attachment 1.*

*Temporary Impacts: 7,000 Square Feet (0.16 Acres)*

The Gridley Locks Footpath and Parcel (Proposed South Bank Park) is a 670-foot walking path along the Charles River through the Gridley lock system. The recreational trail and parcel are situated in Boston on the south bank of the Charles River, both east of the Leonard P. Zakim Bunker Hill Memorial Bridge (Zakim Bridge), and northeast of Beverly Street. The proposed project would require the construction of a temporary construction road in the parking area on the property. The details of the proposed impact are shown on **Figure 1-5**. The impact would affect the use of approximately 16 of the 77 parking spaces on the property. The temporary construction access would be in place for approximately three years, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. Construction access is needed to support the movement of equipment and materials to and from the project construction site. The area of the proposed impact is approximately 7,000 Square Feet (0.16 Acres). The location of the proposed impact is detailed in **Figure 1-5**. To minimize the impact, MBTA proposes to repair paved surfaces within the impacted area to a condition as good or better than the existing condition. The impacts from the proposed project would not preclude any future development of the property. No recreational qualities of the footpath would experience an impact from the proposed project. The proposed project would not preclude any future improvements planned by DCR for the proposed South Bank Park. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to Gridley Locks Footpath and Parcel (proposed South Bank Park) are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

*DCR Vacant Parcel*

*(Proposed South Bank Park)*

*Section 4(f) Property No. 6 on Figure 1-2 in Attachment 1*

*Permanent Impacts: Less than 1000 Square Feet (0.02 Acres)*

*Temporary Impacts: 16,000 Square Feet (0.36 Acres)*

This Vacant Parcel is part of the Proposed South Bank Park and is situated on the south bank of the Charles River, beneath the Zakim Bridge, adjacent to its eastern abutment. DCR proposes to develop this 1.67-acre parcel with landscape plantings to reduce impervious surfaces, providing public recreational amenities and improving accommodations for bicycles and pedestrians. The proposed project would impact the Proposed South Bank Park by providing construction access for vehicles and materials. Project impacts include the installation of a new manhole for access to newly installed and extant subterranean infrastructure. The duration of the proposed impact is anticipated to last three years, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. The extant recreational walkway along the Charles River is to remain open during the project, except during material deliveries when

conditions are not safe for the general public. The area of the proposed temporary and permanent impact is approximately 16,000 Square Feet (0.36 Acres). The location of the proposed impact is detailed in **Figure 1-5**. To minimize the impact, MBTA proposes to repair paved surfaces within the impacted area to a condition as good or better than the existing condition. The impacts from the proposed project would not preclude any future development of the property. No recreational qualities of the footpath would experience an impact from the proposed project. The proposed project would not preclude any future improvements planned by DCR for the proposed South Bank Park. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to the Vacant Parcel (proposed South Bank Park) are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

### *North Bank Bridge*

*Section 4(f) Property No. 8 on Figure 1-2 in Attachment 1*

*Impacts: Temporary Closure*

The North Bank Bridge is a 690-foot multi-use bridge that carries users under the Zakim Bridge and over the MBTA commuter rail tracks which lead to and from North Station. The North Bank Bridge is situated in Cambridge on the north bank of the Charles River. Three piers supporting the North Bank Bridge – numbered three, four, and five – are on MBTA property. Pier Three conflicts with railroad track realignment and construction within MBTA right-of-way. To allow for construction of the proposed project, the North Bank Bridge would be required to be raised one foot. This would entail relocating two bridge supports – Piers Three and Four – and constructing one additional bridge support – Pier 4A, modifying the bridge truss structure, and modifying and the lengthening the landings of the bridge within North Point Park and Paul Revere Park. The details of the proposed impact are shown on **Figures 1-4 and 1-6**. These construction activities would result in multiple closures of the North Bank Bridge for up to two weeks at a time. The total duration of anticipated closures is approximately 30 days. The closures are anticipated to place within a six-month period, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. To minimize the impact to users of the recreational path, MBTA will coordinate with DCR to develop a detour to connect North Point Park and Paul Revere Park. A signed detour would be posted for path users during construction activities. MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the proposed project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. Further, MBTA will coordinate with DCR to review and comment on plans for raising the North Bank Bridge at 30%, 50%, 75%, 100% and Final for Construction benchmarks. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed

impacts to North Bank Bridge are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

*Pier and Riverfront Walkway*

*Section 4(f) Property No. 10 on Figure 1-2 in Attachment 1*

*Temporary Impacts: 5,000 Square Feet (0.11 Acres)*

The Pier and Riverfront Walkway is a waterfront feature on the south bank of the Charles River situated north of the Massachusetts General Hospital Building, east of Nashua Street Park, and just west of the tracks at the north end of North Station. The Pier and Riverfront Walkway are shown in detail on **Figure 1-3**. The proposed project would require closing the pier for recreational use to allow the contractor to access the south trestle for construction activities. The duration of the closure is anticipated to be five years, which is less than the duration of the project, currently anticipated to be eight years. Construction related activities on the Pier and Riverfront Walkway include removing trees to facilitate access for construction vehicles and materials. Multiple deliveries would occur each day at this location. The Riverfront Walkway between the DCR Pier and the fence of the west side of North Station would be temporarily closed during material deliveries. The area of the proposed impact is anticipated to be less than 5,000 square feet (0.11 Acres). To minimize the impact to the Pier and Riverfront Walkway, MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the proposed project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to Pier and Riverfront Walkway are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

*Paul Revere Park*

*Section 4(f) Property No. 4 on Figure 1-2 in Attachment 1*

*Permanent Impacts: 155 Square Feet (< 0.01 Acres)*

*Temporary Impacts: 37,500 Square Feet (0.86 Acres)*

Paul Revere Park at N. Washington Street in Boston is a 7.5-acre publicly-owned, public park situated east of the Zakim Bridge on the north bank of the Charles River and north of Gridley Locks. Features of the park include open greenspace for passive recreation, paved multi-use paths, and a children's playground. The proposed project would impact Paul Revere Park for modifications to the east landing of the North Bank Bridge. The details of the proposed impact are shown on **Figure 1-4**. Anticipated construction activities comprise approximately 37,500 Square Feet (0.86 Acres) to allow access for vehicles and equipment, jacking the North Bank

Bridge abutment, and regrading and planting. Impacts to trees and landscaping plantings would occur within areas of construction activity. Construction activities would require temporary closures of three walkways for up to two weeks at a time. The total duration of anticipated closures is approximately 30 days. The closures are anticipated to take place within a six-month period, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. To minimize the impact to users of the recreational path, MBTA will coordinate with DCR to develop a detour to connect North Point Park and Paul Revere Park. A signed detour would be posted for path users during construction activities. MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the proposed project. Landscaping plans shall be developed in coordination with DCR for the restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to Paul Revere Park are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

#### *North Point Park*

*Section 4(f) Property No. 7 on Figure 1-2 in attachment 1*

*Temporary Impacts: 37,500 Square Feet (0.84 Acres)*

*Permanent Impacts: 400 Square Feet (0.04 Acres)*

North Point Park at 6 Museum Way in Cambridge is an 8-acre publicly-owned, public park situated northwest of Draw One and south of the Leverett Circle Connector. Features of the park include a playground, boat docks, greenspace, multi-use paths, and a waterfront promenade. The proposed project would impact North Point Park through modifications to the west landing of the North Bank Bridge. The modification would require erecting three shoring towers under the North Bank Bridge. Each tower would have a footprint of approximately 100 Square Feet. Construction activities would be staged from the north side of the bridge where there are limited opportunities for recreational activities. Modifications to the North Bank Bridge east landing would permanently impact approximately 140 feet of walkway at the existing abutment. The total anticipated impacts to North Point Park are approximately 37,500 Square Feet (0.84 Acres). The details of the proposed impact are shown on **Figure 1-6**. Construction activities would require temporary closures of three walkways for up to two weeks at a time. The total duration of anticipated closures is approximately 30 days. The closures are anticipated to place within a six-month period, which is significantly less than the duration of the construction of the project, currently anticipated to be eight years. To minimize the impact to users of the recreational path, MBTA will coordinate with DCR to develop a detour to connect North Point Park and Paul Revere Park. A signed detour would be posted for path users during construction activities. MBTA has coordinated with DCR park designers to come to agreement on the regrading, reseeding, and planting of all trees, shrubs, and other permanent plantings that may be impacted by the proposed project. Landscaping plans shall be developed in coordination with DCR for the

restoration of disturbed areas for DCR to review and comment on at 30%, 50%, 75%, 100% and Final for Construction benchmarks. All paved surfaces would be restored to a condition as good or better than prior to construction. In consideration of the impacts and minimization and mitigation measures described above, the FTA has determined the proposed impacts to North Point Park are consistent with the definition of Section 4(f) *de minimis impact* pursuant to 23 CFR 774.17.

### **Request for Concurrence**

FTA requests your concurrence, as the official with jurisdiction, with its determination that the impacts to Gridley Locks Footpath and Parcel (Proposed South Bank Park), DCR Unnamed Vacant Parcel (part of Proposed South Bank Park), North Bank Bridge, Pier and Riverfront Walkway, Paul Revere Park, and North Point Park are consistent with the definition of Section 4(f) *de minimis impact* at 23 CFR 774.17. Pursuant to the coordination requirements at 23 CFR 774.5(b)(2)(i), FTA will publish this information in the Environmental Assessment (EA) being prepared to satisfy the requirements of the National Environmental Policy Act (NEPA) for the proposed project. Following the conclusion of the public comment period, FTA will review and consider any relevant comments and provide them to DCR for review and consideration. After consideration of any comments from the public, FTA would then make a *de minimis* impact determination, if DCR concurs that the proposed project, after measures to minimize harm are employed, would not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection.

By signing your concurrence below, you indicate DCR agrees the proposed project, after consideration of any comments from the public and after measures to minimize harm are employed, would not adversely affect the activities, features or attributes that make the property eligible for Section 4(f) protection and that the agency concurs with FTA's Section 4(f) *de minimis impact* determination.

Thank you for your time and cooperation on this matter. Should you have any questions or concerns or require additional information about the project, please contact Jonathan Schmidt, Environmental Protection Specialist, at 617-494-4742 or via email at [Jonathan.Schmidt@dot.gov](mailto:Jonathan.Schmidt@dot.gov).

Thank you for your review and coordination on this project.

Sincerely,

PETER SHANNON  
BUTLER

Digitally signed by PETER  
SHANNON BUTLER  
Date: 2024.11.20 08:12:19  
-05'00'

Peter S. Butler  
Regional Administrator  
FTA Region 1

Attachments:

Attachment 1. Maps and Figures of Proposed Impacts to Section 4(f) Properties

cc: Karl Eckstrom, Senior Director, Bridge & Structures Program, MBTA  
Kim Hanton, Chief of Staff, DCR  
Meredith Sandberg, Chief of Quality, Compliance & Oversight, MBTA  
Tess Paganelli, Director of Environmental Review and Permitting, MBTA

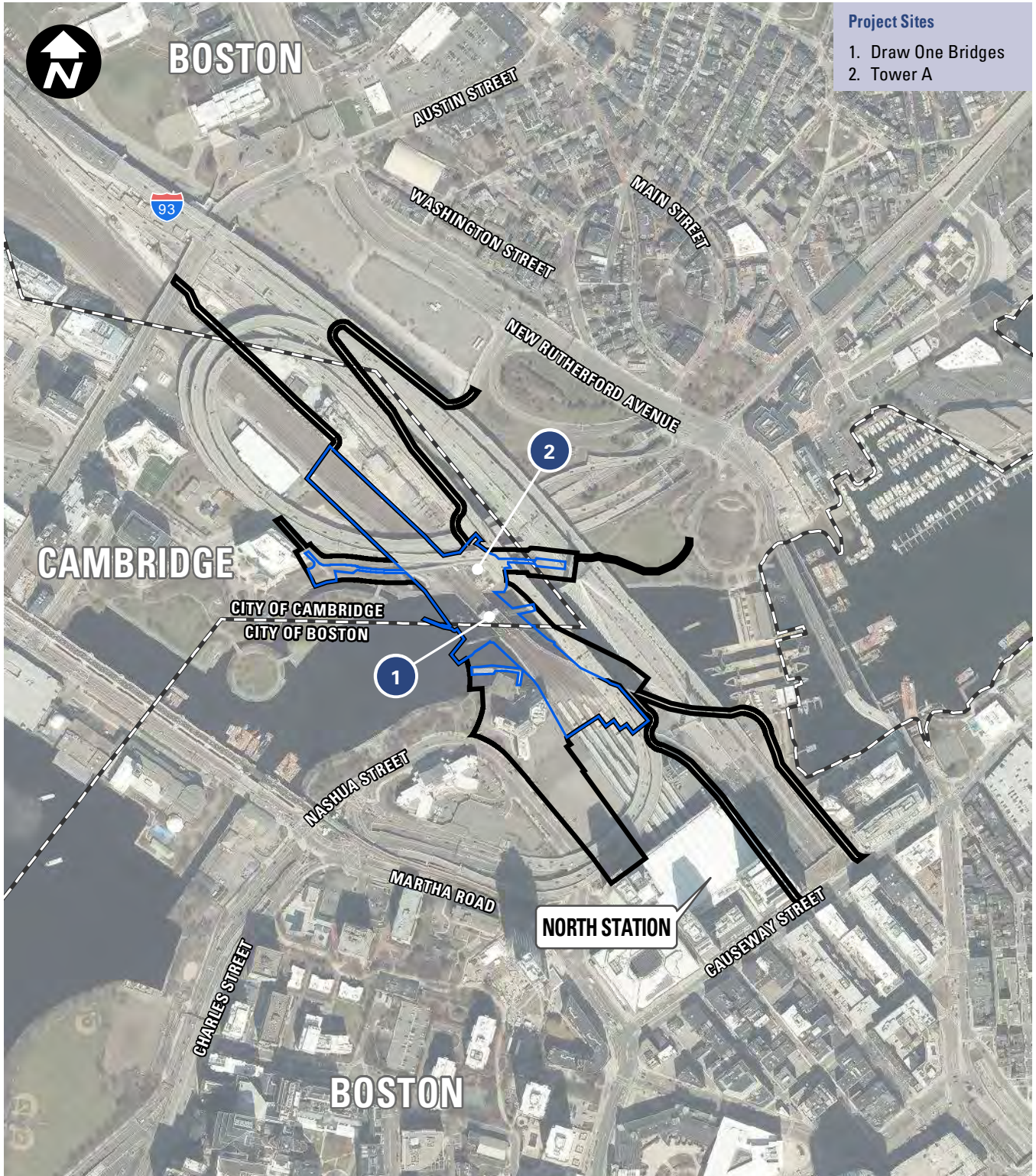
**Concurrence:**

---

Brian Arrigo, Commissioner  
Massachusetts Department of Conservation and Recreation

Date





**Project Sites**  
1. Draw One Bridges  
2. Tower A




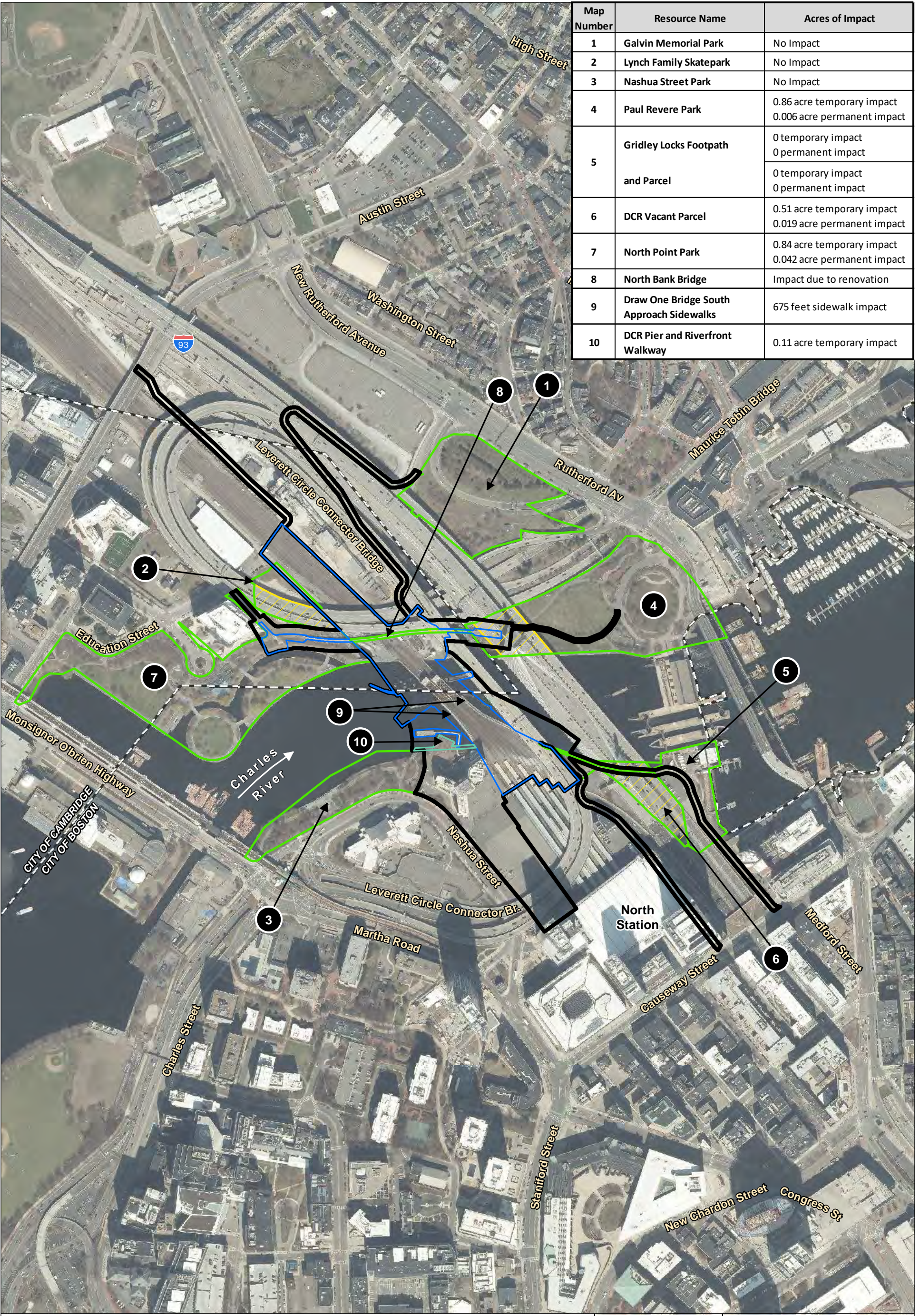
-  Permanent Limit of Work (LOW)
-  Temporary Limit of Work (LOW)
-  Municipal Boundary

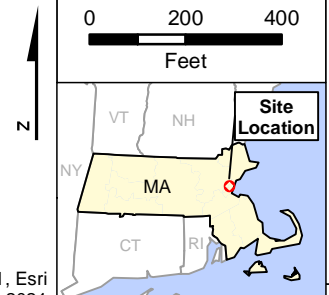


Figure 1-1: Project Location



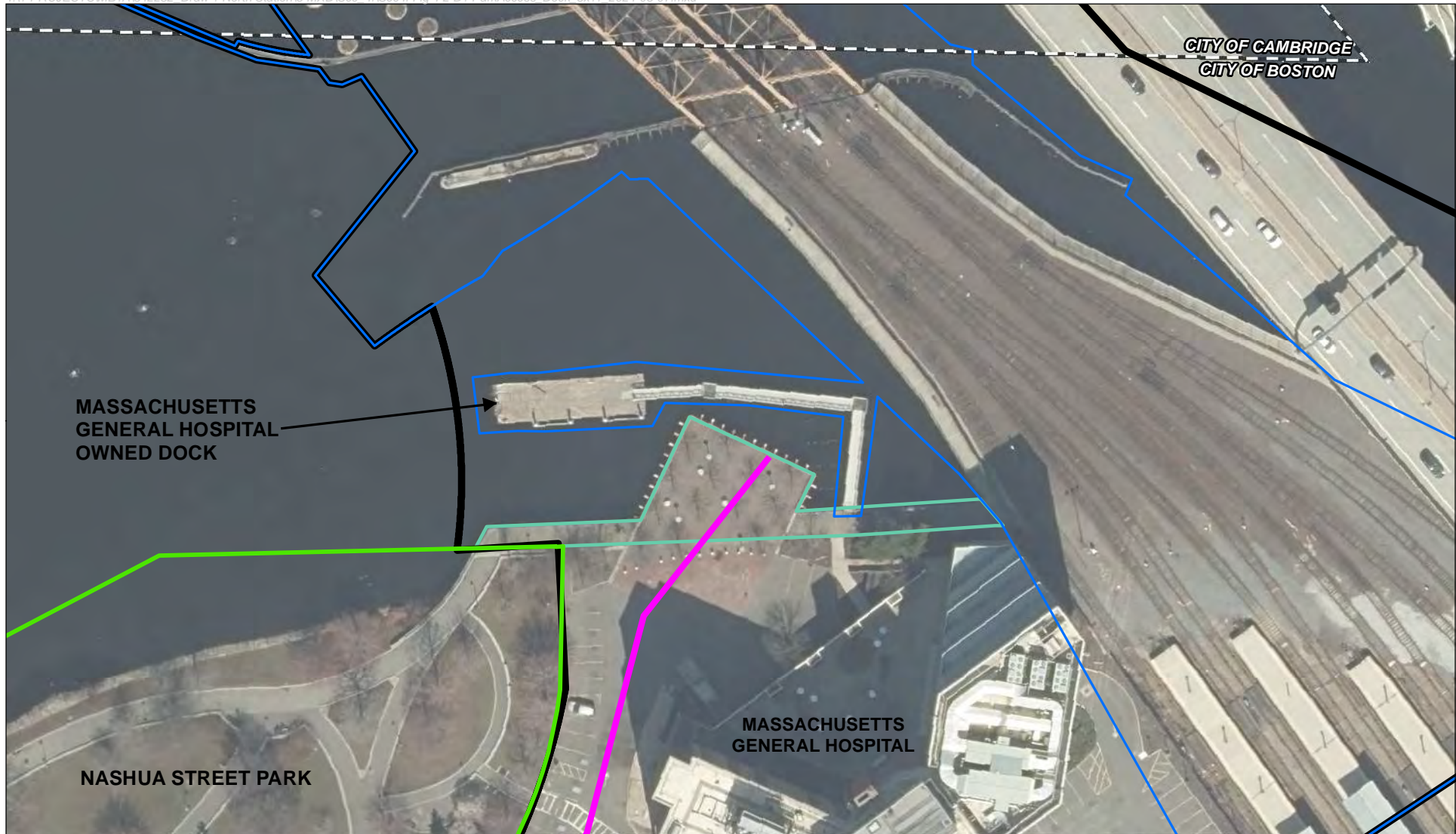
Map Number	Resource Name	Acres of Impact
1	Galvin Memorial Park	No Impact
2	Lynch Family Skatepark	No Impact
3	Nashua Street Park	No Impact
4	Paul Revere Park	0.86 acre temporary impact 0.006 acre permanent impact
5	Gridley Locks Footpath and Parcel	0 temporary impact 0 permanent impact 0 temporary impact 0 permanent impact
6	DCR Vacant Parcel	0.51 acre temporary impact 0.019 acre permanent impact
7	North Point Park	0.84 acre temporary impact 0.042 acre permanent impact
8	North Bank Bridge	Impact due to renovation
9	Draw One Bridge South Approach Sidewalks	675 feet sidewalk impact
10	DCR Pier and Riverfront Walkway	0.11 acre temporary impact

- Permanent Impact Limits
- Construction Limits
- Parkland
- Parkland Under Transportation Structure
- DCR Pier and Riverfront Walkway
- Municipal Boundary
- 1 Section 4(f) Properties Within the Project Site



**SECTION 4(f)  
PROPERTIES AND  
IMPACT INFORMATION**

**DRAW ONE BRIDGE PROJECT  
BOSTON/CAMBRIDGE, MA**

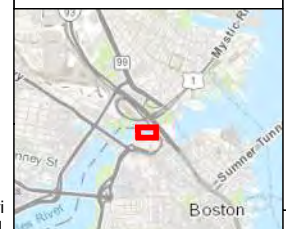
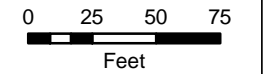


**DCR PIER AND RIVERFRONT WALKWAY**

- Permanent Limit of Work
- Temporary Limit of Work
- Parkland
- DCR Pier and Riverfront Walkway
- Municipal Boundary

**MGH Owned Dock:** To be removed prior to construction and reinstalled after construction is finished.

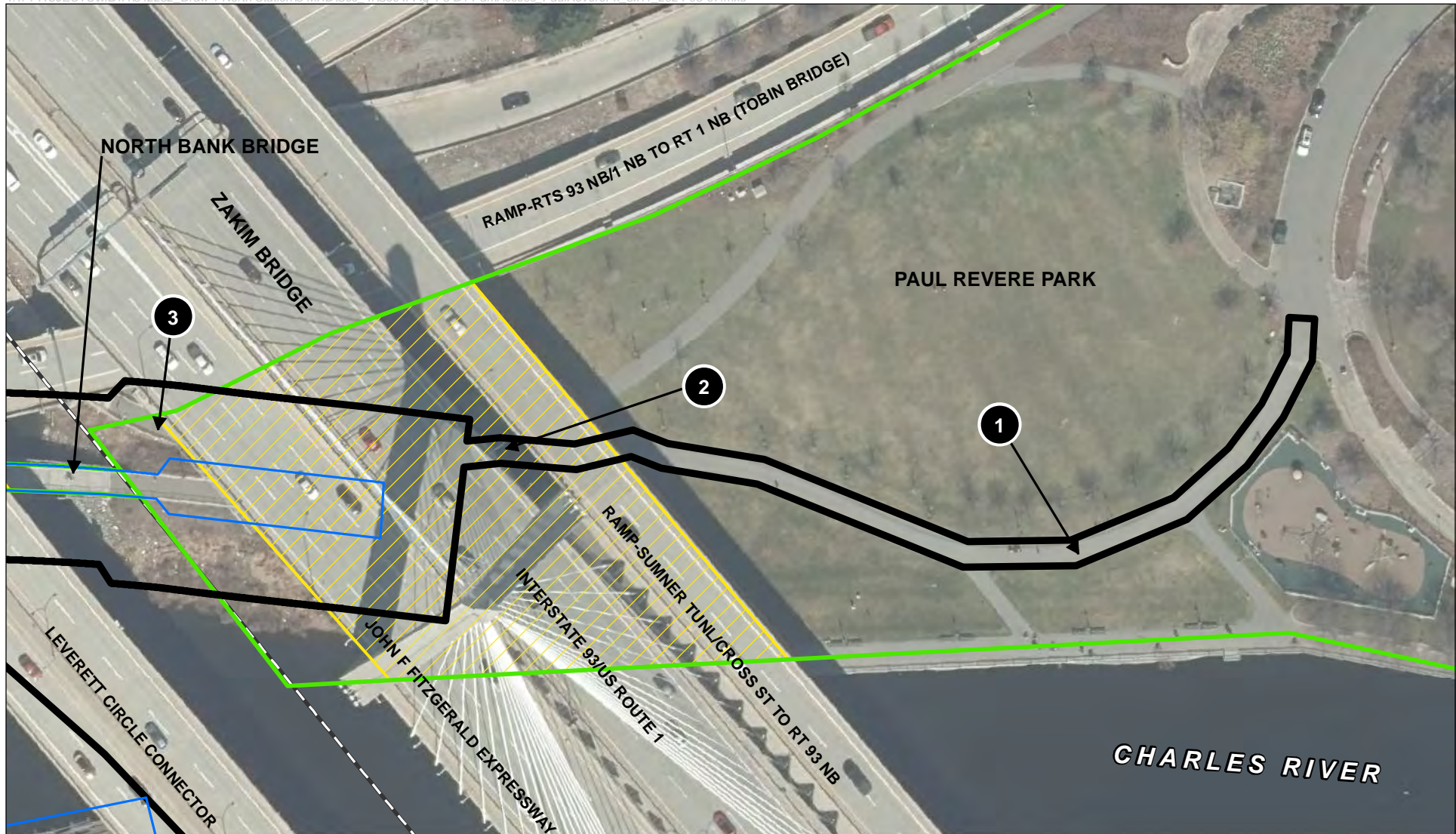
**DCR Pier and Riverfront Walkway:** Temporary closure is proposed for the 5-year duration of construction for contractor access to South Trestle and construction of the North Station Draw One Bridge.



**SECTION 4(f)  
PROPERTIES DETAILED  
IMPACTS**

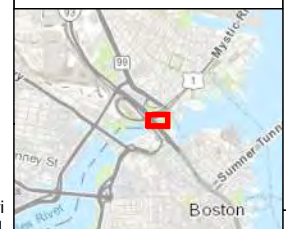
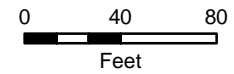
**DRAW ONE BRIDGE PROJECT  
BOSTON/CAMBRIDGE, MA**

Data Sources: STV, TRC, MassGIS Parcels, 2021, Esri  
Base Map: USGS Color Ortho Imagery, MassGIS 2021



**PAUL REVERE PARK AND NORTH BANK BRIDGE**

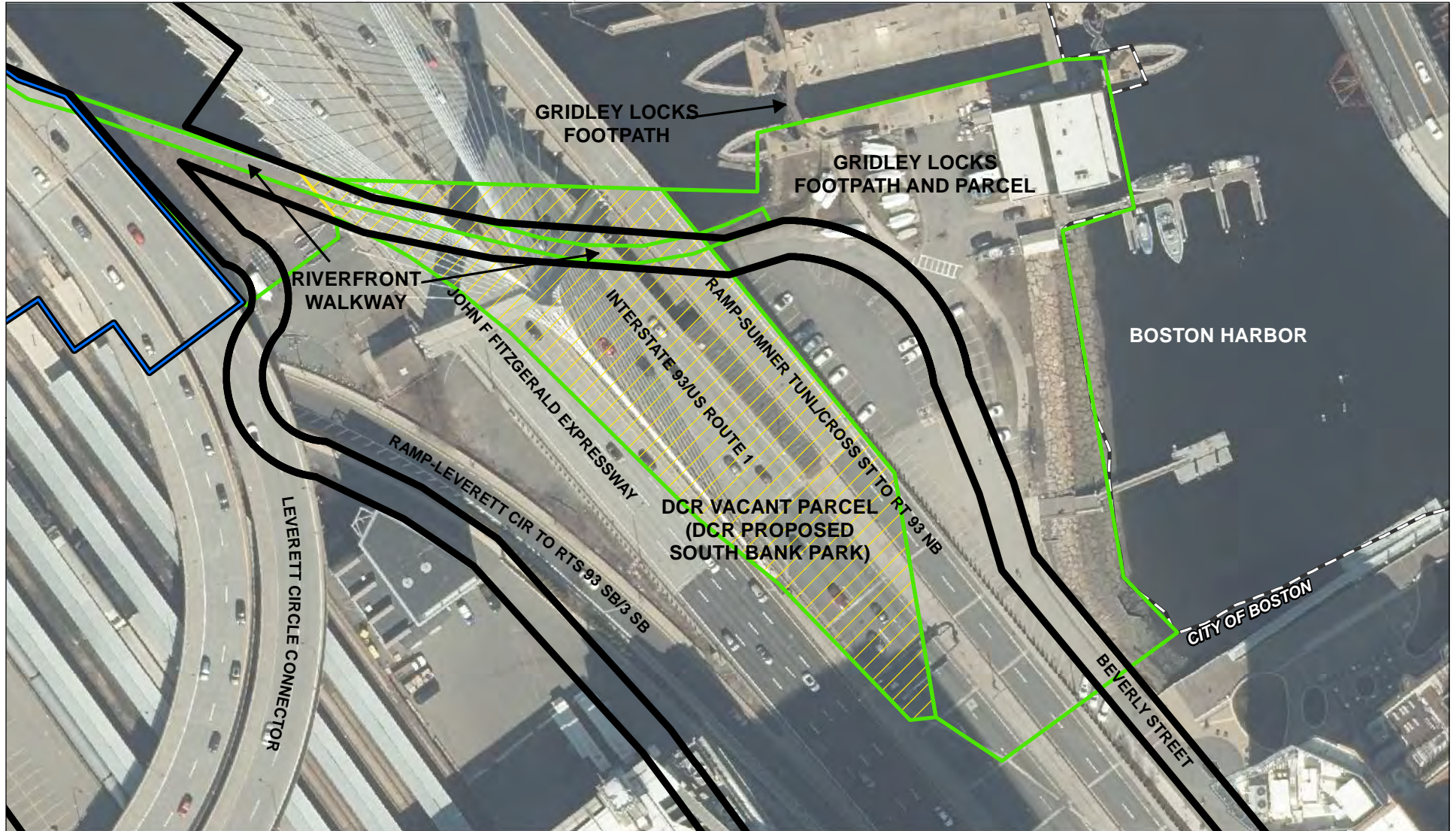
- Permanent Limit of Work (New Landing for North Bank Bridge)
- Temporary Limit of Work (For Construction and Construction Access)
- Parkland
- Parkland Under Transportation Structure
- # Temporary closure of 3 walkways for 1 month of intermittent closures over a 6 month period with detours posted 2 weeks prior to closures



**SECTION 4(f)  
PROPERTIES DETAILED  
IMPACTS**

**DRAW ONE BRIDGE PROJECT  
BOSTON/CAMBRIDGE, MA**

Data Sources: STV, TRC, MassGIS Parcels, 2021, Esri  
Base Map: USGS Color Ortho Imagery, MassGIS 2021



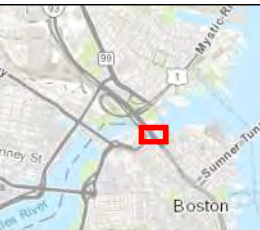
### GRIDLEY LOCKS FOOTPATH AND VACANT DCR PARCEL

- Permanent Limit of Work
- Temporary Limit of Work (Construction Access)
- Parkland
- Parkland Under Transportation Structure
- Municipal Boundary

**Gridley Locks Footpath and Parcel:** Construction access through the parking area for 3 years. No impacts to the footpath on the river.

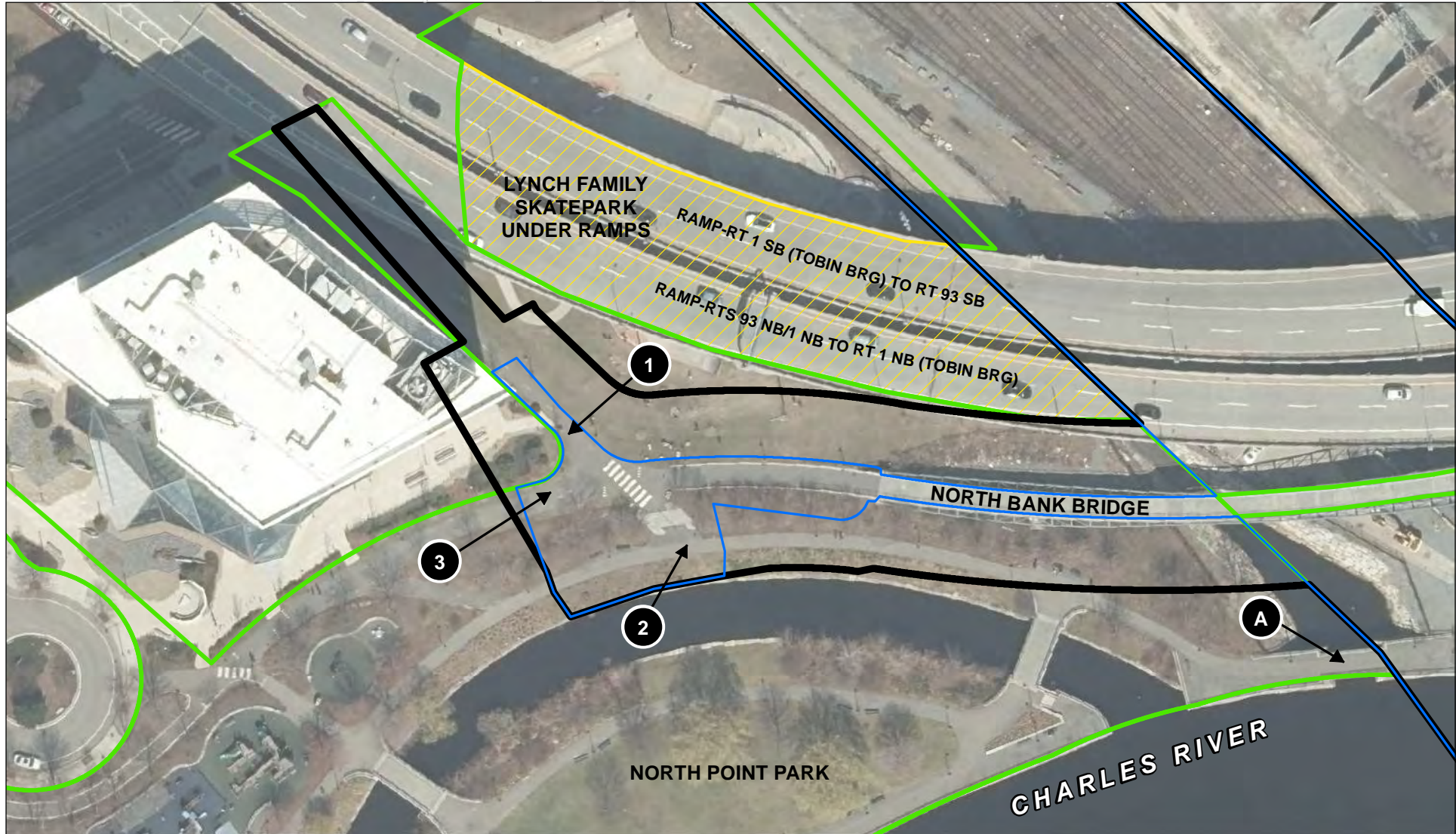
**DCR Vacant Parcel (DCR Proposed South Bank Park):** Walkway along riverfront to remain open. It is unlikely that stormwater and/or electrical work is needed; however, the worst case acreage has been included if the infrastructure cannot be located off this parcel.

Data Sources: STV, TRC, MassGIS Parcels, 2021, Esri  
Base Map: USGS Color Ortho Imagery, MassGIS 2021









**SECTION 4(f)  
PROPERTIES DETAILED  
IMPACTS**

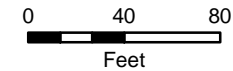
**DRAW ONE BRIDGE PROJECT  
BOSTON/CAMBRIDGE, MA**



### NORTH POINT PARK, NORTH BANK BRIDGE, AND LYNCH FAMILY SKATEPARK

-  Permanent Limit of Work (New North Bank Bridge landing within North Point Park)
-  Temporary Limit of Work (For Construction and Construction Access)
-  Parkland
-  Parkland Under Transportation Structure

-  Temporary closure of 3 walkways for 1 month of intermittent closures over a 6 month period with detours posted 2 weeks prior to closures.
-  Temporary closure of walkway for 9 months with a detour posted 2 weeks prior to closure.



**SECTION 4(f)  
PROPERTIES DETAILED  
IMPACTS**

**DRAW ONE BRIDGE PROJECT  
BOSTON/CAMBRIDGE, MA**

Data Sources: STV, TRC, MassGIS Parcels, 2021, Esri  
Base Map: USGS Color Ortho Imagery, MassGIS 2021

Attachment 3  
Charles River Water Sheet – Correspondence

Contents:

1. December 2, 2024 – Massachusetts Department of Conservation and Recreation (DCR) to Federal Transit Administration (FTA)
2. August 13, 2024 – DCR to Massachusetts Bay Transportation Authority (MBTA) and FTA

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**From:** Arrigo, Brian (DCR) <[Brian.Arrigo@mass.gov](mailto:Brian.Arrigo@mass.gov)>  
**Sent:** Monday, December 2, 2024 2:27 PM  
**To:** Butler, Peter (FTA) <[Peter.Butler@dot.gov](mailto:Peter.Butler@dot.gov)>  
**Cc:** Schmidt, Jonathan (FTA) <[Jonathan.Schmidt@dot.gov](mailto:Jonathan.Schmidt@dot.gov)>  
**Subject:** DCR: Draw 1 4F Response

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Pete:

The Department of Conservation and Recreation ("DCR") has reviewed the Section 4(f) determination letter and concurs with the scope of FTA's analysis for the MBTA's Draw 1 Bridge replacement project (the "Project"). While DCR previously raised a question regarding the application of Section 4(f) to the Charles River water sheet, upon review of the FHWA's Section 4(f) Policy Paper, we have concluded that the area of the Charles River that will be impacted by the Project is not primarily used for park or recreation purposes. This area of the river is dominated by transportation infrastructure, including the existing Draw 1 Bridge, the Leonard P. Zakim Bunker Hill Memorial Bridge, the Leverett Circle Connector Bridge, the North Washington Street Bridge, the Bill Russell Bridge, and the Gridley Locks -- all of which are located in close proximity to one another (within a distance of about 1,000 feet of water sheet). Consequently, this area of the river serves primarily as a travel corridor for a mix of commercial and other vessels moving between Boston Harbor and the Esplanade Basin. The vast majority of recreational use of the Charles River takes place in and upstream of the Esplanade Basin, which features numerous recreational facilities for rowers, sailors, canoeists, kayakers, paddleboarders, and more.

DCR thanks you for the productive coordination regarding impacts of the Project on our Section 4(f) properties. If you have any questions or require further information from us, please do not hesitate to contact me.

Sincerely,  
Brian Arrigo  
Commissioner  
Department of Conservation and Recreation



---

**From:** Kish, Patrice (DCR) <[patrice.kish@mass.gov](mailto:patrice.kish@mass.gov)>  
**Sent:** Tuesday, August 13, 2024 10:55 AM  
**To:** Eckstrom, Karl <[KEckstrom@MBTA.com](mailto:KEckstrom@MBTA.com)>; Paganelli, Tess <[tpaganelli@MBTA.com](mailto:tpaganelli@MBTA.com)>  
**Cc:** Schmidt, Jonathan (Volpe) <[Jonathan.Schmidt@dot.gov](mailto:Jonathan.Schmidt@dot.gov)>; Gode, William (DCR) <[william.gode@mass.gov](mailto:william.gode@mass.gov)>  
**Subject:** RE: MBTA Draw 1 4(f) Coordination

As follow up to the request for documentation of DCR's authority over the Charles River Basin and its water sheet, I am providing the references below and attached supporting documents.

1903 – Acts of 1903, Ch. 465 creates the Charles River Basin Commission which is charged with constructing a dam in the vicinity of the Craigie bridge. Section 7 of Ch. 465 states:

*“The metropolitan park commission, when the work provided for in the preceding sections is finished, shall, subject to the powers vested by law in the state board of health, have exclusive control of the dam and lock and of the basin and river between the dam and the city of Waltham, as a part of the metropolitan parks system, and of all poles,...; may make reasonable rules and regulations, not impairing freight traffic, for the care, maintenance, protection and policing of the basin;...”*

Therefore the metropolitan park commission had exclusive control of the basin and the river between the dam and the city of Waltham, and was empowered to make rules and regulations about its operation.

1909 – Acts of 1909, Ch. 524 transfers all the powers, rights, and duties of the Charles River Basin Commission to the Metropolitan Park Commission no later than 01jul1910 as stated in Section 1:

*“...on and after the first day of July in the year nineteen hundred and ten, all the powers, rights, duties and liabilities of said Charles river basin commission shall be transferred to and imposed upon the metropolitan park commission,...”*

Section 2 defines the “basin” to include:

*“...the Charles river and the waters thereof, including the public navigable arms, tributaries and inlets thereof, whether covered by ice or not, lying between said dam constructed under authority of said chapter four hundred and sixty-five and the lower dam across said river at Watertown [Watertown Dam],...”*

Section 5 allows the Metropolitan Park Commission to make rules and regulations for the operation of the “basin”:

*“Section 5. The metropolitan park commission may make reasonable rules and regulations, not unreasonably impairing freight traffic, for the care, maintenance, protection and policing of said basin as herein defined,...”*

1919 – Acts of 1919, Ch. 350, §123 abolishes the Metropolitan Park Commission and assigns its authority to the Metropolitan District Commission:

*“The metropolitan park commission, existing under authority of chapter four hundred and seven of the acts of eighteen hundred and ninety-three,... are hereby abolished. All the rights, powers, duties and obligations of said boards are hereby*

*transferred to and shall hereafter be exercised and performed by the metropolitan district commission established by this act,...*"

1962 – Acts of 1962, Ch. 550 authorizes construction of what will become the New Charles River Dam and importantly for the matter at hand extends the Basin from the Old Charles River Dam to the New Charles River Dam:

*"SECTION 2. The word "basin", as defined in section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine, shall include the waters and lands lying between the present Charles River dam and the dam to be constructed under this act."*

The Basin's boundaries expanded, the authority of the MDC to regulate the water sheet between the Old Charles River Dam and the New Charles River Dam would be the same as the authority to regulate the water sheet between the Old Charles River Dam and the Watertown Dam.

2003 – Acts of 2003, Ch. 41, §1(2) transfers the MDC to DCR:

*"(2) the functions of the metropolitan district commission, as the transferor agency, to the division of urban parks and recreation in the department of conservation and recreation, as the transferee agency;"*

It's also worth noting that DCR regulates the Charles River Basin, including activities on the watershed, in 302 CMR 12.07(23). "Charles River Basin" is defined in our regulations as follows:

Charles River Basin. The Charles River Basin as defined by St. 1909, c. 524, as amended by St. 1962, c. 550, and includes the Charles River and its tributaries lying between the Watertown Dam and the Charles River Dam which is located between the Leonard P. Zakim Bunker Hill Memorial and North Washington Street Bridges; and the Mystic River Basin as defined by the Upper Mystic Lake Dam at the upstream end and the Amelia Earhart Dam at the downstream end and includes the Mystic River, the Amelia Earhart Dam and its tributaries.

Please let me know if you have any questions.

AN ACT TO AUTHORIZE THE CONSTRUCTION OF A DAM ACROSS THE CHARLES RIVER BETWEEN THE CITIES OF BOSTON AND CAMBRIDGE.

*Chap.*465

*Be it enacted, etc., as follows :*

SECTION 1. The governor of the Commonwealth, with the advice and consent of the council, shall appoint three commissioners, residents of the metropolitan parks district, who shall constitute the Charles river basin commission, hereinafter called the commission, and who shall be sworn before entering upon the duties of their office. One commissioner shall be designated by the governor as chairman, and two commissioners shall constitute a quorum. The term of office shall be three years, and all vacancies shall be filled by the governor, with the advice and consent of the council. Any commissioner may be removed by the governor, with the advice and consent of the council, for such cause as he shall deem sufficient and shall assign in the order of removal. Each commissioner shall receive an annual salary of such amount as the governor and council shall determine.

Charles river basin commission, appointment, term, etc.

Compensation.

SECTION 2. The commission may appoint a secretary, engineers and assistants, shall keep accurate accounts of its expenditures, and shall make an annual report of its doings, including an abstract of its accounts, to the governor and council. The commission whenever the Commonwealth has been authorized by the United States to build a dam and lock under the provisions of this act, shall proceed to do the work herein required of it, and shall in the mean time make examinations and plans therefor.

Powers and duties.

SECTION 3. The commission shall construct across Charles river between the cities of Boston and Cambridge, a dam, at least sufficiently high to hold back all tides and to maintain in the basin above the dam a substantially permanent water level not less than eight feet above Boston base. The dam shall occupy substantially the site of the present Craigie bridge, which shall be removed by the commission. The dam shall be not less than one hundred feet in width at said water level and a part thereof shall be a highway and the remainder shall be a highway, or a park or parkway, as the commission shall determine. The dam shall be furnished with a lock not

Dam to be constructed across Charles river, etc.

less than three hundred and fifty feet in length between the gates, forty feet in width and thirteen feet in depth below Boston base, and shall be built with a suitable drawbridge or drawbridges, wasteways and other appliances. The part of the dam used as a highway shall be maintained and operated in the same manner as the Cambridge bridge, and under the laws now or hereafter in force relating to said bridge.

Navigable channels to be dredged.

SECTION 4. The commission shall dredge navigable channels in the basin from the lock to the wharves between the dam and Cambridge bridge, to Broad canal and to Lechmere canal, the channel to be not less than one hundred feet in width and eighteen feet in depth; shall dredge Broad canal to such depths as will afford to and at the wharves thereon not less than seventeen feet of water up to the Third Street draw, not less than thirteen feet of water from the Third Street draw to the Sixth Street draw, and not less than eleven feet of water from the Sixth Street draw to the railroad draw, and not less than nine feet of water for one hundred and twenty-five feet above the railroad draw; shall dredge Lechmere canal to such depths as will afford to and at the wharves thereon not less than seventeen feet of water up to and including Sawyer's lumber wharf, and not less than thirteen feet of water from said wharf up to the head of the canal at Bent street; all depths aforesaid to be measured from the water level to be maintained in the basin.

Manner of dredging, etc.

The commission shall do all such dredging and all strengthening of the walls of the canals and of the basin where dredging is done by the driving of prime oak piles two feet on centres along the front of said wharves or walls, and all removing and relocating of pipes and conduits made necessary by such dredging, so that vessels requiring a depth of water not exceeding the respective depths above prescribed can lie alongside of, and in contact with, the wharves; and this work shall be done in such manner as to cause the least possible inconvenience to abutters, and shall be finished on or before the completion of the dam; and after the walls or wharves have been so strengthened, all repairs on or rebuilding of the walls and wharves shall be done by the abutters.

Certain other dredging to be done, etc.

The commission shall do such dredging in the basin outside of the channels aforesaid as may be necessary for the removal of sewage, sludge or any offensive deposit;

shall do such other dredging as it shall deem proper, and shall take all proper measures for the destruction of malarial mosquitoes in the basin and its vicinity.

SECTION 5. The commission, before the completion of the dam, shall construct marginal conduits on the north side of the basin from the outlet of the overflow channel in Binney street to a point below the dam, and on the south side of the basin from the present outlet of the Back Bay Fens to a point below the dam, and may construct an extension thereof toward, or to, St. Mary street, the conduits to be used to receive and conduct below the dam the overflow from sewers and the surface drainage and other refuse matter which would otherwise pass into the basin.

Marginal conduits to be constructed, etc.

SECTION 6. The commission, for the purpose of carrying out the provisions of the preceding sections, may from time to time take in fee or otherwise, by purchase or otherwise, for the Commonwealth, or the city of Boston or the city of Cambridge, as the commission shall determine, lands, flats and lands covered by tide-water on Charles river, by filing in the registry of deeds for the county and district in which the lands or flats are situated a description thereof, sufficiently accurate for identification, signed by a majority of the commissioners; and any person whose property is so taken may have compensation therefor as determined by agreement with the commission, and if they cannot agree the compensation may be determined by a jury in the superior court for the county where the property is situated under the same provisions of law, so far as they are applicable, which apply in determining the value of lands taken for highways under chapter forty-eight of the Revised Laws, upon petition therefor by the commission, or by such person, filed in the clerk's office of said court against the Commonwealth or the city for which the lands or flats are taken within one year after the taking, and costs shall be taxed and execution issued as in civil cases.

Certain lands, etc., may be taken, etc.

SECTION 7. The metropolitan park commission, when the work provided for in the preceding sections is finished, shall, subject to the powers vested by law in the state board of health, have exclusive control of the dam and lock and of the basin and river between the dam and the city of Waltham, as a part of the metropolitan parks system, and of all poles, wires and other structures placed

The metropolitan park commission to have exclusive control of dam, etc.

or to be placed on, across, over or in any part of said basin, dam or lock, and of the placing thereof, except the part of the dam used as a highway and the bridges and other structures erected by any city or town within its limits and upon its own lands; **may make reasonable rules and regulations, not impairing freight traffic, for the care, maintenance, protection and policing of the basin;** and throughout the year shall operate the lock without charge, maintain the lock, channels and canals aforesaid at the depths aforesaid, and clear of obstructions caused by natural shoaling or incident to the building of the dam, and maintain the water in the basin at such level and the lock, channels and canals sufficiently clear of obstructions by ice so that any vessel ready to pass through the lock, and requiring no more depth of water than aforesaid, can pass through to the wharves aforesaid. In the event of an emergency, requiring the temporary reduction of such level, notice thereof shall be given to the occupants of said wharves, and such reduction shall not be lower nor continue longer than the emergency requires. Said metropolitan park commission may order the removal of all direct sewage or factory waste as a common nuisance from the river and its tributaries below the city of Waltham; and no sewer, drain, overflow or other outlet for factory or house drainage shall hereafter be connected with the basin below said city without the approval of the metropolitan park commission.

SECTION 8. The Commonwealth shall in the first instance pay all expenses incurred in carrying out the provisions of the preceding sections, and the same shall, except as provided in the following section, constitute part of the cost of construction and maintenance of the metropolitan parks system; and in addition to the amounts heretofore authorized for such construction the treasurer and receiver general shall, from time to time, as authorized by the governor and council, issue notes, bonds or scrip, in the name and behalf of the Commonwealth, entitled Charles River Basin Loan, to the amount which the commission may deem necessary for the expenses incurred under the first six sections of this act; and all acts and parts of acts relative to loans for such construction and providing for their payment shall, so far as they may be applicable and not inconsistent herewith, apply to such notes, bonds and scrip and to their payment.

May make rules and regulations, etc.

Notice to be given in case of emergency requiring temporary reduction of level, etc.

Removal of direct sewage or factory waste may be ordered, etc.

Payment of expenses.

Charles River Basin Loan.

SECTION 9. The commissioners next appointed under the provisions of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine, and amendments thereof, in apportioning the expenses of maintaining the metropolitan parks system shall include as part thereof the expense of maintenance incurred under the preceding sections of this act; shall also determine, as they shall deem just and equitable, what portion of the total amount expended for construction under sections three, four, five and six of this act shall be apportioned to the cities of Boston and Cambridge as the cost of the removal of Craigie bridge and the construction of a suitable bridge in place thereof, and the remainder shall be considered and treated as part of the cost of construction of the metropolitan park system. The treasurer and receiver general shall determine the payments to be made each year by said cities, one half by each, to meet the interest and sinking fund requirements for the amounts apportioned to them as the cost of such bridge, and the same shall be paid by each city into the treasury of the Commonwealth as part of its state tax.

Apportionment of expenses, etc.

SECTION 10. The city of Boston, by such officer or officers as the mayor may designate, shall forthwith after the passage of this act, do such dredging in the Back Bay Fens as the board of health of said city may require, shall construct a conduit between Huntington avenue and Charles river, to form an outlet into Charles river for the commissioners' channel of Stony brook, shall reconstruct the present connections between the river and the Fens so as to allow free access of water from the river into the streams and ponds in the Fens and thence into the river, and shall construct a sewer in the rear of the houses on the north side of Beacon street between Otter and Herford streets. Such officer or officers may construct a conduit between Green street and Forest Hills and may construct or rebuild within five years one or more conduits for Stony brook between the westerly side of Elmwood street and the Fens: *provided, however*, that the expense of such conduits between Green street and Forest Hills and between Elmwood street and the Fens shall be paid for out of the annual appropriation for sewer construction under the provisions of chapter four hundred and twenty-six of the acts of the year eighteen hundred

City of Boston to do certain dredging, construct conduits, sewer, etc.

Proviso.

and ninety-seven and acts in amendment thereof or in addition thereto.

Wall or embankment may be built on Boston side of Charles river.

SECTION 11. The board of park commissioners of Boston may, with the approval of the mayor, build a wall or embankment on the Boston side of Charles river beginning at a point in the southwest corner of the stone wall of the Charlesbank, thence running southerly by a straight or curved line to a point in Charles river not more than three hundred feet distant westerly from the harbor commissioners' line, measuring on a line perpendicular to the said commissioners' line at its intersection with the southerly line of Mount Vernon street, but in no place more than three hundred feet westerly from said commissioners' line; thence continuing southerly and westerly by a curved line to a point one hundred feet or less from the wall in the rear of Beacon street; thence by a line substantially parallel with said wall to the easterly line of the Back Bay Fens, extended to intersect said parallel line.

Certain lands, flats, etc., may be taken for a public park.

SECTION 12. The board of park commissioners of said city may take, in fee or otherwise, by purchase or otherwise, for said city, for the purpose of a public park such lands, flats and lands covered by tide-water between Charles, Brimmer and Back streets and the line of the wall or embankment aforesaid, as the mayor shall approve, by filing in the registry of deeds for the county of Suffolk a description thereof sufficiently accurate for identification, signed by a majority of the commissioners, and shall construct a public park on the lands so taken; and any person whose property is so taken may have compensation therefor as determined by agreement with the board, and if they cannot agree the amount thereof may be determined by a jury in the superior court for the county of Suffolk, under the same provisions of law, so far as they may be applicable, which apply in determining the value of lands taken for highways under chapter forty-eight of the Revised Laws, upon petition therefor by the board, or by such person, filed in the clerk's office of said court against said city within one year after the taking, and costs shall be taxed and execution issued as in civil cases.

City of Boston to pay certain expenses, etc.

SECTION 13. The city of Boston shall pay the expenses incurred under sections ten, eleven and twelve of this act, except as otherwise provided in section ten of



this act; and to meet said expenses the city treasurer of the city shall, from time to time, on the request of the mayor, issue and sell bonds of the city to an amount not exceeding eight hundred thousand dollars, and the bonds so issued shall not be reckoned in determining the legal limit of indebtedness of the city.

City treasurer to issue bonds, etc.

SECTION 14. The lock shall be built above the lower line of the dam, and the Boston and Maine Railroad shall, before the dam is completed, remove its bridge, piles and any other structures in Charles river which are southerly or westerly of a line defined in red on a plan filed in the office of the board of harbor and land commissioners marked "Plan showing line from above or southwest of which the Boston & Maine Railroad shall remove all of its structures in Charles River and between the harbor lines, May 25, 1903. Woodward Emery, Chairman of Harbor and Land Commissioners"; and may rebuild the same northerly and easterly of the line so defined. The draw in the new bridge shall not be easterly of nor more than fifty feet westerly from the location of the present draw, and shall be so located as to be directly opposite the lock. Within the limits herein prescribed the commission shall determine the position of the lock and draw.

The Boston and Maine Railroad to remove certain structures, etc.

SECTION 15. The supreme judicial court and the superior court shall, upon application of any party in interest, including any owner or occupant of property abutting on the basin or on Broad canal or Lechmere canal, have jurisdiction to enforce, or prevent violation of, any provision of this act and any order, rule or regulation made under authority thereof.

Enforcement of provisions of act, etc.

SECTION 16. Chapter three hundred and forty-four of the acts of the year eighteen hundred and ninety-one, as amended by section one of chapter four hundred and thirty-five of the acts of the year eighteen hundred and ninety-three, and chapter five hundred and thirty-one of the acts of the year eighteen hundred and ninety-eight are hereby repealed.

Repeal.

SECTION 17. This act shall take effect on the first day of July in the year nineteen hundred and three.

When to take effect.

*Approved June 24, 1903.*

or notes to an amount not exceeding eight thousand eight hundred dollars. The said bonds or notes shall be signed by the treasurer and countersigned by the selectmen of the town, shall bear interest at a rate not exceeding four and one half per cent per annum, and shall be payable at the rate of not less than five hundred dollars in each year, beginning with the year nineteen hundred and ten and including the year nineteen hundred and twenty-six. Three hundred dollars shall be payable in the year nineteen hundred and twenty-seven. The said notes or bonds shall be disposed of at public or private sale and upon such terms and conditions as the selectmen may determine, but they shall not be sold for less than the par value thereof. Of the said eight thousand eight hundred dollars, six thousand eight hundred dollars shall be borrowed within the statutory debt limit of the town and two thousand dollars may be borrowed outside of the said debt limit. The amount required annually to pay the interest on the said loan, and so much of the principal as comes due, shall be raised annually by taxation in the same manner in which other taxes are raised without any action by the town other than its vote to borrow the said sum.

The town of Clarksburg may renew or refund its indebtedness, etc.

SECTION 2. This act shall take effect upon its passage.

*Approved June 18, 1909*

AN ACT RELATIVE TO CHARLES RIVER BASIN AND THE CONTROL THEREOF BY THE METROPOLITAN PARK COMMISSION.

*Chap. 524*

*Be it enacted, etc., as follows:*

SECTION 1. The Charles river basin commission shall certify in writing to the governor and council the date at which, in the opinion of said commission, the main parts of the work which the commission was authorized to construct and perform by chapter four hundred and sixty-five of the acts of the year nineteen hundred and three and acts in addition thereto and in amendment thereof will be completed. On and after the date so certified by said commission, and in any event, **on and after the first day of July in the year nineteen hundred and ten, all the powers, rights, duties and liabilities of said Charles river basin commission shall be transferred to and imposed upon the metropolitan park commission,** and the Charles river basin

The Charles river basin commission to certify the date when certain work will be completed, etc.

commission shall be abolished. No contracts, liabilities or suits existing on the day on which the Charles river basin commission is abolished, as provided for in this section, shall be affected by this act, but the metropolitan park commission shall in all respects and for all purposes be the lawful successor of the Charles river basin commission. A copy of said certificate of the Charles river basin commission attested by the secretary of the commonwealth shall be prima facie evidence that the Charles river basin commission was abolished on the date certified therein by said commission, and that the metropolitan park commission has become the lawful successor of the Charles river basin commission in the manner herein provided. The commonwealth shall assume all liabilities in any suit at law or in equity either pending or hereafter brought against the Charles river basin commissioners on account of their work or any connection therewith, and the commonwealth shall be deemed by this act to have assumed said liabilities, and the commissioners are hereby relieved of the same. The attorney-general shall defend any such suit and the expense thereof shall be paid out of the proceeds of the sale of notes, bonds or scrip issued under authority of section eight of said chapter four hundred and sixty-five and acts in addition thereto and in amendment thereof.

Copy of the certificate to be evidence that the commission is abolished, etc.

The word "basin" construed, etc.

SECTION 2. The word "basin", as hereinafter used in this act, shall be construed to mean the dam and any lock, highway, park, parkway, drawbridge or sluiceway constructed in connection therewith under authority of said chapter four hundred and sixty-five and acts in addition thereto and in amendment thereof, the wall, embankment, park, parkway or street constructed under authority of section twelve of said chapter as amended by chapter four hundred and two of the acts of the year nineteen hundred and six, the marginal conduits constructed on the south side of the basin under section five of said chapter four hundred and sixty-five with the right to enter upon the lands of the city of Boston for the purpose of rebuilding, repairing or cleaning said conduits, the Charles river and the waters thereof, including the public navigable arms, tributaries and inlets thereof, whether covered by ice or not, lying between said dam constructed under authority of said chapter four hundred and sixty-five and

the lower dam across said river at Watertown, and all lands or rights therein taken by eminent domain or otherwise acquired by the Charles river basin commission either for the commonwealth or for the city of Boston under authority of said chapter four hundred and sixty-five and of acts in addition thereto or in amendment thereof. The word "basin", as used in this act, shall not include the elevated railway structure built by the Boston Elevated Railway Company under the provisions of section twenty-one of chapter five hundred and twenty of the acts of the year nineteen hundred and six.

SECTION 3. The metropolitan park commission shall have and exercise exclusive care and control of said basin, as herein defined, as a part of the metropolitan parks system, and of all poles, wires and other structures placed or to be placed on, across, over or in any part of said basin and of the placing thereof except on, across, over or in any existing highway of any city or town or any bridge of any railroad company across said basin. The metropolitan park commission shall also have and exercise over said basin all other powers, duties and liabilities now conferred or imposed upon said commission by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and acts in addition thereto and in amendment thereof, so far as the provisions of said acts are consistent with the provisions of this act. The metropolitan park commission may license the maintenance of floats and boat landings and other structures in and upon the waters of said basin upon such terms and conditions as they deem that the public interests require, and no float or boat landing or other structure shall be maintained in or upon the waters of said basin without such license: *provided, however*, that no such license shall be granted to be exercised in that part of said basin which lies easterly of Cottage Farm bridge, so-called, except under the authority of chapter four hundred and four of the acts of the year nineteen hundred and seven, or of section ten of this act.

The metropolitan park commission to have care and control of the basin.

Proviso.

SECTION 4. The city of Boston shall be responsible for the operation and maintenance of the work on the south side of said basin designated in, or constructed under authority of, section ten of said chapter four hundred and sixty-five. The city of Cambridge shall be responsible for

Responsibility for the operation and maintenance of certain work, etc.

the operation, care and maintenance of the marginal conduit constructed on the north side of said basin under authority of section five of said chapter four hundred and sixty-five, except for such parts of said conduit as lie within said dam or land acquired by the Charles river basin commission for the commonwealth.

Rules and regulations, etc.

SECTION 5. The metropolitan park commission may make reasonable rules and regulations, not unreasonably impairing freight traffic, for the care, maintenance, protection and policing of said basin as herein defined, breaches of which rules shall be breaches of the peace punishable by a fine of not more than fifty dollars for each offence. Said commission shall cause the rules and regulations made by it under this act to be published three times in one or more newspapers published in the city of Boston, and such publication shall be sufficient notice to all persons. The sworn certificate of any member of the commission or of its secretary that said rules and regulations have been published as herein provided shall be prima facie evidence thereof. A copy of any such rule or regulation attested by any member of said commission or its secretary, shall be prima facie evidence that said rule or regulation was made by said commission as provided herein.

Operation of locks and drawbridges to be without charge, etc.

SECTION 6. The metropolitan park commission throughout the year shall operate the locks and any drawbridges connected with said dam, without charge, and shall maintain said locks and the channels and canals authorized by section four of said chapter four hundred and sixty-five, at the depths provided for in said act and clear of obstructions caused by natural shoaling or incident to the building of said dam, and shall, except in cases of emergency, maintain the water of said basin at such a level that any vessel ready to pass through said locks and requiring no more depth of water than is provided for by said section four, can pass through to the wharves therein mentioned.

Removal of sewage, etc.

SECTION 7. The metropolitan park commission may order the removal of all sewage, and other polluting matter or factory waste as a common nuisance from said Charles river and its tributaries below the city of Waltham and from said basin, and no sewer, drain or overflow or other outlet for factory or house drainage, or for any other drain-

age shall hereafter be connected with said basin or the river below said city without the approval of the metropolitan park commission. The metropolitan park commission shall be deemed a party in interest within the meaning of that term as used in section three of chapter four hundred and eighty-five of the acts of the year nineteen hundred and seven for the purpose of enforcing the provisions of that act and preventing any violation thereof.

SECTION 8. The municipal court of the city of Boston, in addition to its present jurisdiction, shall have and exercise concurrently with the municipal court of the Roxbury district, the Brighton district court, the second district court of eastern Middlesex, the third district court of eastern Middlesex and the police court of Newton, the same criminal jurisdiction which said courts have within their respective districts over any territory included in said basin as defined in section two of this act.

Jurisdiction  
of courts.

SECTION 9. The courts in the county of Suffolk shall have jurisdiction of all crimes committed in any part of the town of Watertown or the cities of Cambridge or Newton lying within said basin as defined in section two of this act concurrently with the courts in the county of Middlesex.

Same subject.

SECTION 10. On and after the date certified by the Charles river basin commission, as provided by section one of this act, and in any event on and after the first day of July in the year nineteen hundred and ten, the metropolitan park commission alone shall exercise the authority granted to said commission and said Charles river basin commission jointly by chapter four hundred and four of the acts of the year nineteen hundred and seven relative to the granting of boat-house locations. The metropolitan park commission shall also have authority to lease to individuals or corporations locations for boat-houses, together with floats and landings in connection therewith, upon so much of the park or parkway provided for by chapter four hundred and two of the acts of the year nineteen hundred and six as lies between the Cambridge bridge and Mount Vernon street extended to the waters of the basin, or upon any lands under the care and control of said commission lying in any part of said basin and river up stream from and above Cottage Farm bridge, so-called. Said leases

The metropoli-  
tan park  
commission  
to have full  
authority after  
a certain date,  
etc.

shall be upon such terms and conditions and for such a period, not exceeding twenty-five years, as said commission may deem best.

Appropriations  
for expenses,  
etc.

SECTION 11. From the time when the metropolitan park commission becomes invested with the care and control of said basin as herein provided, until the general court which convenes next thereafter shall have made an appropriation to meet the expense of carrying out the provisions of this act, said expenses shall be paid out of the proceeds of the sale of notes, bonds or scrip issued under authority of section eight of said chapter four hundred and sixty-five, as amended by section one of chapter four hundred and two of the acts of the year nineteen hundred and six, and shall be deemed to be a part of the cost of construction of said dam. The provisions of said chapter four hundred and sixty-five and of acts in amendment thereof relative to the apportionment and payment of the expense of maintenance incurred under section seven of said chapter shall apply to the apportionment and payment of the expense of maintenance under this act. Nothing contained in this act shall be construed to affect the provisions of chapter four hundred and two of the acts of the year nineteen hundred and six relative to the apportionment, assessment and payment of the cost of construction and maintenance of any part of said basin as defined in section two of this act.

SECTION 12. This act shall take effect upon its passage.

*Approved June 18, 1909.*

~~Chap. 525~~ ~~AN ACT MAKING APPROPRIATIONS FOR CURRENCY SINKING FUNDS.~~

*Be it enacted, etc., as follows:*

Appropriations.

SECTION 1. The sum of three hundred seventy-eight thousand four hundred and forty-five dollars is hereby appropriated, to be paid out of the treasury of the commonwealth from the ordinary revenue, for the benefit of the following sinking funds, to wit:—

Armory Loan Sinking Fund.

For the Armory Loan Sinking Fund, the sum of fifty-four thousand nine hundred and twenty-three dollars.

Harbor Improvement Loan Sinking Fund.

For the Harbor Improvement Loan Sinking Fund, the sum of thirty-three hundred and eighty-four dollars.

*Chap. 350* AN ACT TO ORGANIZE IN DEPARTMENTS THE EXECUTIVE AND ADMINISTRATIVE FUNCTIONS OF THE COMMONWEALTH.

*Be it enacted, etc., as follows:*

PART I.

GENERAL PROVISIONS.

Executive and administrative functions of commonwealth organized in departments, etc.

SECTION 1. The executive and administrative functions of the commonwealth, except such as pertain to the governor and council, and such as are exercised and performed by officers serving directly under the governor or the governor and council, shall hereafter be exercised and performed by the departments of the secretary of the commonwealth, the treasurer and receiver general, the auditor of the commonwealth and the attorney-general, and by the following new departments hereby established, namely: —

- The department of agriculture.
- The department of conservation.
- The department of banking and insurance.
- The department of corporations and taxation.
- The department of education.
- The department of civil service and registration.
- The department of industrial accidents.
- The department of labor and industries.
- The department of mental diseases.
- The department of correction.
- The department of public welfare.
- The department of public health.
- The department of public safety.
- The department of public works.
- The department of public utilities.

A metropolitan district commission is also hereby established as hereinafter provided and the provisions of Part I of this act shall apply to said commission.

All executive and administrative offices, boards, commissions and other governmental organizations and agencies, except those now or by virtue of this act serving directly under the governor or the governor and council, are hereby placed in the said departments and said commission, as hereinafter provided; and all such offices, boards, commissions and other governmental organizations and agencies for which provision is not made herein shall be placed by order of the governor, with the advice and consent of the council, under the direction and control of any of the departments



above mentioned until such time as the general court shall make provision therefor.

SECTION 2. Where an existing office, board, commission or other governmental organization or agency is abolished by this act, all books, papers, maps, charts, plans, records, and all other equipment in the possession of such organization or agency, or of any member or officer thereof, shall be delivered to the administrative and executive head of the department to which its rights, powers, duties and obligations are transferred. In case such rights, powers, duties and obligations are divided between two or more departments, each of said departments shall receive such books, papers, maps, charts, plans, records and other equipment as pertain to the rights, powers, duties and obligations transferred to that department. All questions arising under this section shall be determined by the governor and council.

Delivery of books, papers, equipment, etc., of abolished offices, boards, commissions, etc.

SECTION 3. Where an existing office, board, commission or other governmental organization or agency is abolished by this act, all employees thereof shall, as temporary appointees of the department to which the rights, powers, duties and obligations of such office, board, commission or other governmental organization or agency are transferred, continue to perform their usual duties, upon the same terms and conditions as heretofore, until removed, appointed to positions in accordance with the provisions of this act relative to such department, or transferred to other departments, and they shall be eligible to such appointment or transfer without further examination, but otherwise shall be subject to the civil service law and rules, where they apply, and to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and the rules and regulations made thereunder. All such temporary employment shall become permanent on January first, nineteen hundred and twenty-one, unless sooner terminated. Where the rights, powers, duties and obligations of any such office, board, commission or other governmental organization or agency are divided between two or more departments, each of said departments shall receive on the above terms and conditions such of the employees of said office, board, commission or other governmental organization or agency as are regularly occupied in connection with the functions thereof which are by this act transferred to such department: *provided*, that every employee of such office, board, commission or other governmental organization or

Employees of abolished offices, boards, commissions, etc., to become temporary appointees, etc.

Temporary employment, when to become permanent. Placing of certain employees.

Proviso.

agency shall be placed temporarily in one of said departments. All questions arising under this section shall be determined by the governor and council.

Rights to retirement with pension not to be affected.

SECTION 4. Persons who, at the time when this act takes effect, are appointed to or employed by an office, board, commission or other governmental organization or agency abolished by this act, and are appointed to positions in any of the departments established hereby, shall retain all rights to retirement with pension that shall have accrued or would thereafter accrue to them, and their services shall be deemed to have been continuous, as if this act had not been passed. This act shall not be construed to reduce the compensation of present employees who are appointed to positions under the terms of the act where the compensation of such employee is specifically fixed by statute.

Compensation not to be reduced.

Pending petitions, hearings, etc., to remain in full force and effect.

SECTION 5. All petitions, hearings and other proceedings pending before any officer, board, commission or other governmental organization or agency which is abolished by this act, and all prosecutions, legal or other proceedings and investigations begun by such organization or agency and not completed at the time of the taking effect of this act, shall continue and remain in full force and effect notwithstanding the passage of this act, and may be completed before or by the department which succeeds to the rights, powers, duties and obligations of such office, board, commission or other governmental organization or agency. All questions arising under this section shall be determined by the governor and council.

Orders, rules and regulations to remain in full force and effect.

SECTION 6. All orders, rules and regulations made by any officer, board, commission or other governmental organization or agency which is abolished by this act shall remain in full force and effect until revoked or modified in accordance with law by the department which succeeds to the rights, powers, duties and obligations of such governmental organization or agency.

Existing contracts and obligations to remain in full force and effect.

SECTION 7. All existing contracts and obligations of the offices, boards, commissions or other governmental organizations or agencies abolished by this act shall remain in full force and effect, and shall be performed by the departments to which the rights, powers, duties and obligations of such governmental organizations or agencies are transferred.

Making of reports, etc.

SECTION 8. All reports required by law to be made by any office, board, commission or other governmental organization or agency affected by this act shall hereafter be made

by the executive and administrative head of the department in which such governmental organization or agency is placed or to which its rights, powers, duties and obligations are transferred.

SECTION 9. In all cases where the executive and administrative head of a department is vested with authority to establish within his department divisions, the establishment of such divisions shall be subject to the approval of the governor and council except in cases where divisions are specifically provided for by this act.

Establishment of divisions in departments.

SECTION 10. In all cases where a question arises between departments or officers or boards thereof as to their respective jurisdiction or powers, or where departments, or officers or boards thereof, issue conflicting orders or make conflicting rules and regulations, the governor and council shall, on appeal of any such department or any person affected thereby, have jurisdiction to determine the question, and to order any such order, rule or regulation amended or annulled: *provided*, that nothing herein contained shall be construed to deprive any person of the right to pursue any other lawful remedy. The time within which such appeal may be taken shall be fixed by the governor and council.

Determination of questions of jurisdiction, powers, etc.

Proviso.

SECTION 11. Any person in any department who is appointed to office by the governor, with the advice and consent of the council, and who is paid a salary, may be required by the governor, with like advice and consent, to give his whole time to the duties of his office. The heads of divisions of departments established by or under authority of this act shall be exempt from the civil service law and the rules and regulations made thereunder.

Appointees of governor may be required to give whole time to duties, etc.

Heads of divisions in departments to be exempt from civil service law.

SECTION 12. All departments established by this act shall be provided with suitable quarters which shall, so far as is expedient, be within the state house.

Quarters to be provided.

SECTION 13. The expenses of departments for compensation of officers, members and employees and for other purposes shall not exceed the appropriations made therefor by the general court. The said departments may continue expenditures during the fiscal year nineteen hundred and twenty for the several functions transferred to or placed therein, at the rate of appropriation authorized for such functions during the current fiscal year, until the general court makes appropriations therefor or provides otherwise.

Expenditures by departments.

## PART II.

## THE GOVERNOR AND COUNCIL.

Staff of commander-in-chief and officers in organization of land and naval forces of commonwealth recognized to be under the governor as commander-in-chief.

SECTION 14. The staff of the commander-in-chief and all officers included in the organization of the land and naval forces of the commonwealth, including the adjutant general in his capacity as commissioner of war records under authority of chapter two hundred and eleven of the acts of nineteen hundred and twelve, and in pursuance of his duties under chapter one hundred and seven of the General Acts of the current year, are hereby recognized to be under the governor in his capacity as commander-in-chief.

Office of supervisor of administration to be under governor and council.

SECTION 15. The office of supervisor of administration, existing under authority of chapter two hundred and ninety-six of the General Acts of nineteen hundred and sixteen, and acts in amendment thereof and in addition thereto, shall continue to be under the governor and council, as now provided by law.

Certain offices, boards and commissions to serve under governor and council:

SECTION 16. The following offices, boards and commissions are hereby placed and shall hereafter serve under the governor and council, namely: —

Armory commissioners.

The armory commissioners, existing under authority of section forty of Part I of chapter three hundred and twenty-seven of the General Acts of nineteen hundred and seventeen.

Art commission.

The art commission, existing under authority of chapter four hundred and twenty-two of the acts of nineteen hundred and ten as amended by chapter two hundred and twenty-five of the acts of nineteen hundred and thirteen.

State ballot law commission.

The state ballot law commission, existing under authority of chapter eight hundred and thirty-five of the acts of nineteen hundred and thirteen.

Board of appeal from decisions of tax commissioner.

The board of appeal from decisions of the tax commissioner, existing under authority of section sixty-eight of Part III of chapter four hundred and ninety of the acts of nineteen hundred and nine.

Commissioners on uniform state laws.

The commissioners on uniform state laws, existing under authority of chapter one hundred and twenty-two of the General Acts of nineteen hundred and nineteen.

Commissioner of state aid and pensions.

The commissioner of state aid and pensions, existing under authority of chapter one hundred and ninety-two of the acts of nineteen hundred and two.

Trustees of the state library.

The trustees of the state library, existing under authority of section twenty-four of chapter ten of the Revised Laws and of chapter two hundred and seventeen of the acts of nineteen hundred and ten.

The said offices, boards and commissions shall continue to exercise and perform all their rights, powers, duties and

obligations as provided by law, subject to such supervision as the governor and council may deem necessary or proper.

SECTION 17. The governor, with the advice and consent of the council, shall appoint a superintendent of buildings for the term of three years and fix his salary, and may in like manner remove him and shall fill any vacancy in the office for the unexpired term. The state house commission, existing under authority of section seventeen of chapter ten of the Revised Laws, is hereby abolished. All the rights, powers, duties and obligations of said commission and the rights, powers, duties and obligations of the sergeant-at-arms, as defined by sections four, eight and nine of chapter ten of the Revised Laws, by section two of chapter five hundred and fourteen of the acts of nineteen hundred and nine, by chapter seven hundred and eleven of the acts of nineteen hundred and thirteen, and by chapter two hundred and twenty-four of the General Acts of nineteen hundred and fifteen, are hereby transferred to the superintendent of buildings, and shall hereafter be exercised and performed by him. Upon the appointment and qualification of the superintendent of buildings all records, books, accounts, plans and other documents relating to the rights, powers, duties and obligations transferred by this section, together with supplies and equipment on hand, shall be delivered to the said superintendent.

SECTION 18. The superintendent of buildings, under the supervision of the governor and council, shall have charge of the care and operation of the state house and shall exercise, under like supervision, the authority to assign rooms therein which is now vested in the governor and council by chapter three hundred and twenty-six of the acts of nineteen hundred and ten. He shall, during the sessions of the general court, upon application by the sergeant-at-arms, assign such rooms as may be required for the use of committees and other purposes. He may appoint such clerks, engineers, electricians, firemen, oilers, mechanics, watchmen, elevator operators, porters, cleaners and other persons as may be required to perform the duties prescribed by law. The titles and compensation of all persons employed by the superintendent of buildings shall be determined in accordance with the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen and rules and regulations made thereunder, and subject to the approval of the governor and council, where that is

Superintendent of buildings, appointment.

State house commission abolished.

Superintendent of buildings, rights, powers, duties, etc.

Superintendent of buildings to have charge of care and operation of state house.

May appoint clerks, engineers, watchmen, elevator operators, porters, etc.

Titles and compensation of persons employed, etc.

required by law, notwithstanding the provisions of existing laws fixing the titles and salaries of employees in the department of the sergeant-at-arms. The compensation aforesaid shall not exceed in the aggregate the sums annually appropriated therefor by the general court. Appointments under this section shall not be subject to the civil service laws and regulations.

Superintendent of buildings to have charge of purchasing office furniture, equipment, stationery, etc., except paper for state printing contract.

SECTION 19. The superintendent of buildings shall have charge of purchasing all office furniture, fixtures and equipment, stationery and office supplies for all executive and administrative departments and divisions and boards thereof, except paper for the state printing contract, which shall be bought by the secretary of the commonwealth as heretofore, and shall direct the making of all repairs and improvements in the state house and on the state house grounds. All said departments, and the divisions and boards thereof shall make requisition upon the superintendent of buildings for all office furniture, fixtures and equipment, stationery and office supplies which they may require, and for any repairs or improvements which may be necessary in the state house or in other buildings or parts of buildings owned, occupied by or leased to the commonwealth and occupied by said departments, divisions and boards. Each department, and division and board thereof, shall be allowed for office furniture, fixtures, equipment, stationery and supplies such sums as are annually appropriated, and all such articles requisitioned by them from the superintendent of buildings shall be charged at cost against the sums so allowed, and shall be credited to the account of the superintendent of buildings. The amounts so credited shall be available for use by the superintendent of buildings during the same fiscal year in making purchases under the provisions of this section. No department, or division or board thereof, shall purchase any article or commodity for the purchase of which provision is made herein.

Allowance to departments for office furniture, equipment, supplies, etc.

Superintendent of buildings to be provided with quarters, etc.

May employ a purchasing agent and storekeeper.

SECTION 20. The superintendent of buildings shall be provided with quarters in the state house, shall establish a supply office therein, and shall keep on hand at all times a reasonable quantity of necessary stationery and office supplies. He may employ a purchasing agent and a storekeeper. The purchasing agent shall be qualified by training and experience in the purchase and sale of office furniture, fixtures, equipment and supplies. The storekeeper shall be qualified by training and experience to conduct the receiving,

storage and issue of articles purchased under the provisions of this act. It shall be the duty of the purchasing agent, under direction of the superintendent of buildings, and subject to such rules and regulations as may be adopted under the provisions of section three of chapter two hundred and ninety-six of the General Acts of nineteen hundred and sixteen, to establish such standards for office furniture, equipment, stationery and supplies used by the commonwealth as may be found feasible, with the object of reducing the variety and cost of such articles. The secretary of the commonwealth may arrange with the superintendent of buildings to assist in the handling of paper purchased for the state printing contract by ordering or issuing such paper through the supply office or storing it therein, or otherwise. The secretary of the commonwealth, the supervisor of administration and the superintendent of buildings shall, after consultation with the heads of departments and superintendents of institutions, determine a uniform style of paper and headings for letterheads to be used by all executive and administrative departments and institutions; but other styles may be authorized in limited quantities for special purposes. Paper for letterheads shall be purchased by the secretary of the commonwealth in the same manner as paper for the state printing contract.

Duties of purchasing agent.

Uniform style of paper and headings for letterheads to be used.

Paper for letterheads to be purchased by secretary of commonwealth.

Superintendent of buildings to give bond.

SECTION 21. The superintendent of buildings shall give bond to the treasurer and receiver general in a sum to be fixed by the governor and council, for the faithful performance of his duties and for the rendering of a proper account of all money intrusted to him for the use of the commonwealth. He may expend such sums as are annually appropriated for the care of the state house and the state house grounds, and of other buildings or parts of buildings used by state departments and officials, for making necessary repairs and improvements, and for paying the compensation of his officers and employees. He may also expend, in addition to the amounts credited to him for articles requisitioned by departments and institutions, such sum as the general court may annually appropriate, to be used in performing the duties prescribed by the preceding two sections. He shall, under direction of the governor, install a system of accounting for all articles and commodities purchased and distributed through the supply office established under the preceding section. He shall submit estimates of all his requirements in accordance with the provisions of laws governing the

May make expenditures, etc.

To install system of accounting, submit estimates, etc.

budget, and shall submit an annual report to the governor and such other reports as the governor may require.

Sergeant-at-arms, duties, etc.

SECTION 22. The sergeant-at-arms shall continue to exercise and perform all the rights, powers, duties and obligations of his office, save such as are by this act transferred to the superintendent of buildings. He shall not hereafter be required to give bond as provided by section three of chapter ten of the Revised Laws. He shall appoint, as now provided by law, a doorkeeper for each branch of the general court, assistant doorkeepers, messengers and pages, a postmaster, an assistant postmaster, and a clerk to take charge of the legislative document room, and such assistants in that room as may be required. Subject to the provisions of chapter two hundred and fifty-four of the General Acts of the current year, he may appoint an assistant clerk for said room. All provisions of law relating to the duties and compensation of the above appointees shall remain in full force and effect. He may appoint and remove such clerical and other assistants as the duties of his office may require, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and the rules and regulations made thereunder, and to the approval of the governor and council, where that is required by law, may fix the compensation of such persons, but the compensation so paid shall not exceed in the aggregate the sums annually appropriated therefor by the general court.

Bond not required.

Appointees.

Duties and compensation of appointees.

SECTION 23. All officials provided by law to be appointed by the sergeant-at-arms, other than those named in the foregoing section, shall hereafter be appointed by the superintendent of buildings, with the exception of the following, which are hereby abolished, namely, the clerk, the clerk having charge of the supplies, the filling of requisitions and other matters of that nature, and the two messengers authorized by chapter one hundred and seventy-four of the acts of nineteen hundred and nine. All officials and employees now serving under the sergeant-at-arms, excepting those included in the preceding section, and including the present incumbents of the offices hereby abolished, shall be transferred to the office of superintendent of buildings under the terms and conditions set forth in section three of this act.

Certain officials to be appointed by superintendent of buildings.

Offices of certain appointees of sergeant-at-arms abolished.



## PART III.

## THE EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS.

1. *Department of the Secretary of the Commonwealth.*

SECTION 24. The office of commissioner of public records, existing under authority of chapter thirty-five of the Revised Laws, is hereby abolished. All the rights, powers, duties and obligations of said office are hereby transferred to and shall hereafter be exercised and performed by the secretary of the commonwealth, who shall be the lawful successor of said commissioner in respect thereto. The secretary, with the approval of the governor and council, shall appoint a competent person, to be known as supervisor of public records, who shall, subject to the supervision of the secretary, exercise the functions heretofore exercised by said commissioner, and shall perform such other duties as the secretary may determine. The compensation of the supervisor shall be fixed by the secretary, with the approval of the governor and council, and the secretary may, with like approval, remove the supervisor.

Office of commissioner of public records abolished, and duties, etc., transferred to secretary of the commonwealth.

Supervisor of public records, appointment, duties, compensation, etc.

SECTION 25. The duty of taking the decennial census of the commonwealth and of collecting, compiling and publishing information in connection therewith, and the duty of making the enumeration of summer residents of certain towns, under section thirteen of chapter one hundred of the Revised Laws and section eight of chapter three hundred and seventy-one of the acts of nineteen hundred and nine, are hereby transferred to and shall hereafter be performed, as provided herein, by the secretary of the commonwealth. The bureau of statistics, existing under authority of chapter one hundred and seven of the Revised Laws and acts in amendment thereof and in addition thereto, is hereby abolished. All the rights, powers, duties and obligations of said bureau relating to the functions above enumerated are hereby transferred to the secretary of the commonwealth, who shall be the lawful successor of the bureau of statistics with respect to the said rights, powers, duties and obligations. The remaining functions of the bureau of statistics shall be transferred as hereinafter provided.

Secretary to take decennial census of commonwealth and to enumerate summer residents of certain towns.

Bureau of statistics abolished, and duties, etc., transferred to secretary of the commonwealth.

SECTION 26. The secretary of the commonwealth shall make provision in his department for collecting, compiling and publishing the information required to be collected, com-

Secretary to make provision for taking decennial census, etc.

Supervisor of  
the decennial  
census,  
appointment,  
duties, etc.

piled and published in connection with the decennial census, and for making the enumeration of summer residents of certain towns under section thirteen of chapter one hundred of the Revised Laws and under section eight of chapter three hundred and seventy-one of the acts of nineteen hundred and nine. He shall appoint and may remove, with the approval of the governor and council, a competent person to have charge of the said work and to perform such other duties as may be assigned to him, and, with like approval, may fix his salary. The said person shall be known as supervisor of the decennial census. The secretary of the commonwealth may appoint and remove such officers, clerks and other assistants as may be required to perform the duties hereby transferred, and may, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and rules and regulations made thereunder, and to the approval of the governor and council where that is required by law, fix the compensation of such persons. Such appointments shall not be subject to the provisions of chapter nineteen of the Revised Laws and acts in amendment thereof and in addition thereto. The secretary shall include in his annual estimates, for the years when work is to be performed relating to the taking of the census, such amounts as he shall consider to be required therefor.

Organization  
of department  
of the  
secretary of  
the common-  
wealth.

SECTION 27. Except as aforesaid, the department of the secretary of the commonwealth shall be organized as now provided by law, subject to the provisions of Part I of this act, so far as they apply.

## 2. *Department of the Treasurer and Receiver General.*

Board of  
retirement  
transferred to  
the department  
of treasurer  
and receiver  
general.

SECTION 28. The board of retirement, as now organized and existing under authority of paragraph one of section four of chapter five hundred and thirty-two of the acts of nineteen hundred and eleven, is hereby placed and shall hereafter serve in the department of the treasurer and receiver general. The board shall continue to exercise its functions as heretofore, except that the treasurer and receiver general shall be its chairman.

Treasurer to  
be chairman  
of board.

Treasurer may  
employ clerks,  
etc., to carry  
on work of the  
board of  
retirement.

SECTION 29. The treasurer and receiver general may, subject to the civil service law and rules, where they apply, appoint, and remove, such clerical and other assistants as may be required to carry on the work of the board of retire-

ment, and may, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and rules and regulations made thereunder, and to the approval of the governor and council, where that is required by law, fix the compensation of such persons. So much of paragraph four of section four of said chapter five hundred and thirty-two as is inconsistent herewith is hereby repealed.

Repeal.

SECTION 30. The commissioners on firemen's relief, existing under authority of section seventy-three of chapter thirty-two of the Revised Laws as amended, and of section one of chapter eighty-one of the General Acts of nineteen hundred and eighteen, are hereby placed and shall hereafter serve in the department of the treasurer and receiver general. They shall continue to exercise their functions as heretofore, except that they shall hereafter consist of the treasurer and receiver general, two members to be appointed by the governor, with the advice and consent of the council, and two members to be appointed by the Massachusetts state firemen's association. Of those first appointed by the governor and by the said association, respectively, one member shall be appointed for the term of two years, and one for the term of one year, and thereafter the said members shall be appointed for terms of two years. Any vacancy shall be filled for the unexpired term in the manner of the original appointment. The present commissioners shall hold office until this act takes effect and until the new commissioners are appointed and qualified.

Commissioners on firemen's relief transferred to department of treasurer and receiver general.

Membership, duties, etc.

SECTION 31. Except as aforesaid, the department of the treasurer and receiver general shall be organized as now provided by law, subject to the provisions of Part I of this act, so far as they apply.

Organization of department of the treasurer and receiver general.

### 3. *Department of the Auditor of the Commonwealth.*

SECTION 32. The department of the auditor of the commonwealth shall be organized as now provided by law, subject to the provisions of Part I of this act, so far as they apply.

Organization of department of the auditor of the commonwealth.

### 4. *Department of the Attorney-General.*

SECTION 33. The department of the attorney-general shall be organized as now provided by law, subject to the provisions of Part I of this act, so far as they apply.

Organization of department of the attorney-general.

5. *Department of Agriculture.*

State department of agriculture abolished and succeeded by department of agriculture.

SECTION 34. The state department of agriculture, existing under authority of chapter two hundred and sixty-eight of the General Acts of nineteen hundred and eighteen is hereby abolished. All the rights, powers, duties and obligations of said state department and of the commissioner thereof, are hereby transferred to and shall hereafter be exercised and performed by the department of agriculture established by this act, which shall be the lawful successor of said state department.

Commissioner of agriculture, office established. Advisory board, appointment, etc.

SECTION 35. The department of agriculture shall be under the supervision and control of a commissioner to be known as commissioner of agriculture, and an advisory board of six members, all of whom shall be appointed by the governor with the advice and consent of the council. The first appointment of the commissioner shall be for the term of one, two or three years, as the governor may determine. Thereafter the governor shall appoint the commissioner for the term of three years. Of the members of the advisory board first appointed, two shall be appointed for the term of one year, two for two years, and two for three years. Thereafter, as the terms expire, the governor shall appoint the members of the board for terms of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove the commissioner or any member of the board. The principal vocation of at least three members of the board shall be agriculture.

Commissioner of agriculture, powers, duties, etc.

SECTION 36. The commissioner shall be the executive and administrative head of the department. He shall have charge of the administration and enforcement of all laws which it is the duty of the department to administer and enforce, and shall direct all inspections and investigations. He shall receive such annual salary, not to exceed five thousand dollars, as the governor and council may determine. The advisory board shall exercise advisory powers only and shall meet when requested by the commissioner or by any three members. They shall receive ten dollars a day while in conference and their actual necessary travelling expenses incurred in the performance of their official duties.

Advisory board, powers, compensation, etc.

Department of agriculture to be organized in divisions.

SECTION 37. The commissioner shall organize the department in divisions, including a division of dairying and animal husbandry, a division of plant pest control, a division of ornithology, a division of markets, and a division of

reclamation, soil survey and fairs and such other divisions as he may, from time to time, determine, and shall assign to said divisions their functions. The commissioner may appoint and remove a director of each division to have charge of the work of the division. The compensation of directors shall be fixed by the commissioner, with the approval of the governor and council. The commissioner may also, subject to the civil service law and rules, where they apply, appoint such inspectors, investigators, scientific experts, clerks and such other officers and assistants as the work of the department may require; may assign them to divisions, transfer and remove them, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and to the approval of the governor and council, where that is required by law, may fix the compensation of the said persons.

Directors of divisions, appointment, etc.

Inspectors, clerks, etc., appointment, salaries, etc.

SECTION 38. The department of agriculture through its proper divisions shall have power to:

Powers of department of agriculture.

(a) Execute and carry into effect the laws of the commonwealth relative to dairy products, animal breeding, apple grading, plant pest control with the exception of the gypsy and brown tail moth, ornithology, apiary inspection, and the production, storage, marketing and distribution of agricultural products.

(b) Aid in the promotion and development of the agricultural resources of the commonwealth and the improvement of the conditions of rural life, the settlement of farms and the distribution of the supply of farm labor.

(c) Investigate the cost of the production and marketing in all its phases, and the sources of supply, of agricultural products, and the production, transportation, storage, marketing and distribution of agricultural products sold, offered for sale, stored or held within the commonwealth.

(d) Collect and disseminate data and statistics as to the food produced, stored or held within the commonwealth, with the quantities available from time to time and the location thereof.

(e) Investigate and aid improved methods of co-operative production, marketing and distribution of agricultural products within the commonwealth.

(f) Offer prizes for and conduct exhibits of flowers, fruit, vegetables, grasses, grains or other farm crops, dairy products, honey, horses, cattle, sheep, swine, poultry, poultry products, farm operations, and canned and dried fruits and vegetables.

6. *Department of Conservation.*

Office of state forester, state forest commission and board of commissioners on fisheries and game abolished and succeeded by department of conservation.

SECTION 39. The office of state forester, existing under authority of chapter four hundred and nine of the acts of nineteen hundred and four, and acts in amendment thereof, the state forest commission, existing under authority of chapter seven hundred and twenty of the acts of nineteen hundred and fourteen, and the board of commissioners on fisheries and game, existing under authority of chapter ninety-one of the Revised Laws, and amendments thereof and additions thereto, are hereby abolished. All the rights, powers, duties and obligations of said office, commission and board are hereby transferred to and shall hereafter be exercised and performed by the department of conservation established by this act, which shall be the lawful successor of said office, commission and board.

Department of animal industry to serve in department of conservation.

The department of animal industry as now organized and existing under authority of chapter six hundred and eight of the acts of nineteen hundred and twelve is hereby placed in and shall hereafter serve in the department of conservation.

Commissioner of conservation, office established.

SECTION 40. The department of conservation shall be under the supervision and control of a commissioner to be known as the commissioner of conservation, and shall be organized in three divisions, namely: a division of forestry, a division of fisheries and game, and a division of animal industry. Each division shall be under the charge of a director.

Divisions of department of conservation.

The division of forestry shall include the functions heretofore exercised by the state forester and the state forest commission. The division of fisheries and game shall include the functions heretofore exercised by the board of commissioners on fisheries and game. The division of animal industry shall consist of the department of animal industry as now organized and existing under authority of chapter six hundred and eight of the acts of nineteen hundred and twelve, and said department shall continue to exercise its functions as heretofore, but as a division of the department of conservation.

Functions of divisions.

Commissioner of conservation, appointment, etc.

SECTION 41. The commissioner shall be appointed by the governor, with the advice and consent of the council. The first appointment shall be for the term of one, two or three years, as the governor may determine. Thereafter the governor shall appoint the commissioner for the term of three years, shall fill any vacancy for the unexpired term,

and may, with the consent of the council, remove the commissioner. The governor shall designate the commissioner as director of one of the divisions of the department. The commissioner shall receive such annual salary, not exceeding five thousand dollars, as commissioner and director, as may be fixed by the governor and council. The commissioner shall be the executive and administrative head of the department, and shall organize the department in divisions and supervise the same as herein provided. He shall have charge of the administration and enforcement of all laws which it is the duty of the department to administer and enforce, and shall direct all inspections and investigations. The directors of divisions shall act as an advisory council to the commissioner.

Salary,  
powers,  
duties, etc.

Advisory  
council.

SECTION 42. The director of the division of forestry shall be known as the state forester. He shall exercise the functions of the state forester under chapter four hundred and nine of the acts of nineteen hundred and four and acts in amendment thereof and in addition thereto. He shall also have, exercise and perform the rights, powers, duties and obligations of the state forest commission under chapter seven hundred and twenty of the acts of nineteen hundred and fourteen, subject in all cases to the approval of the commissioner and the advisory council. He shall be appointed by the governor, with the advice and consent of the council. The first appointment shall be for the term of one, two or three years, as the governor may determine. Thereafter the governor shall appoint the said director for the term of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove him. He shall be qualified by training and experience to perform the duties of his position and shall receive such annual salary, not exceeding five thousand dollars, as the governor and council may determine. He may, subject to the approval of the commissioner, and to the civil service law and rules, where they apply, appoint and remove such experts, clerical and other assistants as the work of the division may require and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and to the approval of the governor and council, where that is required by law, fix the compensation of such persons.

State forester,  
appointment,  
powers,  
duties, etc.

Salary.

Experts,  
clerks, etc.,  
appointment,  
compensation,  
etc.

SECTION 43. The director of the division of fisheries and game shall exercise the functions of the board of commis-

Director of  
division of  
fisheries and

game, appointment, duties, salary, etc.

sioners on fisheries and game under chapter ninety-one of the Revised Laws and acts in amendment thereof and in addition thereto. He shall be appointed by the governor, with the advice and consent of the council. The first appointment shall be for the term of one, two or three years, as the governor may determine. Thereafter the governor shall appoint the said director for the term of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove him. He shall be qualified by training and experience to perform the duties of his position, and shall receive such annual salary, not to exceed four thousand dollars, as the governor and council may determine. He may, subject to the approval of the commissioner, and to the civil service law and rules, where they apply, appoint and remove such experts, clerical and other assistants as the work of the division may require and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and to the approval of the governor and council, where that is required by law, fix the compensation of such persons.

Experts, clerks, etc., appointment, compensation, etc.

Director of animal industry, office established, etc.

SECTION 44. The commissioner of animal industry shall hereafter be known as the director of animal industry, and appointment to the office shall hereafter be made as now provided by law. He may, subject to the approval of the commissioner and to the civil service law and rules, where they apply, appoint and remove such experts, clerical and other assistants, as the work of the division may require, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and to the approval of the governor and council, where that is required by law, fix the compensation of the said persons.

### 7. *Department of Banking and Insurance.*

Offices of bank commissioner, supervisor of loan agencies and insurance commissioner abolished and succeeded by department of banking and insurance.

SECTION 45. The office of bank commissioner, existing under authority of chapter two hundred and four of the acts of nineteen hundred and six, and chapter five hundred and ninety of the acts of nineteen hundred and eight, the office of supervisor of loan agencies, existing under authority of chapter seven hundred and twenty-seven of the acts of nineteen hundred and eleven, and the office of the insurance commissioner, existing under authority of chapter five hundred and seventy-six of the acts of nineteen hundred and



seven, are hereby abolished. All the rights, powers, duties and obligations of said offices are hereby transferred to and shall hereafter be exercised and performed by the department of banking and insurance established by this act, which shall be the lawful successor of said offices.

SECTION 46. The department of banking and insurance shall be organized in three divisions, — namely, a division of banks and loan agencies, a division of insurance, and a division of savings bank life insurance. Each division shall be in charge of a commissioner, who shall be known, respectively, as the commissioner of banks, the commissioner of insurance, and the commissioner of savings bank life insurance.

Divisions of the department of banking and insurance, etc.

The division of banks and loan agencies shall include the functions heretofore exercised by the bank commissioner and the supervisor of loan agencies. The division of insurance shall include the functions heretofore exercised by the insurance commissioner. The division of savings bank life insurance shall consist of the body corporate known as the General Insurance Guaranty Fund as now organized and existing under authority of chapter five hundred and sixty-one of the acts of nineteen hundred and seven, and acts in amendment thereof and in addition thereto, and the board of trustees of said corporation shall continue to exercise its functions as heretofore, except as is otherwise hereinafter provided.

Division of banks and loan agencies.

Division of insurance.

Division of savings bank life insurance.

The commissioners of said divisions shall act as a board in all matters concerning the department as a whole.

Departmental board.

SECTION 47. The board of bank incorporation, so-called, existing under authority of chapter two hundred and four of the acts of nineteen hundred and six and section four of chapter five hundred and ninety of the acts of nineteen hundred and eight, is hereby placed and shall hereafter serve in the department of banking and insurance. The said board shall hereafter consist of the treasurer and receiver general, the commissioner of banks, and the commissioner of corporations and taxation as established by this act. The board shall continue to exercise its functions as heretofore, but shall be considered a board of the division of banks and loan agencies.

Board of bank incorporation to serve in department of banking and insurance, etc.

SECTION 48. The board of appeal on fire insurance rates, existing under authority of chapter four hundred and ninety-three of the acts of nineteen hundred and eleven, is hereby placed and shall hereafter serve in the department of bank-

Board of appeal on fire insurance rates to serve in department of banking and insurance.

ing and insurance, and shall continue to exercise its functions as heretofore, but shall be considered a board of the division of insurance.

Commissioner  
of banks,  
appointment,  
powers,  
duties, etc.

SECTION 49. The commissioner of banks shall exercise the functions of the bank commissioner and of the supervisor of loan agencies, as now provided by law. He shall also be a member of the board of bank incorporation, as heretofore provided. He shall be appointed by the governor, with the advice and consent of the council. The first appointment shall be for the term of one, two or three years, as the governor may determine. Thereafter the governor shall appoint the commissioner for the term of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove the commissioner. He shall possess the qualifications and give the bond required of the bank commissioner under chapter two hundred and four of the acts of nineteen hundred and six, and under chapter five hundred and ninety of the acts of nineteen hundred and eight, and shall receive such annual salary, not exceeding five thousand dollars, as the governor and council may determine. The commissioner may, with the approval of the governor and council, appoint and remove a deputy as supervisor of loan agencies, and may, subject to the civil service laws and rules, where they apply, appoint and remove such clerical and other assistants as the work of the division may require and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and rules and regulations made thereunder, and to the approval of the governor and council, where that is required by law, fix the compensation of the said persons.

Supervisor of  
loan agencies,  
appointment,  
etc.

Clerks, etc.,  
appointment,  
salaries,  
etc.

Commissioner  
of insurance,  
appointment,  
powers,  
duties, etc.

SECTION 50. The commissioner of insurance shall exercise and perform the functions of the insurance commissioner as now provided by law, and he, or a deputy designated by him, shall be a member of the board of appeal on fire insurance rates under chapter four hundred and ninety-three of the acts of nineteen hundred and eleven. He shall be appointed by the governor, with the advice and consent of the council. The first appointment shall be for the term of one, two or three years, as the governor may determine. Thereafter the governor shall appoint the commissioner for the term of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove the commissioner. He shall possess the qualifications and give

the bond required of the insurance commissioner under chapter one hundred and eighteen of the Revised Laws and chapter five hundred and seventy-six of the acts of nineteen hundred and seven, and shall receive such annual salary, not exceeding five thousand dollars, as the governor and council may determine. The commissioner may appoint and remove, with the approval of the governor and council, a first deputy, who shall discharge the duties of the commissioner during his absence or disability, and such other duties as may be prescribed by the commissioner, an actuary and a chief examiner, and, subject to the civil service laws and rules where they apply, may appoint and remove such clerical and other assistants as the work of the division may require and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and the rules and regulations made thereunder, and to the approval of the governor and council, where that is required by law, may fix the compensation of such persons.

First deputy,  
appointment.

Actuary, chief  
examiner,  
clerks, etc.,  
appointment.

SECTION 51. The commissioner of savings bank life insurance shall be one of the board of trustees of the corporation known as the General Insurance Guaranty Fund, designated by the governor. His term shall be that of his appointment as trustee. He shall act as president of the board of trustees of said corporation, and shall have general supervision and control of the work of the division: *provided*, that the trustees may elect a vice president to act as president of the board in the absence or disability of the commissioner.

Commissioner  
of savings  
bank life  
insurance,  
powers,  
duties, etc.

Proviso.

### 8. *Department of Corporations and Taxation.*

SECTION 52. The department of corporations and taxation shall consist of the office of the tax commissioner and commissioner of corporations, as now organized and existing under authority of Part III of chapter four hundred and ninety of the acts of nineteen hundred and nine, and acts in amendment thereof and in addition thereto, except as is otherwise hereinafter provided. The office of controller of county accounts, existing under authority of chapter twenty-one of the Revised Laws, is hereby abolished. All the rights, powers, duties and obligations of said office and of the bureau of statistics existing under authority of chapter three hundred and seventy-one of the acts of nineteen hun-

Office of tax  
commissioner  
and commis-  
sioner of cor-  
porations to be  
succeeded by  
department of  
corporations  
and taxation.

Office of  
controller of  
county  
accounts abol-  
ished, etc.

dred and nine, or of the director thereof, with relation to the compilation of municipal statistics, the auditing of municipal accounts, and the certification of the notes of towns and districts, are hereby transferred to and shall hereafter be exercised and performed by the said department, which shall be the lawful successor of said controller of county accounts, and of said bureau of statistics, and the director thereof with respect to the said rights, powers, duties and obligations.

Commissioner of corporations and taxation, office established.

Deputy commissioners, appointment, duties, salaries, etc.

Divisions of department of corporations and taxation, directors, etc.

SECTION 53. The tax commissioner and commissioner of corporations shall hereafter be known as the commissioner of corporations and taxation. He shall receive such annual salary, not exceeding seven thousand five hundred dollars, as the governor and council may determine. He may, subject to the approval of the governor and council, appoint a deputy and a second deputy commissioner who shall be in lieu of the deputies now provided for by section two of Part III of chapter four hundred and ninety of the acts of nineteen hundred and nine and acts in amendment thereof and in addition thereto, who shall perform such duties as may be assigned to them by the commissioner and in his absence or disability shall perform all duties required by law of said commissioner. The deputy commissioner shall receive such annual salary not exceeding five thousand dollars and the second deputy such annual salary not exceeding four thousand dollars as may be fixed by the commissioner with the approval of the governor and council. The commissioner shall organize the department into such divisions as may be required, including an income tax division, a division of corporations, a division of inheritance taxes, a division of local taxation and a division of accounts. He shall appoint, subject to the approval of the governor and council, a director to take charge of each division and may remove any director with like approval. The director in charge of the income tax division shall be in lieu of the income tax deputy now provided for by section seventeen of chapter two hundred and sixty-nine of the General Acts of nineteen hundred and sixteen. The directors in charge of the divisions of inheritance taxes and local taxation shall be in lieu of two of the assistants provided for by section two of Part III of said chapter four hundred and ninety and acts in amendment thereof and in addition thereto. The commissioner, with the approval of the governor and council, shall fix the salary of the said directors. The directors shall, under the supervision

and control of the commissioner, exercise the functions assigned to their respective divisions under this act, and shall also perform such other incidental duties as the commissioner may prescribe.

SECTION 54. The commissioner shall assign to the several divisions their appropriate functions, except that the duties now devolving on the income tax deputy, so-called, shall hereafter be performed by the director in charge of the income tax division, and the duties now performed by the controller of county accounts, and by the bureau of statistics, or the director thereof, with respect to the functions specified in section fifty-two hereof, shall hereafter be performed by the director in charge of the division of accounts. The said director shall be known as the director of accounts, and shall, subject to the supervision and control of the commissioner, perform all of the said duties, including the certification of the notes of towns and districts. The commissioner may designate a competent employee in the said division to perform the functions of the director in case of his absence, death or disability, and notes of towns and districts, when certified by such employee, shall have the same validity as if certified by the director.

Functions of divisions of department of corporations and taxation.

Director of accounts, duties, etc.

SECTION 55. The commissioner shall administer and enforce all laws which the department is required to administer and enforce under the provisions of this act and of all acts relating to the office of tax commissioner and commissioner of corporations. He may, subject to the provisions of law relative to appointments and removals by the tax commissioner and commissioner of corporations, and subject to the civil service law and rules, where they apply, appoint such officials, agents, clerks and other employees as the work of the department may require, assign to them their respective duties, transfer and remove them, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and the rules and regulations made thereunder, and to the approval of the governor and council, where that is required by law, fix the compensation of the said persons.

Commissioner of corporations and taxation, duties, etc.

Agents, clerks, etc., appointment, salaries, etc.

### 9. *Department of Education.*

SECTION 56. The board of education, existing under authority of chapter thirty-nine of the Revised Laws, and acts in amendment thereof and in addition thereto, and the

Board of education and bureau of immigration, abolished and

succeeded by department of education.

bureau of immigration, existing under authority of chapter three hundred and twenty-one of the General Acts of nineteen hundred and seventeen, are hereby abolished. All the rights, powers, duties and obligations of said board and bureau are hereby transferred to and shall hereafter be exercised and performed by the department of education established by this act, which shall be the lawful successor of said board and said bureau.

Trustees of Massachusetts Agricultural College, board of commissioners of Massachusetts nautical school, trustees of The Bradford Durfee Textile School, trustees of Lowell Textile School, trustees of New Bedford Textile School, teachers' retirement board, board of free public library commissioners, and commission for the blind placed in department of education.

The trustees of the Massachusetts Agricultural College, existing under authority of chapter two hundred and sixty-two of the General Acts of nineteen hundred and eighteen, the board of commissioners of the Massachusetts nautical school, existing under authority of chapter forty-five of the Revised Laws and acts in amendment thereof and in addition thereto, the trustees of The Bradford Durfee Textile School, existing under authority of chapter two hundred and forty-eight of the General Acts of nineteen hundred and eighteen, the trustees of the Lowell Textile School, existing under authority of chapter two hundred and seventy-four of the General Acts of nineteen hundred and eighteen, the trustees of the New Bedford Textile School, existing under authority of chapter two hundred and forty-six of the General Acts of nineteen hundred and eighteen, the teachers' retirement board, existing under authority of chapter eight hundred and thirty-two of the acts of nineteen hundred and thirteen, the board of free public library commissioners, existing under authority of chapter thirty-eight of the Revised Laws and acts in amendment thereof and in addition thereto, and the commission for the blind, existing under authority of chapter two hundred and sixty-six of the General Acts of nineteen hundred and eighteen, are hereby placed in and shall hereafter serve in the said department.

Commissioner of education, office established.

Advisory board of education established.

SECTION 57. The department of education shall be under the supervision and control of a commissioner, to be known as the commissioner of education, and a board of six members to be known as the advisory board of education, all of whom shall be appointed by the governor, with the advice and consent of the council. The first appointment of the commissioner shall be for the term of one, two, three, four or five years as the governor may determine. Of the members of the advisory board of education first appointed, two shall be appointed for the term of one year, two for two years, and two for three years. Thereafter as the terms expire the governor shall appoint the commissioner for the term of five

years, and the members of the board for the term of three years. He shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove the commissioner or any member of the board. At least two members of the board shall be women, and one shall be appointed from among the teachers of the commonwealth.

Women members.

SECTION 58. The commissioner shall be the executive and administrative head of the department, and shall organize the department in divisions, and supervise the same as herein provided. He shall have charge of the administration and enforcement of all laws, rules and regulations which it is the duty of the department to administer and enforce, and shall be chairman of the advisory board of education. He shall receive such annual salary, not exceeding seven thousand five hundred dollars, as the governor and council may determine. The board shall meet at least once a month, and at such other times as they may determine by their rules, and when requested by the commissioner or by any three members. They shall serve without compensation, but shall be reimbursed for their actual necessary expenses incurred in the performance of their duties.

Commissioner of education, powers, duties, salary, etc.

Advisory board, meetings, expenses, etc.

SECTION 59. The department shall be organized in such divisions as the commissioner may from time to time determine, but the department shall include a division of public libraries, a division of education of aliens, and a division of the blind. Each division shall be in charge of a director and shall be under the general supervision of the commissioner.

Divisions of department of education, directors, etc.

The division of public libraries shall consist of the board of free public library commissioners as now organized and existing under authority of chapter thirty-eight of the Revised Laws, and acts in amendment thereof and in addition thereto. The chairman of said board shall hereafter be known as the director of said division. The said board shall continue to exercise its functions as heretofore, but as a division of the said department.

Division of public libraries, director, functions, etc.

The division of education of aliens shall consist of a director, who may be a woman, and an advisory board of six persons to be appointed by the governor with the advice and consent of the council. The director shall be appointed for the term of five years. Of the members of the advisory board first appointed, two shall be appointed for the term of one year, two for two years, and two for three years. Thereafter as the terms expire the governor shall appoint the members of the board for the term of three years, shall fill

Division of education of aliens, director, advisory board, appointment, duties, expenses, etc.

any vacancy for the unexpired term, and may, with the consent of the council, remove the director or any member of the board. The director shall, with the approval of the advisory board, exercise functions of the bureau of immigration under chapter three hundred and twenty-one of the General Acts of nineteen hundred and seventeen. The advisory board shall meet at least once a month, and at such other times as they may determine by their rules, and when requested by the director or by any three members. The director and members of the board shall receive no compensation for their services, but shall be reimbursed for their actual necessary expenses incurred in the performance of their duties.

Division of  
the blind,  
director,  
duties, etc.

The division of the blind shall consist of the commission for the blind as now organized and existing under authority of chapter two hundred and sixty-six of the General Acts of nineteen hundred and eighteen. The director of said commission shall be the director of said division. Said commission shall continue to exercise its functions as heretofore, but as a division of the said department.

Certain  
directors of  
divisions of  
department of  
education,  
appointment,  
compensation,  
etc.

SECTION 60. Except as aforesaid, the directors of the divisions of the department shall be appointed and may be removed by the commissioner, with the approval of the advisory board of education and the commissioner shall fix the compensation of the directors with the approval of the governor and council. The commissioner may also, except in the case of the division of public libraries and the division of the blind, subject to the civil service law and rules, where they apply, appoint such agents, clerks and other assistants as the work of the department may require, may assign them to divisions, transfer and remove them, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and to the approval of the governor and council, where that is required by law, may fix the salaries of such persons.

Agents,  
clerks, etc.,  
appointment,  
salaries, etc.

Teachers'  
retirement  
board,  
membership,  
duties, etc.

SECTION 61. The teachers' retirement board shall hereafter consist of three members, — namely, the commissioner of education, a member of the retirement association to be elected for the term of three years by the association, and one other person whom the two members above designated shall annually choose. The board so constituted shall hereafter exercise the functions of the board under chapter eight hundred and thirty-two of the acts of nineteen hundred and thirteen.



SECTION 62. The commissioner of education shall be, ex officio, a trustee of the Massachusetts Agricultural College under section two of chapter two hundred and sixty-two of the General Acts of nineteen hundred and eighteen, and he or a member of the advisory board of education designated by him shall be ex officio a member of the board of trustees of each of the textile schools hereby placed in the department of education.

Commissioner of education to be, ex officio, a trustee of Massachusetts Agricultural College and certain textile schools, etc.

10. *Department of Civil Service and Registration.*

SECTION 63. The civil service commission, existing under authority of chapter nineteen of the Revised Laws and acts in amendment thereof and in addition thereto, is hereby abolished. All the rights, powers, duties and obligations of said commission and of its members and officers are hereby transferred to and shall hereafter be exercised and performed by the department of civil service and registration established by this act, which shall be the lawful successor of said commission. The board of registration in medicine, the board of dental examiners and the board of registration in pharmacy, as now organized and existing under authority of chapter seventy-six of the Revised Laws and acts in amendment thereof and in addition thereto; the board of registration of nurses, as now organized and existing under authority of chapter four hundred and forty-nine of the acts of nineteen hundred and ten, as amended; the board of registration in embalming, as now organized and existing, under authority of chapter four hundred and seventy-three of the acts of nineteen hundred and five; the board of registration in optometry, as now organized and existing under authority of chapter seven hundred of the acts of nineteen hundred and twelve; the board of registration in veterinary medicine, as now organized and existing under authority of chapter two hundred and forty-nine of the acts of nineteen hundred and three; and the state examiners of electricians, as now organized and existing under authority of chapter two hundred and ninety-six of the General Acts of nineteen hundred and fifteen, are hereby placed in and shall hereafter serve in the said department.

Civil service commission abolished and succeeded by department of civil service and registration.

Board of registration in medicine, board of dental examiners, board of registration in pharmacy, board of registration of nurses, board of registration in embalming, board of registration in optometry, board of registration in veterinary medicine and state examiners of electricians placed in department of civil service and registration.

SECTION 64. The department of civil service and registration shall be organized in two divisions, namely, a division of civil service and a division of registration.

Divisions of department of civil service and registration.

The division of civil service shall include the functions heretofore exercised by the civil service commission. The

Division of civil service and division

of registration, functions, etc.

division of registration shall include the several boards of registration and the state examiners of electricians specified in the foregoing section.

Departmental board.

The commissioner of civil service and the director of registration, hereinafter provided for, shall act as a board in all matters affecting the department as a whole.

Commissioner of civil service and two associate commissioners, offices established, salaries, etc.

SECTION 65. The division of civil service shall be under the supervision and control of a commissioner to be known as the commissioner of civil service, and two associate commissioners, all of whom shall be appointed by the governor with the advice and consent of the council. The first appointment of the commissioner and the associate commissioners shall be for terms of one, two and three years, said terms to be allotted to the commissioner and to the associate commissioners as the governor may determine. Thereafter the governor shall appoint the commissioner and the associate commissioners for the term of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove any commissioner. The commissioner shall receive such annual salary, not exceeding five thousand dollars, and the associate commissioners such annual salary, not exceeding two thousand dollars, as the governor and council may determine. The associate commissioners shall not be of the same political party.

Associate commissioners not to be of same political party.

Commissioner and associate commissioner to constitute board to make rules, decide appeals taken by applicants and appointees, etc.

SECTION 66. The commissioner and associate commissioners shall constitute a board which shall prepare all rules and regulations, hear and decide all appeals taken by an applicant, eligible person, or appointee from any decision of the commissioner, pass on appointments made by the mayor of the city of Boston as required by chapter four hundred and eighty-six of the acts of nineteen hundred and nine, as amended, select special examiners and determine the scope and weight of all examinations. The said board may appoint and remove a deputy commissioner of the division of civil service, determine his powers and duties, and, subject to the approval of the governor and council, fix his compensation. Said board may authorize the commissioner to organize the division into subdivisions, and to assign officers and employees of the division thereto. Meetings of the board shall be held at least once a month, at such times as it may by rule determine, and meetings shall also be held at the request of any member thereof.

Deputy commissioner of division of civil service, appointment, duties, etc.

Subdivisions of division of civil service.

Meetings.

Commissioner of civil service, powers, duties, etc.

The commissioner shall be the executive and administrative head of the division, and shall exercise the functions

of the civil service commission, except as is otherwise expressly provided herein. He shall have charge of the administration and enforcement of all laws, rules and regulations which it is the duty of the department to administer and enforce, and shall direct all examinations and investigations which the department is authorized to conduct. He may, subject to the civil service law and rules, where they apply, appoint and remove such officers and employees as the work of the department may require, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and the rules and regulations made thereunder, and to the approval of the governor and council, where that is required by law, fix the compensation of such persons.

Officers and employees, appointment, salaries, etc.

The associate commissioners, or either of them, may at any time require the commissioner or any official or employee of the board to give full information, and produce all papers and records, relating to any official act performed by him.

Official acts of commissioner subject to review by associate commissioners.

SECTION 67. The division of registration shall be under the supervision of a director to be known as the director of registration. He shall be appointed by the governor, with the advice and consent of the council, for a term not exceeding two years and, with like approval, may be removed by the governor. He shall receive such annual salary, not exceeding fifteen hundred dollars, as the governor and council may determine.

Director of registration, appointment, salary, etc.

The several boards of registration and examination included in said division shall continue to exercise their functions as heretofore. It shall be the duty of the director to supervise the work of the several boards, recommend changes in methods of conducting examinations and transacting business, and from time to time to make such reports to the governor and council as they may require or as he may deem expedient.

Boards of registration and examination, functions, supervision, etc.

#### 11. *Department of Industrial Accidents.*

SECTION 68. The department of industrial accidents shall consist of the industrial accident board as now organized and existing under chapter seven hundred and fifty-one of the acts of nineteen hundred and eleven, and acts in amendment thereof and in addition thereto. All provisions of law relating to the industrial accident board shall continue in full force and effect except as is otherwise provided in this act.

Industrial accident board succeeded by department of industrial accidents.

12. *Department of Labor and Industries.*

Board of labor and industries, board of conciliation and arbitration, minimum wage commission, office of commissioner of standards, and office of surveyor general of lumber abolished and succeeded by department of labor and industries.

Statistics of labor and manufactures, etc., to be published by department of labor and industries.

Certain powers and duties of industrial accident board transferred to department of labor and industries.

Commissioner of labor and industries,

SECTION 69. The board of labor and industries, existing under authority of chapter seven hundred and twenty-six of the acts of nineteen hundred and twelve and acts in amendment thereof and in addition thereto; the board of conciliation and arbitration, existing under authority of chapter five hundred and fourteen of the acts of nineteen hundred and nine, as amended by chapter six hundred and eighty-one of the acts of nineteen hundred and fourteen, and acts in amendment thereof and in addition thereto; the minimum wage commission, existing under authority of chapter seven hundred and six of the acts of nineteen hundred and twelve, and acts in amendment thereof and in addition thereto; the office of commissioner of standards, existing under authority of chapter five hundred and thirty-four of the acts of nineteen hundred and seven and of chapter two hundred and eighteen of the General Acts of nineteen hundred and eighteen; and the office of surveyor general of lumber, existing under authority of chapter sixty of the Revised Laws, are hereby abolished. All the rights, powers, duties and obligations of the said boards, commissions and offices, or of any member or official thereof, and those of the bureau of statistics, or the director thereof, with respect to collecting, arranging and publishing statistical information relative to the commercial and industrial condition of the people, and the productive industries of the commonwealth, usually designated as the statistics of labor and manufactures, and with respect to the establishment and maintenance of public employment offices and with respect to all other matters not otherwise provided for by this act, are hereby transferred to and shall hereafter be exercised and performed by the department of labor and industries, established by this act, which shall be the lawful successor of said boards, commissions, and offices and of said bureau of statistics, and the director thereof, with respect to the said rights, powers, duties and obligations. The powers and duties conferred and imposed upon the industrial accident board by section eighteen of Part IV of chapter seven hundred and fifty-one of the acts of nineteen hundred and eleven are also transferred to and shall hereafter be exercised and performed by said department.

SECTION 70. The department of labor and industries shall be under the supervision and control of a commissioner,

to be known as the commissioner of labor and industries, an assistant commissioner, who may be a woman, and three associate commissioners, one of whom shall be a representative of labor and one of whom shall be a representative of employers of labor, all of whom shall be appointed by the governor, with the advice and consent of the council. The first appointment of the commissioner and assistant commissioner shall be for the term of three years, and of the associate commissioners for the terms of one, two and three years, respectively. Thereafter as the terms expire the governor shall in like manner appoint the said commissioners for terms of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove any commissioner. The commissioner shall receive such annual salary not exceeding seven thousand five hundred dollars, and the assistant commissioner and associate commissioners such annual salary, not exceeding four thousand dollars each, as the governor and council may determine.

an assistant commissioner and three associate commissioners, offices established, salaries, etc.

SECTION 71. The commissioner shall be the executive and administrative head of the department. He shall have charge of the administration and enforcement of all laws, rules and regulations which it is the duty of the department to administer and enforce, and shall direct all inspections and investigations except as is otherwise provided herein. He may organize the department in such divisions as he may from time to time determine, and may assign the officers and employees of the department thereto. He shall prepare for the consideration of the associate commissioners, rules and regulations, in accordance with existing law, to carry out the provisions of this act relative to the department. All rules and regulations so prepared shall take effect, subject to the provisions of chapter three hundred and seven of the General Acts of nineteen hundred and seventeen where applicable, when approved by the associate commissioners, or upon such date as they may determine. The commissioner may designate an associate commissioner to discharge the duties of the commissioner during his absence or disability.

Commissioner of labor and industries, powers, duties, etc.

Departmental divisions, etc.

Designated associate commissioner to act as commissioner, when.

Board of conciliation and arbitration, membership, powers, duties, etc.

SECTION 72. The associate commissioners shall constitute a board to be known as the board of conciliation and arbitration, which shall have the authority and exercise the functions heretofore vested in the board of conciliation and arbitration and in the minimum wage commission, except as to matters of an administrative nature, and in pursuance

of the said authority shall, if they deem it necessary, investigate immediately the circumstances of any industrial dispute which arises, shall establish wage boards and review their reports, and may issue special licenses under the provisions of section nine of chapter seven hundred and six of the acts of nineteen hundred and twelve. In all investigations and proceedings conducted by said associate commissioners they shall have authority to summon witnesses, to administer oaths, to take testimony and to require the production of books and documents. In any controversy referred to the board on a joint application under any arbitration agreement they shall employ special experts at the request of either party. One such expert shall be selected from a list furnished by each party to the controversy. The expense of such experts shall be borne by the commonwealth. They shall be assigned such assistants from the officers and employees of the department as the commissioner and they shall from time to time determine. The fees of witnesses before the associate commissioners for attendance and travel shall be the same as those of witnesses before the superior court, and shall be certified and paid in accordance with the provisions of section fifteen of chapter five hundred and fourteen of the acts of nineteen hundred and nine, and acts in amendment thereof and in addition thereto.

Employment  
of experts.

Fees of  
witnesses, etc.

Assistant  
commissioner  
to have  
certain powers  
in matters  
relating  
specifically to  
women and  
minors.

Directors,  
appointment,  
salaries, etc.

Inspectors,  
clerks, etc.,  
employment,  
salaries, etc.

Qualifications  
of certain  
inspectors.

SECTION 73. In all matters relating specifically to women and minors the assistant commissioner shall have and exercise such duties and authority as may be prescribed by the commissioner with the approval of the associate commissioners.

SECTION 74. The commissioner and associate commissioners may, with the approval of the governor and council, appoint, and fix the salaries of, not more than five directors, and may, with like approval, remove the directors. Each director shall be assigned to take charge of a division of the department. The commissioner may also, subject to the civil service law and rules, where they apply, employ and remove such experts, inspectors, investigators, clerks and such other assistants as the work of the department may require, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and the rules and regulations established thereunder, and to the approval of the governor and council, where that is required by law, fix the compensation of the said persons. The commissioner may require that certain

inspectors in the department, not more than seven in number, shall be persons qualified by training and experience in matters relating to health and sanitation.

SECTION 75. All directors, inspectors and other permanent employees of the department shall devote their whole time to the affairs of the department, and all directors and inspectors, and such other employees as may be designated by the commissioner, shall, before entering upon their duties, be sworn to the faithful performance thereof. Inspectors shall have the police powers granted by existing law to the inspectors of the board of labor and industries, except that those assigned to exercise the functions now exercised by the commissioner of standards shall have the powers now possessed by inspectors appointed by the commissioner of standards.

Directors, inspectors and employees to devote their whole time to affairs of the department, etc.

Inspectors to have police powers, except, etc.

The number of inspectors employed by the department shall not, at first, exceed the number of inspectors in the service of the boards, commissions, and bureaus hereby abolished, and shall not thereafter be increased without the approval of the governor and council. The commissioner and associate commissioners shall determine from time to time how many of the inspectors employed shall be women. Section ten of chapter seven hundred and twenty-six of the acts of nineteen hundred and twelve shall apply to inspectors appointed under the provisions of this section.

Inspectors, number, etc.

Certain provisions of law to apply to inspectors.

SECTION 76. The commissioner and associate commissioners may appoint committees, on which employers and employees shall be represented, to investigate and recommend rules and regulations, and changes in existing rules and regulations, within the scope of the powers and duties of the department.

Committees on which employers and employees shall be represented, appointment, etc.

SECTION 77. All the rights, powers, duties and obligations of the commissioner of standards and the surveyor general of lumber shall be assigned to a division of the department, and the director in charge of said division shall be known as the director of standards. He shall exercise the functions of the commissioner of standards and the surveyor general of lumber, and shall perform such other duties as may be assigned to him by the commissioner.

Director of standards, office established, functions, powers, etc.

SECTION 78. Any person affected by an order, rule or regulation of the department may, within such time, as the associate commissioners by vote may fix, which shall not be less than ten days after notice of the order, or the taking effect of the rule or regulation, appeal to the associate com-

Persons affected by orders, regulations, etc., may appeal, etc.

missioners, who shall thereupon grant a hearing, and after the hearing may amend, suspend or revoke such order, rule or regulation. The commissioner may, pending such hearing, grant a temporary suspension of the order, rule or regulation appealed from. Any person aggrieved by an order approved by the associate commissioners may appeal to the superior court: *provided*, that the appeal is taken within fifteen days after the date when the order is approved. The superior court shall have jurisdiction in equity upon such appeal, to annul the order, if it is found to exceed the authority of the department, and upon petition of the commissioner, to enforce all valid orders issued by the department. Nothing herein contained shall be construed to deprive any person of the right to pursue any other lawful remedy.

Appeal to superior court.

Proviso.

Superior court jurisdiction, etc.

### 13. *Department of Mental Diseases.*

Massachusetts commission on mental diseases succeeded by department of mental diseases.

SECTION 79. The department of mental diseases shall consist of the Massachusetts commission on mental diseases as now organized and existing under chapter two hundred and eighty-five of the General Acts of nineteen hundred and sixteen, and acts in amendment thereof and in addition thereto. All provisions of law relating to the commission on mental diseases shall continue in full force and effect, except as is otherwise provided in this act.

Commissioner of mental diseases, powers, duties, etc.

SECTION 80. The commissioner of mental diseases shall be the executive and administrative head of the department of mental diseases, subject to all provisions of law now in force relating to said commissioner. He may organize the department in such divisions as he may, from time to time, determine, and, with the approval of the governor and council, appoint, and fix the compensation of, an assistant commissioner to discharge the duties of the commissioner during his absence or disability, and such other duties as may be prescribed by the commissioner. Physicians, pathologists and psychiatrists of the department, and engineers, firemen and head farmers employed at institutions under the supervision of the department, shall be exempt from the civil service law, and the rules and regulations made thereunder.

Assistant commissioner, appointment, duties, salary, etc.

Certain employees at institutions under supervision of department of mental diseases to be exempt from civil service law.

Norfolk state hospital placed under supervision of department of mental diseases, etc.

SECTION 81. The Norfolk state hospital, subject to any lease to the federal government made under authority of law, is hereby placed under the supervision and control of the department of mental diseases, which shall exercise over



said hospital and the board of trustees thereof the same authority now exercised by the commission on mental diseases over institutions under its supervision and control. The said hospital may be devoted to such uses, in furtherance of the public interests with which the department is charged, as the commissioner and associate commissioners may determine.

#### 14. *Department of Correction.*

SECTION 82. The Massachusetts bureau of prisons, existing under authority of chapter two hundred and forty-one of the General Acts of nineteen hundred and sixteen, is hereby abolished. All the rights, powers, duties and obligations of said bureau, and of any officer, board or member thereof, are hereby transferred to and shall hereafter be exercised and performed by the department of correction established by this act, which shall be the lawful successor of said bureau.

Massachusetts bureau of prisons abolished and succeeded by department of correction.

SECTION 83. The department of correction shall be under the supervision and control of a commissioner, to be known as the commissioner of correction, who shall be appointed by the governor, with the advice and consent of the council. The first appointment of the commissioner shall be for the term of one, two or three years, as the governor may determine. Thereafter the governor shall appoint the commissioner for the term of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove the commissioner. The commissioner shall receive such annual salary, not exceeding six thousand dollars, as the governor and council may determine.

Commissioner of correction, appointment, salary, etc.

SECTION 84. The commissioner shall be the executive and administrative head of the department. He shall perform all the duties prescribed by law for the director of prisons. He may, with the approval of the governor and council, appoint and remove two deputy commissioners, and with like approval, fix their compensation. The deputy commissioners shall perform such duties as the commissioner shall prescribe, and he may designate one of them to discharge the duties of the commissioner during his absence or disability.

Commissioner of correction, powers, duties, etc.

Deputy commissioners, appointment, duties, salaries, etc.

SECTION 85. The duties prescribed by law for the board of parole of the bureau of prisons shall hereafter be performed by a board to consist of a deputy commissioner designated by the commissioner, and two members to be appointed by the governor with the advice and consent of the council.

Board of parole, membership, duties, salaries, etc.

The first appointments of members shall be for terms of two and three years respectively. Thereafter as the terms expire the governor shall appoint the members for the term of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove said members. The governor shall designate the chairman of said board. The deputy commissioner shall receive no additional compensation for his services on the said board. The two appointive members shall receive such annual salary, not exceeding two thousand dollars, as the governor and council may determine; but if one of said members is designated as chairman, he shall receive an annual salary not exceeding three thousand five hundred dollars. The said board shall be known as the board of parole, and shall be considered a board of the department of correction.

Governor to designate chairman.

Title of board.

Department of correction to manage state farm at Bridgewater, etc.

SECTION 86. The department shall manage the state farm at Bridgewater in the same manner, and the officers of the department shall exercise the same authority over the state farm and its inmates, as in the case of the other institutions under the supervision and control of said department.

#### 15. *Department of Public Welfare.*

SECTION 87. The state board of charity, existing under authority of chapter eighty-four of the Revised Laws, and acts in amendment thereof and in addition thereto, and the homestead commission, existing under authority of chapter six hundred and seven of the acts of nineteen hundred and eleven, and acts in amendment thereof and in addition thereto, are hereby abolished. All the rights, powers, duties and obligations of said board and commission, except such as pertain to institutions now under the supervision or control of the state board of charity which are transferred to other departments by this act, are hereby transferred to and shall hereafter be exercised and performed by the department of public welfare established by this act. Except as aforesaid, the said department shall be the lawful successor of said board and said commission. The board of trustees of Massachusetts training schools as now organized and existing under authority of chapter five hundred and sixty-six of the acts of nineteen hundred and eleven, the board of trustees of the Massachusetts hospital school as now organized and existing under authority of chapter four hundred and forty-six of the acts of nineteen hundred and four, and

State board of charity and homestead commission abolished and succeeded by department of public welfare.

Trustees of Massachusetts training schools, trustees of Massachusetts hospital school and trustees of state infirmary and state farm transferred to

acts in amendment thereof and in addition thereto, and the board of trustees of the state infirmary and state farm as now organized and existing under authority of chapter eighty-five of the Revised Laws, and acts in amendment thereof and in addition thereto, are hereby transferred to and shall hereafter serve in said department. The authority of the board of trustees last mentioned shall hereafter relate only to the state infirmary, and said board shall hereafter be known as the board of trustees of the state infirmary.

department  
of public  
welfare.

Authority of  
board of  
trustees of the  
state infirmary.

SECTION 88. The department of public welfare shall be under the supervision and control of a commissioner, to be known as the commissioner of public welfare, and an advisory board of six members, two of whom shall be women, all of whom shall be appointed by the governor, with the advice and consent of the council. The first appointment of the commissioner shall be for the term of one, two, three, four or five years, as the governor may determine. Of the members of the advisory board first appointed two shall be appointed for the term of one year, two for two years, and two for three years. Thereafter as the terms expire the governor shall appoint the commissioner for the term of five years, and the members of the board for the term of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove the commissioner or any member of the board.

Commissioner  
of public  
welfare and  
an advisory  
board, offices  
established.

SECTION 89. The commissioner shall be the executive and administrative head of the department. He shall have charge of the administration and enforcement of all laws which it is the duty of the department to administer and enforce, and shall organize the department in divisions, and supervise the same as hereinafter provided. He shall be, ex officio, a member of the advisory board, and shall receive such annual salary, not exceeding six thousand dollars, as the governor and council may determine.

Commissioner  
of public wel-  
fare, powers,  
duties, salary,  
etc.

SECTION 90. The commissioner and the advisory board shall exercise the functions of the homestead commission under chapter six hundred and seven of the acts of nineteen hundred and eleven, and acts in amendment thereof and in addition thereto. The board shall also assist the commissioner in the work of the department. It shall keep informed of the public interests with which the department is charged, and of the administration thereof, shall study and investigate questions arising in connection therewith, and shall consider, formulate and recommend such proposals as may seem

Commissioner  
and advisory  
board to  
exercise  
functions of  
homestead  
commission.

Advisory  
board, powers,  
duties,  
meetings, etc.

feasible for the furtherance of the work of the department and of the public welfare. It shall advise with the commissioner concerning the policies of the department, and shall make recommendations concerning the service or administration of any division thereof. The board shall meet at least once a month, and at such other times as it may determine by its rules, and when requested by the commissioner or by any three members. The members shall receive no compensation, but shall be reimbursed for their actual, necessary expenses incurred in the performance of their official duties.

Meetings.

Expenses allowed.

Divisions of department of public welfare, directors, etc.

Division of aid and relief, functions, etc.

Division of child guardianship, functions, etc.

Division of juvenile training, functions, etc.

Director of aid and relief, appointment, duties, salary, etc.

Director of child guardianship, appointment, duties, salary, etc.

SECTION 91. The department shall be organized in three divisions, — namely, a division of aid and relief, a division of child guardianship, and a division of juvenile training. There shall be a director for each division, who, under the supervision of the commissioners, shall perform the duties herein specified, and such as are otherwise prescribed by law. The division of aid and relief shall include the functions heretofore exercised by the division of state adult poor of the board of charity. The board of trustees of the state infirmary shall be placed in said division and considered a board thereof. It shall continue to exercise its functions as heretofore, but with respect only to the state infirmary. The division of child guardianship shall include the functions heretofore exercised by the division of state minor wards of the board of charity. The board of trustees of the Massachusetts hospital school shall be placed in said division and considered a board thereof, and shall continue to exercise its functions as heretofore. The division of juvenile training shall consist of the board of trustees of Massachusetts training schools as now organized and existing, together with the institutions and departments under its supervision and control. The said board shall continue to exercise its functions as heretofore, as a division of said department.

SECTION 92. The director of aid and relief shall exercise, under the supervision and control of the commissioner, the functions of the division of state adult poor of the board of charity. He shall be appointed by the commissioner, with the approval of the governor and council, and may, with like approval, be removed by the commissioner. His compensation shall be fixed by the commissioner, with the approval of the governor and council. The director of child guardianship shall exercise, under the supervision and control of the commissioner, the functions of the division of state

minor wards of the board of charity. He shall be appointed by the commissioner, with the approval of the governor and council, and may, with like approval, be removed by the commissioner. His compensation shall be fixed by the commissioner, with the approval of the governor and council. The director of juvenile training shall be a member of the board of trustees of Massachusetts training schools designated by the governor. He shall receive no compensation as such. His term shall be that of his appointment as trustee.

Director of juvenile training to be member of board of trustees of Massachusetts training schools.

SECTION 93. When so directed by the governor the commissioner and advisory board may assume and exercise the powers and perform the duties of the board of trustees of any institution under the supervision of or placed in the department, in any matter relative to the management and control thereof, except in case of trust funds vested in any board of trustees.

Commissioner of public welfare and advisory board may assume duties of trustees of certain institutions.

SECTION 94. The commissioner may prepare and present for the approval of the advisory board rules and regulations governing the conduct of the department and any action which may legally be taken under its authority, and such rules and regulations shall take effect upon approval by a majority of the board, and at such time as they by vote shall fix. Any person objecting to any such rule or regulation may submit his objection to the commissioner, in writing, who shall refer the same to the advisory board which may hear the said person and revise, amend or affirm the rule or regulation. At least once in each year the question of revising the rules and regulations of the department shall be brought before the advisory board by the commissioner at a regular meeting. Rules and regulations effective under the provisions of this section may be revised, amended or annulled in the same manner in which they were originally adopted.

Commissioner may prepare rules and regulations, etc.

Objections to, and revision of rules and regulations.

Annual revision of rules and regulations, etc.

SECTION 95. The commissioner may also, subject to the civil service law and rules, where they apply, appoint such officials, agents, clerks and other employees as the work of the department may require, designate their duties, except so far as they are otherwise defined by law, assign them to divisions, transfer and remove them, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and to the approval of the governor and council, where that is required by law, fix the compensation of the said persons. The appointments in the divisions of aid and relief and of child

Agents, clerks, etc., appointments, salaries, etc.

Directors, etc., to advise on certain appointments.

guardianship shall be made with the advice of the directors thereof; and the appointments in the institutions shall be in accordance with existing law.

### 16. *Department of Public Health.*

State department of health succeeded by department of public health.

Board of trustees of hospitals for consumptives abolished and succeeded by department of public health.

Penikese hospital placed in department of public health.

Commissioner of public health, office established, powers, etc.

Designation of deputy, etc.

Certain exemptions from civil service law.

Division of sanatoria to be established, etc.

SECTION 96. The department of public health shall consist of the state department of health as now organized and existing under authority of chapter seven hundred and ninety-two of the acts of nineteen hundred and fourteen, and acts in amendment thereof and in addition thereto. All provisions of law relating to the state department of health shall continue in full force and effect, except as is otherwise provided by this act. The board of trustees of hospitals for consumptives, existing under authority of chapter four hundred and seventy-four of the acts of nineteen hundred and seven, and acts in amendment thereof and in addition thereto, is hereby abolished. All the rights, powers, duties and obligations of said board are hereby transferred to and shall hereafter be exercised and performed by said department, which shall be the lawful successor of said board. The Penikese hospital, so-called, existing under authority of chapter four hundred and seventy-four of the acts of nineteen hundred and five, and acts in amendment thereof and in addition thereto, is hereby placed in said department.

SECTION 97. The commissioner of health shall hereafter be known as the commissioner of public health. He may, with the approval of the public health council, designate a director of a division of the department to act as deputy commissioner of public health and to perform the duties of the commissioner during his absence or disability, and such other duties as may be prescribed by the commissioner. Assistant directors of divisions and epidemiologists shall be exempt from the civil service law and the rules and regulations made thereunder. The powers of the commissioner of public health shall be as now provided by law for the commissioner of health, except as is otherwise provided by this act.

SECTION 98. The commissioner shall establish in the department of public health a division of sanatoria which shall include the institutions formerly under the supervision and control of the board of trustees of hospitals for consumptives. The commissioner may place the Penikese hospital, so-called, in the said division, and, with the approval

of the governor and council, may appoint and remove a director to have charge of said division, and, with like approval, may fix his compensation.

### 17. *Department of Public Safety.*

SECTION 99. The district police force, existing under authority of chapter one hundred and eight of the Revised Laws, and acts in amendment thereof and in addition thereto, and all offices, departments and divisions thereof; the board of boiler rules, existing under authority of chapter four hundred and sixty-five of the acts of nineteen hundred and seven; the board of elevator regulations authorized under authority of chapter eight hundred and six of the acts of nineteen hundred and thirteen; and the office of fire prevention commissioner of the metropolitan district, existing under authority of chapter seven hundred and ninety-five of the acts of nineteen hundred and fourteen, are hereby abolished. All the rights, powers, duties and obligations of the district police, said boards and said offices are hereby transferred to, and shall hereafter be exercised and performed by the department of public safety, established by this act, which shall be the lawful successor of the district police and of said boards and offices.

District police force, board of boiler rules, board of elevator regulations, and office of fire prevention commissioner of metropolitan district abolished and succeeded by department of public safety.

SECTION 100. The department of public safety shall be under the supervision and control of a commissioner, to be known as the commissioner of public safety, who shall be appointed by the governor, with the advice and consent of the council. The first appointment shall be for the term of one, two, three, four or five years, as the governor may determine. Thereafter the governor shall appoint the commissioner for the term of five years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove the commissioner. The commissioner shall receive such annual salary, not exceeding five thousand dollars, as the governor and council may determine.

Commissioner of public safety, appointment, salary, etc.

SECTION 101. The commissioner shall be the executive and administrative head of the department. He shall have charge of the administration and enforcement of all laws, rules and regulations which it is the duty of the department to administer and enforce, and shall direct all inspections and investigations except as is otherwise provided herein. He shall organize the department in three divisions, namely, a division of state police under his own immediate charge,

Commissioner of public safety, powers, duties, etc.

Divisions of department of public safety, directors, etc.

a division of inspection under the charge of a director to be known as chief of inspections, and a division of fire prevention under the charge of a director to be known as state fire marshal. The state fire marshal and the chief of inspections shall be appointed by the governor, with the advice and consent of the council, for the term of three years, and may, with like approval, be removed. The directors shall receive such annual salary, not exceeding four thousand dollars, as the governor and council may determine. The commissioner may, subject to the civil service law and rules where they apply, appoint, transfer and remove officers, inspectors, experts, clerks and other assistants, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and the rules and regulations made thereunder, and to the approval of the governor and council where that is required by law may fix the compensation of the said persons.

State fire marshal and chief of inspections, appointment, salaries, etc.

Inspectors, clerks, etc., appointment, salaries, etc.

Division of state police, functions, etc.

SECTION 102. The division of state police shall except as is otherwise provided herein include the functions of the detective and fire inspection department of the district police. The commissioner shall have the powers and perform the duties of the chief of the district police.

Division of inspections, functions, etc.

SECTION 103. The division of inspections shall include the functions of the boiler inspection department of the district police, and of the building inspection department of the district police. The chief of inspections shall exercise the powers and perform the duties now provided by law for the deputy chief of the building inspection department of the district police and for the deputy chief of the boiler inspection department of the district police. Inspectors assigned to said division shall be designated as building inspectors or as boiler inspectors, and shall have the powers and perform the duties of inspectors of the building inspection department and of the boiler inspection department, respectively, of the district police.

Chief of inspections, powers, duties, etc.

Inspectors, designations, duties, etc.

Director in charge of fire prevention division, powers, duties, etc.

SECTION 104. The director in charge of the fire prevention division shall, under the supervision of the commissioner, perform the duties of the fire prevention commissioner for the metropolitan district, whose office is abolished hereby, and shall also have the powers and perform the duties of the district police and of the deputy chief of the detective and fire inspection department of the district police under the provisions of chapter four hundred and thirty-three of the acts of nineteen hundred and four, and acts in amendment



thereof and in addition thereto, relative to the keeping and storing of inflammable fluids and combustible compounds and of the district police under the provisions of chapter thirty-two of the Revised Laws and acts in amendment thereof and in addition thereto. The said director shall submit to the commissioner rules and regulations under the said acts, and such rules and regulations shall take effect subject to the provisions of chapter three hundred and seven of the General Acts of nineteen hundred and seventeen, when approved by the commissioner and by the governor and council, and on such dates as they may fix.

Rules and regulations.

SECTION 105. The commissioner shall appoint a board of boiler rules which shall exercise the functions of the board of boiler rules as now provided by law. Said board shall consist of the chief of inspections, as chairman, and four other members whose qualifications and compensation shall be the same as those of the members of the board of boiler rules abolished by this act. The terms of office of the appointed members of said board shall be three years, except that when first appointed one of the members shall be appointed for one year, one for two years and two for three years. Such clerical and other assistants as may be required by said board shall be assigned to it by the commissioner.

Board of boiler rules, appointment, functions, etc.

SECTION 106. The commissioner shall, as occasion requires, appoint a board of elevator regulations which shall exercise the functions of the board of elevator regulations as now provided by law. Said board shall consist of the chief of inspections as chairman, a consulting engineer, the building commissioner of the city of Boston, an inspector of buildings of some city other than Boston, a representative of a liability insurance company licensed to write such insurance in the commonwealth, a representative of elevator manufacturers and an experienced elevator constructor. They shall serve without compensation, but their necessary expenses shall be paid by the department. Such clerical and other assistants as may be required by said board shall be assigned to them by the commissioner.

Board of elevator regulations, appointment, functions, etc.

Expenses.

SECTION 107. The commissioner may, when public exigency requires, with the approval of the governor, call upon the metropolitan district commission, hereby established, for assistance in performing the duties imposed upon him by law; and the said commission shall, when so called upon, assign to duty under said commissioner such of the police force under its control as it and the commissioner shall determine.

Commissioner of public safety may have assistance of metropolitan district commission.

Officers and inspectors with powers of officers and inspectors of district police, appointment, number, etc.

SECTION 108. The commissioner may appoint officers and inspectors who shall have the same powers now conferred by law upon officers and inspectors of the district police. The number of such officers and inspectors shall not, at first, exceed the number of officers in the detective and fire inspection department of the district police and of inspectors in the service of the building inspection and boiler inspection departments of the district police and in the service of the fire prevention commissioner of the metropolitan district, and shall not thereafter be increased without the approval of the governor and council. The provisions of sections six and seven of chapter one hundred and eight of the Revised Laws shall, so far as they are applicable, apply to officers and inspectors appointed under the provisions of this section.

Certain provisions of law applicable.

Persons affected by an order of department of public safety may appeal, etc.

SECTION 109. Any person affected by an order of the department or of a division or office thereof, may, within such time as the commissioner may fix, which shall not be less than ten days after notice of such order, appeal to the commissioner, who shall thereupon grant a hearing, and after such hearing may amend, suspend or revoke such order. Any person aggrieved by an order approved by the commissioner may appeal to the superior court: *provided*, such appeal is taken within fifteen days from the date when such order is approved. The superior court shall have jurisdiction in equity upon such appeal to annul such order if found to exceed the authority of the department, and upon petition of the commissioner to enforce all valid orders issued by the department. Nothing herein contained shall be construed to deprive any person of the right to pursue any other lawful remedy.

Appeal to superior court.  
Proviso.

Superior court jurisdiction, etc.

Additional appointments by commissioner of public safety may be authorized by governor, etc.

SECTION 110. Whenever the governor shall deem it necessary to provide more effectively for the protection of persons and property, and for the maintenance of law and order in the commonwealth, he may authorize the commissioner of public safety to make additional appointments, not exceeding one hundred in number, to the police division of said department, together with such other employees as the governor may deem necessary for the proper administration thereof. The appointment of the additional officers shall be temporary until the general court has authorized their permanent addition to the department. The commissioner may, subject to the approval of the governor, make rules and regulations for the said additional force, including mat-

Rules and regulations.

ters pertaining to their discipline, organization and government, compensation and equipment, and means of swift transportation.

18. *Department of Public Works.*

SECTION 111. The Massachusetts highway commission, existing under authority of chapter three hundred and forty-four of the General Acts of nineteen hundred and seventeen and acts in amendment thereof and in addition thereto, and the commission on waterways and public lands existing under authority of chapter two hundred and eighty-eight of the General Acts of nineteen hundred and sixteen, are hereby abolished. All the rights, powers, duties and obligations of said commissions are hereby transferred to and shall hereafter be exercised and performed by the department of public works established by this act, which shall be the lawful successor of said commissions.

Massachusetts highway commission and commission on waterways and public lands abolished and succeeded by department of public works.

SECTION 112. The department of public works shall be under the supervision and control of a commissioner, to be known as commissioner of public works, and four associate commissioners, all of whom shall be appointed by the governor, with the advice and consent of the council. The commissioner shall be appointed for the term of three years. Of the associate commissioners first appointed, two shall be appointed for the term of one year and two for the term of two years. Thereafter as the terms expire the governor shall appoint the commissioner and the associate commissioners for the term of three years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove the commissioner or any of the associate commissioners. The commissioner shall receive such annual salary, not exceeding seven thousand five hundred dollars, and the associate commissioners such annual salaries not exceeding six thousand dollars, as the governor and council may determine.

Commissioner of public works and associate commissioners, appointment, salaries, etc.

SECTION 113. The department shall be organized in two divisions, namely, a division of highways and a division of waterways and public lands. The said divisions shall have, exercise and perform, the rights, powers, duties and obligations, respectively, of the Massachusetts highway commission and the commission on waterways and public lands, except as is otherwise provided herein. The governor shall, at the time of making the first appointments under the preceding section, designate two of the associate commissioners

Division of highways and division of waterways and public lands, powers, duties, etc.

to have charge of the division of highways and two to have charge of the division of waterways and public lands. Thereafter, whenever a change in the associate commissioners occurs, the governor may make a new designation. The commissioner shall be entitled to act as a member of both divisions, and when present shall act as chairman of the division. The concurrence of two members shall be necessary in any official act of either division.

Commissioner of public works, powers, duties, etc.

SECTION 114. The commissioner shall be the executive and administrative head of the department. He shall approve all contracts made by either division, and may require any of the expenditures of either division to be submitted to him for approval. He may, subject to the civil service law and rules, where they apply, appoint, assign to divisions, transfer and remove such officials and employees as the work of the department may require, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and the rules and regulations made thereunder, and to the approval of the governor and council where that is required by law, fix the compensation of the said persons.

Registrar of motor vehicles, appointment, powers, duties, salary, etc.

SECTION 115. The commissioner shall appoint, and may remove, subject to the approval of the governor and council, an official to be known as registrar of motor vehicles, and may, with like approval, fix his compensation. The registrar of motor vehicles shall have, exercise and perform all the rights, powers, duties and obligations of the Massachusetts highway commission relative to motor vehicles and to the operation thereof, as defined by chapter five hundred and thirty-four of the acts of nineteen hundred and nine, and acts in amendment thereof and in addition thereto. Any person aggrieved by a regulation, ruling or decision of said registrar may, within ten days thereafter, appeal from such regulation, ruling or decision to the commissioners of the division of highways who may, after a hearing, order such regulation, ruling or decision to be affirmed, modified or annulled.

Appeal from regulations, etc., of registrar.

Rules and regulations of department of public works, drafting of, approval, etc.

SECTION 116. All rules and regulations under provisions of existing law within the jurisdiction of the division of highways, the division of waterways and public lands or the registrar of motor vehicles shall be drafted by the commissioners having charge of said divisions or by said registrar, shall be submitted to the commissioner and associate commissioners sitting as a board, and shall take effect, subject

to the provisions of chapter three hundred and seven of the General Acts of nineteen hundred and seventeen, when approved by them, and at such time as they shall designate. Said board shall also have power to make all needful rules and regulations for carrying out the provisions of this act relating to the said department.

### 19. *Department of Public Utilities.*

SECTION 117. The public service commission, existing under authority of chapter seven hundred and eighty-four of the acts of nineteen hundred and thirteen, and chapter two hundred and eighty-three of the General Acts of nineteen hundred and eighteen, and the board of gas and electric light commissioners, existing under authority of chapter seven hundred and forty-two of the acts of nineteen hundred and fourteen, are hereby abolished. All the rights, powers, duties and obligations of said commission and said board are hereby transferred to and shall hereafter be exercised and performed by the department of public utilities established by this act, which shall be the lawful successor of said commission and said board.

Public service commission and board of gas and electric light commissioners abolished and succeeded by department of public utilities.

SECTION 118. The department of public utilities shall be under the supervision and control of a commission of five members, who shall be appointed by the governor, with the advice and consent of the council. Of the commissioners first appointed under this act, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. Thereafter the governor shall appoint the commissioners for terms of five years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove any commissioner. The governor shall designate one of said commissioners as chairman. The chairman of the commission shall receive such annual salary, not exceeding eight thousand dollars, and each of the other commissioners such annual salary not exceeding seven thousand dollars, as the governor and council may determine.

Commission of five members to control department of public utilities, appointment, salaries, etc.

Governor to designate chairman.

SECTION 119. The chairman shall have and exercise supervision and control over all the affairs of the commission. He shall preside at all hearings at which he is present, and shall designate a commissioner to act as chairman in his absence. He shall not, except as is otherwise provided herein, be charged with any administrative functions. In

Chairman of commission, powers, duties, etc.

Holding of  
hearings, etc.

order to promote efficiency in administration he shall from time to time make such division or redivision of the work of the department among the commissioners as he may deem expedient. All the commissioners shall, if so directed by the chairman, participate in the hearing and decision of any matter coming before the commission. In the hearing of all matters other than those of formal or administrative character coming before the commission, at least two commissioners shall participate and in the decision of all such matters at least three commissioners shall participate. In every case the concurrence of a majority of the commissioners participating therein shall be necessary to a decision. With the consent of all parties concerned in a matter coming before the commission, the hearing may be held by a single commissioner.

Certain corporations to become subject to jurisdiction of department of public utilities, etc.

SECTION 120: The different classes of corporations now subject to the jurisdiction of the public service commission and the board of gas and electric light commissioners, respectively, and which under the provisions of this act will become subject to the jurisdiction of the department of public utilities, shall continue to be subject to the provisions of law applicable to them, respectively, and to such provisions as are applicable to all of them alike. This act shall not be deemed to affect the said provisions except as to their administration.

Parties aggrieved by rulings may secure a review thereof, etc.

SECTION 121. When so requested by any party interested, the commission, or any member or members acting for the commission, shall rule upon any question of substantive law properly arising in the course of any proceeding before the commission or any member or members thereof, and any party in interest aggrieved by such ruling may object thereto, and may secure a review thereof as hereinafter provided. Any failure or refusal of the commission, or of any member or members thereof acting for the commission, to rule upon such a question at the request of any party in interest as aforesaid within ten days after such request, shall be taken and recorded as a ruling adverse to the party requesting the ruling. The supreme judicial court shall have jurisdiction in equity to review, modify, amend or annul any ruling or order of the commission, or of any member or members representing the commission, in the manner, to the extent, and subject to the conditions set forth in section twenty-seven of chapter seven hundred and eighty-four of the acts of nineteen hundred and thirteen. The supreme judicial court shall also have jurisdiction, upon the application of

Supreme judicial court to have jurisdiction, etc.

the commission, to enforce the provisions of this act relating to the department, and all valid orders of the commission.

SECTION 122. The general court, in making annual appropriations for the department, shall designate what portions thereof shall be used for salaries of employees and expenses in the department in connection with the functions now performed by the board of gas and electric light commissioners. The portions thus designated, including one half the sum annually appropriated for the salaries of the commissioners, shall be apportioned by the tax commissioner in the manner specified in section one hundred and thirty-six of chapter seven hundred and forty-two of the acts of nineteen hundred and fourteen and acts in amendment thereof and in addition thereto, relative to the assessment of appropriations for the board of gas and electric light commissioners.

Annual appropriations for department of public utilities, certain designations to be made therein, and apportioned by the tax commissioner, etc.

PART IV.

20. THE METROPOLITAN DISTRICT COMMISSION.

SECTION 123. The metropolitan park commission, existing under authority of chapter four hundred and seven of the acts of eighteen hundred and ninety-three, and acts in amendment thereof and in addition thereto, and the metropolitan water and sewerage board, existing under authority of chapter one hundred and sixty-eight of the acts of nineteen hundred and one, and acts in amendment thereof and in addition thereto, are hereby abolished. All the rights, powers, duties and obligations of said boards are hereby transferred to and shall hereafter be exercised and performed by the metropolitan district commission established by this act, which shall be the lawful successor of said commission and board.

Metropolitan park commission and metropolitan water and sewerage board abolished and succeeded by metropolitan district commission.

SECTION 124. The metropolitan district commission shall be under the supervision and control of a commissioner and four associate commissioners, all of whom shall be appointed by the governor, with the advice and consent of the council. They shall at the time of their appointment be resident within the district of which the department has jurisdiction, and at least one shall be a resident of the city of Boston. The commissioner shall be appointed for the term of five years. Of the associate commissioners first appointed, one shall be appointed for the term of one year, one for two years, one for three years, and one for four years. Thereafter as the terms expire the governor shall appoint the

Commissioner and associate commissioners to control metropolitan district commission, appointment, etc.

commissioners for the term of five years, shall fill any vacancy for the unexpired term, and may, with the consent of the council, remove the commissioner or any associate commissioner.

Commissioner,  
powers, duties,  
salary, etc.

SECTION 125. The commissioner shall be the executive and administrative head of the commission, and shall organize the commission in divisions and supervise the same as hereinafter provided. He shall receive such annual salary, not exceeding six thousand dollars, and the associate commissioners such annual salary, not exceeding one thousand dollars, as the governor and council may determine.

Associate  
commissioners,  
salaries.

Divisions of  
metropolitan  
district com-  
mission,  
directors, etc.

SECTION 126. The commission shall be organized in such divisions as the commissioner may from time to time determine, and the commissioner may, with the approval of the governor and council, appoint and remove a director of each division to have charge of the work of the division. The compensation of directors shall be fixed by the commissioners, with the approval of the governor and council. The commissioners may also appoint a secretary and engineering chiefs, and, subject to the civil service law and rules, where they apply, appoint a purchasing agent, engineers, inspectors, officers and members of the police force, clerks and such other officers and employees as the work of the commission may require; may assign them to divisions, transfer and remove them, and, subject to the provisions of chapter two hundred and twenty-eight of the General Acts of nineteen hundred and eighteen, and to the approval of the governor and council, where that is required by law, fix the compensation of the said persons.

Secretary and  
engineering  
chiefs, pur-  
chasing agent,  
police force,  
engineers,  
inspectors,  
clerks, etc.,  
appointment,  
salaries, etc.

Power and  
authority over  
public  
property  
transferred  
to control of  
metropolitan  
district  
commission.

SECTION 127. The commission shall have and exercise over the public property hereby transferred to its charge and control from the metropolitan water and sewerage board, in addition to the power and authority of said board, all the power and authority which the metropolitan park commission has over open spaces for exercise and recreation under chapter four hundred and seven of the acts of eighteen hundred and ninety-three, and acts in amendment thereof and in addition thereto, so far as such power and authority may be exercised consistently with the purposes for which the metropolitan water and sewerage systems were created and are maintained.

Police  
appointed by  
metropolitan  
district  
commission,  
powers, etc.

SECTION 128. The police appointed or employed by the commission shall have within the metropolitan parks district, and within the cities and towns outside said district



wherein any of the property of the metropolitan water and sewerage districts is situated, all the powers of police officers and constables of cities and towns of this commonwealth, except the power of serving and executing civil process, and when on duty may carry such weapons as the said commission shall authorize.

SECTION 129. The expense of maintenance of the metropolitan parks, boulevard, water and sewerage systems under the department shall be paid by the metropolitan parks, boulevard, water and sewerage districts, respectively, in the manner now provided by law: *provided, however*, that the expense each year of the salaries of the commissioners, and such other expense of maintenance of the general office and otherwise as they shall determine are not clearly or wholly incurred in the maintenance work of any one of said systems or districts, shall be paid as follows:— one fourth as the expense of maintenance of reservations under chapter four hundred and seven of the acts of eighteen hundred and ninety-three; one fourth as the expense of maintenance of boulevards under chapter two hundred and twenty-eight of the acts of eighteen hundred and ninety-four; one fourth as the expense of maintenance of the metropolitan water system; and one fourth as the expense of maintenance of the metropolitan sewerage system.

Expense of maintenance of metropolitan parks, boulevard, water and sewerage systems, payment, etc. Proviso.

PART V.

SECTION 130. So much of this act as authorizes appointments by the governor and council shall take effect on the fifteenth day of November, nineteen hundred and nineteen. So much as relates to each department shall take effect upon the appointment and qualification of the officers having the supervision and control thereof, but not before the first day of December, nineteen hundred and nineteen. All other provisions thereof shall take effect on the first day of December, nineteen hundred and nineteen.

Time of taking effect.

*Approved July 23, 1919.*

~~AN ACT TO REGULATE THE SALE AND COLD STORAGE OF FRESH FOOD FISH. Chap. 351~~

*Be it enacted, etc., as follows:*

SECTION 1. All fresh food fish shall be graded before it is offered for sale or placed in cold storage. There shall be

Sale and cold storage of fresh food fish

ford on land to be acquired by said commission and may expend for such purpose a sum not to exceed five hundred thousand dollars.

SECTION 2. For the purpose set forth in section one the sum of five hundred thousand dollars is hereby transferred from funds made available by item 9027-01 of section two of chapter five hundred and seventeen of the acts of nineteen hundred and sixty-one, provided, however, that the city of Medford shall make available to the metropolitan district commission any funds received by it from the commonwealth for the taking by eminent domain of Gillis Stadium in said city.

*Approved June 11, 1962.*

**Chap. 550.** AN ACT AUTHORIZING THE METROPOLITAN DISTRICT COMMISSION TO CONSTRUCT, MAINTAIN AND OPERATE A DAM ACROSS THE CHARLES RIVER.

*Be it enacted, etc., as follows:*

SECTION 1. The metropolitan district commission, hereinafter called the commission, is hereby authorized and directed to construct, maintain and operate a dam with locks, a drawbridge if needed, works and appurtenances across the estuary of the Charles river at or in the vicinity of the abandoned Warren Avenue bridge in the city of Boston.

SECTION 2. The word "basin", as defined in section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine, shall include the waters and lands lying between the present Charles River dam and the dam to be constructed under this act.

SECTION 3. The commission, for the purposes of this act, may, on behalf of the commonwealth, take by eminent domain under chapter seventy-nine of the General Laws, or acquire by purchase or otherwise, any lands, waters, water rights, rights of way, easements or other property or interest in property, and shall have all the rights, powers and duties and be subject to the limitations of sections thirty-two, thirty-three and thirty-five of chapter ninety-two of the General Laws, and all other applicable provisions of said chapter ninety-two; provided, however, that the city of Boston shall grant to said commission the right to enter upon any public land or way and to construct, maintain and operate such facilities as may be necessary, without recourse to damages therefor; and provided, further, that the commission may accept grants of properties, rights or monies and enter into agreements, in form approved by the attorney general, with any department, commission or agency of the commonwealth or any railroad or other public franchise holder or agency as provided by said chapter ninety-two.

SECTION 4. The commission may, on behalf of the commonwealth, make application for and use such federal funds or assistance or both as it may obtain for the planning or construction of the said dam or any part of the total project.

SECTION 5. To meet the expenditure necessary in carrying out the provisions of this act, the state treasurer shall, upon request of the governor and council, issue and sell at public or private sale bonds of the commonwealth, registered or with interest coupons attached, as he may deem best, to an amount to be specified by the governor and council from time to time, but not exceeding in the aggregate, the sum of five million dollars. Funds provided in this act are to be in addition to the

amount appropriated in chapter six hundred and forty-six of the acts of nineteen hundred and fifty-seven. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Charles River Basin Improvement Loan, Act of 1962, and shall be on the serial payment plan for such maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, the maturities thereof to be so arranged that the amounts payable in the several years of the period of amortization other than the final year, shall be as nearly equal as in the opinion of the state treasurer it is practicable to make them. Said bonds shall bear interest semi-annually at such rate as the state treasurer, with the approval of the governor, shall fix. The initial maturities of such bonds shall be payable not later than one year from the date of issue thereof and the entire issue not later than June thirtieth, nineteen hundred and ninety-five. All interest payments and payments on account of principal on such obligations shall be paid from the metropolitan district park funds, to be assessed by methods fixed by law.

SECTION 6. This act shall take effect upon its passage.

*Approved June 11, 1962.*

~~**Chap. 551.** AN ACT RELATIVE TO THE ANTICIPATORY REPAYMENT OF CERTAIN NOTES SECURED BY A MORTGAGE OF REAL ESTATE.~~

*Be it enacted, etc., as follows:*

SECTION 1. Chapter 183 of the General Laws is hereby amended by adding at the end the following section: —

*Section 56.* Any mortgage note secured by a first lien on a dwelling house of three or less separate households occupied or to be occupied in whole or in part by the mortgagor shall be subject to the condition that, if, upon the bona fide sale of such dwelling house by the mortgagor the note be paid before the date fixed for payment, (a) any additional amount required to be paid in such event shall be an amount which shall not be in excess of the greater of three months' interest or the balance of the first year's interest, and (b) no such additional amount shall be charged when such anticipatory payment upon such sale shall be made after the expiration of thirty-six months from the date of the note. The provisions of this section limiting the amount of such additional payments shall not apply in the event of refinancing of such loans or to mortgage loans insured by the Federal Housing Administrator or guaranteed by the Administrator of Veterans' Affairs. No provision hereof shall prevent any note from being a negotiable instrument under the Uniform Commercial Code.

SECTION 2. The provisions of this act shall not apply to any mortgage note executed prior to the effective date of this act.

*Approved June 11, 1962.*

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## Chap. 40

**SECTION 12.** All sums expended either pursuant to, or for which reimbursement is made under, this act, for the purpose of acquiring, constructing or altering public transportation passenger vehicles or facility, shall be expended in accordance with the provisions of 42 U.S.C. 12141 to 42 U.S.C. 12150, inclusive.

Approved July 24, 2003.

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## Chapter 41. AN ACT RELATIVE TO THE FUNCTIONS OF CERTAIN STATE AGENCIES.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is relative to the functions of certain state agencies, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of food and agriculture, as the transferor agency, to the department of agricultural resources, as the transferee agency;

(2) **the functions of the metropolitan district commission, as the transferor agency, to the division of urban parks and recreation in the department of conservation and recreation,** as the transferee agency;

(3) the functions of the department of environmental management, as the transferor agency, to the department of conservation and recreation, as the transferee agency;

(4) the functions of the division of environmental law enforcement in the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the office of environmental law enforcement in the executive office of environmental affairs, as the transferee agency;

(5) the functions of the division of forests and parks in the department of environmental management, as the transferor agency, to the division of state parks and recreation in the department of conservation and recreation, as the transferee agency;

(6) the functions of the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the department of fish and game, as the transferee agency;

(7) the functions of the division of watershed management in the metropolitan district commission, as the transferor agency, to the division of water supply protection, as the transferee agency;

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## Chap. 41

(8) the functions of the division of water resources in the department of environmental management, as the transferor agency, to the division of water supply protection, as the transferee agency;

(9) the functions of the office of administrative appeals in the department of environmental protection, as the transferor agency, to the office of administrative appeals in the executive office of environmental affairs, as the transferee agency;

(10) the functions of the division of employment and training, as transferor agency, to the division of workforce development, excluding the oversight of the unemployment insurance fund and the medical security trust fund;

(11) the functions of the division of medical assistance pursuant to section 352 of chapter 26 of the acts of 2003, as the transferor agency, to the office of elder services, as the transferee agency; and

(12) the functions of the division of health care finance and policy pursuant to chapter 348 of chapter 26 of the acts of 2003, as the transferor agency, to the executive office of health and human services.

(b) Subject to appropriation, the employees of each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the respective transferee agency, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension discharge layoff or abolition of position not prohibited before such date.

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## Chap. 41

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun by each transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the respective transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the respective transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency shall be transferred to the respective transferee agency.

(f) All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

**SECTION 2.** This act shall take effect as of July 1, 2003.

Approved July 24, 2003.

## ~~Chapter 42. AN ACT RELATIVE TO QUALITY HEALTH CARE.~~

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for nursing facility Medicaid rates for fiscal year 2004, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, in fiscal year 2004, the division of health care finance and policy shall establish nursing facility Medicaid rates, payable out of the Health Care Quality Improvement Trust Fund, established under section 2EEE of chapter 29 of the General Laws, effective July 1, 2003 through June 30, 2004 that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002. The division shall adjust per diem rates to reflect any reductions in medicaid utilization. Payments from the fund shall be allocated in the following manner in fiscal year 2004:

(1) effective July 1, 2003, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes;

(2) effective July 1, 2003, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

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