



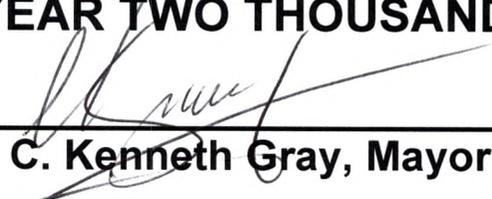
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AMESBURY CITY CLERK

**CITY OF AMESBURY
IN THE YEAR TWO THOUSAND EIGHTEEN**

SPONSORED BY:


C. Kenneth Gray, Mayor

BILL No. 2018-008

An Order to Authorize the Mayor to Execute a Deed for the Disposition of the Property known as Bailey's Pond.

Summary: The City Council shall vote to authorize the Mayor to execute the deed for the disposition of the property known as Bailey's Pond to Amesbury Real Estate Investment LLC.

Be it Ordered by the City Council of the City of Amesbury assembled and by the authority of the same, as follows:

Whereas, on February 24, 2010 the City Council, pursuant to Bill No. 2010-0018, authorized the Mayor to execute a Purchase and Sale Agreement between the City and Fafard Real Estate and Development Corporation ("Fafard") for the disposition of the property known as Bailey's Pond, being Tax Map 87, Lot 1 and Tax Map 88, Lot 50, from the City to Fafard; and

Whereas, on January 27, 2010 the City and Fafard entered into the Purchase and Sale Agreement; and

Whereas, the conditions of the Purchase and Sale Agreement having been satisfied, the City and Fafard seek to complete the property disposition as contemplated in the Purchase and Sale Agreement; and

Whereas, Fafard has assigned its rights under the Purchase and Sale Agreement to Amesbury Real Estate Investment LLC; and

Whereas, completion of such property disposition requires the execution of a deed by the City to Amesbury Real Estate Investment LLC.

Now, therefore, the City Council votes, pursuant to the provisions of G.L. c. 40, §3, G.L. c. 40, §15, and the terms and conditions of the Purchase and Sale Agreement, to authorize the Mayor to execute a deed in favor of Amesbury Real Estate Investment LLC for the disposition of the property known as Bailey's Pond, and any and all other documents and take any and all actions reasonably necessary to effectuate the purposes of this Order in the best interest of the City.

Return to:
Paul J. Beattie
c/o FRE Building Co., Inc.
120 Quarry Drive – 2nd Floor
Milford, MA 01757

(SPACE ABOVE THIS LINE RESERVED FOR REGISTRY OF DEEDS USE)

QUITCLAIM DEED

City of Amesbury, acting by and through its Mayor, having an address of 62 Friend Street, Amesbury, Massachusetts 01913 (the “City”), in accordance with City Council Bill 2010-018, a certified copy of which is recorded herewith, for consideration paid, and in full consideration of the sum of Six Hundred Thousand and 00/100 (\$600,000.00) Dollars, hereby grants, with *quitclaim covenants*, unto **Amesbury Real Estate Investment LLC**, a Massachusetts limited liability company, having an address of 120 Quarry Drive, Milford, Massachusetts 01757 (the “Grantee”), the following described parcels of unregistered and registered land (together, the “Property”):

Unregistered Land

A certain parcel of land situated on Pond View Avenue and Summit Avenue, Amesbury, Essex County, Commonwealth of Massachusetts, shown as “Map 87, Lot 1 N/F City of Amesbury” and “Map 88, Lot 50 N/F City of Amesbury,” on a plan entitled “Map 87 Lot 1 & Map 88 Lot 50 Parcel Consolidation Plan of Land in Amesbury Massachusetts Essex County,” dated November 10, 2017, prepared by Hancock Associates, recorded herewith in Plan Book ____, Plan ____ (the “Plan”), the metes and bounds of said parcel as shown on the Plan.

The parcel is subject to an easement set forth in a deed to New England Telephone and Telegraph and Massachusetts Electric Company, dated September 26, 1966, recorded with the Essex South District Registry of Deeds in Book 5398, Page 784.

The parcel benefits from and is subject to those rights and easements set forth in a deed from John J. Ryan, Trustee of Yankee Trader Trust to Joseph Falzone, Trustee of First Caribbean Realty Trust, dated December 30, 1987, recorded with the Essex South District Registry of Deeds in Book 9346, Page 468.

For the source of City's title, see Judgment of the Land Court recorded in the Essex South District Registry of Deeds in Book 12887, Page 363 and Judgment of the Land Court recorded in the Essex South District Registry of Deeds in Book 12887, Page 364.

Registered Land

A certain parcel of land at the rear of 77 Merrimack Street, Amesbury, Essex County, Massachusetts 01913, being shown as Lot 10 on a plan entitled "Plan of Land Located in Amesbury, Massachusetts (Essex County)," prepared for Parking For Amesbury, LLC, Scale 1" = 60' dated February 24, 2004, prepared by Meridian Associates, Inc., being Land Court Plan Number 26500D.

The City hereby reserves an exclusive 15' wide access easement, in gross, upon Lot 9, as shown on Land Court Plan Number 26500D, to be used for the enlargement, repair, replacement, maintenance and removal of the outlet and drain line from Bailey's Pond (shown as Lot 11 on Land Court Plan Number 26500D) to Merrimack Street, and further described in a deed from Parking For Amesbury, LLC to the Town of Amesbury, filed as Document 441373 with the Essex South District of the Land Court. It is intended by the City that the Grantee not acquire the aforesaid easement for the enlargement, repair, replacement, maintenance and removal of the outlet and drain line from Bailey's Pond to Merrimack Street.

For the source of City's title, see Quitclaim Deed from Parking For Amesbury, LLC to the Town of Amesbury, dated June 11, 2004, filed with the Essex South District of the Land Court as Document No. 441373, being Certificate of Title 77339.

The Grantee, its successors and assigns, assumes sole responsibility for the proper diversion of drainage at the Property and for the maintenance, repair and replacement of any slope or grading areas, to the extent Grantee, its successors and assigns, modifies or alters such slope or grading infrastructure.

For the avoidance of doubt, the City and the Grantee agree and covenant, that by recording the Plan and this Quitclaim Deed, they relinquish and abandon all rights, if any, arising under a plan previously recorded with the Essex South District Registry of Deeds in Plan Book 398, Plan 83, except the zoning freeze benefits associated with said plan as provided for in an Agreement for Judgment in the case entitled Fafard Real Estate and Development Corp. v. Amesbury Planning Board, et al., Case No. 14 MISC. 484322 (GHP) (Massachusetts Land Court).

The City reserves, for itself and members of the public, a perpetual easement and right-of-way for passive recreational uses, upon the property conveyed herein, shown as "Proposed 8' Wide Trail Easement (Typical)" (the "Trail Easement Area") on the Plan, which trail shall be constructed by the Grantee with the exception of that portion of the trail southerly of a "Stone Bound Drill Hole Found (Held)," located 7.91 feet, more or less, from the eastern bound of Lot 10 as shown on Land Court Plan Number 26500D, to the boundary of Lot 9, as shown on the aforesaid plan, which portion may be constructed by the City. The location of the Trail Easement Area is to be substantially as shown on the Plan, the exact location to be established upon installation of the trail on the ground, on the terms and conditions set forth at Exhibit A.

No Massachusetts Deed Excise Stamps are affixed hereto as the City is a municipality and none are required by law (M.G.L. c. 64D, §1).

The City and Grantee certify compliance with the provisions of M.G.L .c. 7C, §38.

[Signature Page Follows]

EXECUTED under seal this 14th day of December, 2017.

CITY OF AMESBURY,
By its Mayor

By: _____
C. Kenneth Gray, Mayor

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 14th day of December, 2017 before me, the undersigned notary public, personally appeared C. Kenneth Gray, Mayor of the City of Amesbury, as aforesaid, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the City of Amesbury.

Notary Public
My Commission Expires:

Exhibit A

1. The City and its agents and contractors shall have the right but not the obligation to construct, maintain, inspect, improve, repair, mark and use trails of up to eight (8) feet in width, over the Grantee's land, in the location of the Trail Easement Area and other improvements related or incidental thereto, including, without limitation, bridges, boardwalks, stiles and fences, to facilitate passage, to install erosion control structures and barriers to discourage use by motorized vehicles, and to maintain the Trail Easement Area on either side of the trails subject to the following conditions:

- (a) The City shall have the right to permit the public to pass and repass over said Trail Easement Area for passive recreational purposes, including, without limitation, bicycling, walking, jogging, dog walking, cross-country skiing, snowshoeing, scenic enjoyment, and other outdoor passive recreational activities, subject to such rules and regulations as the City shall deem appropriate and necessary, including the following prohibitions:
 - (i) Access by motorized vehicles, including, without limitation, snowmobiles, dirt bikes, motorcycles and all-terrain vehicles, shall be prohibited, with the following exceptions:
 - a. vehicles required by the City, and heavy equipment to construct, improve relocate, maintain, repair, replace and patrol the Trail Easement Area and the trails;
 - b. motorized wheelchairs and like vehicles for use by the disabled; and
 - c. emergency vehicles on emergency calls or business.
 - (ii) Littering, picking or injuring plants or trees, injuring or harassing livestock or wildlife, building of fires, hunting and trapping shall be prohibited.
- (b) The City shall have the right, but not the obligation, to cover the trail surfaces with wood chips or the like, or such other materials as may be permitted by the Amesbury Conservation Commission. After the initial installation of the trails by the Grantee, the City shall obtain and bear any costs associated with obtaining permits required to carry out trail or trail-related improvements. The City may also construct, maintain, repair and replace minor structures within the Trail Easement Area, such as benches, signage, screening, and other improvements, for the safety and/or convenience of persons using the trails.

2. The City shall post the trails with notices stating the rules and regulations governing its use by the public, and stating further that the property over which the trails pass is private and that, in permitting its use by the public, the liability of the landowner is limited by Massachusetts General Laws Chapter 21, Section 17C, as amended.

3. During such times as the City invites public use of the trails, the City shall use reasonable efforts to maintain the trails in neat, clean and safe condition, free and clear of debris and litter. The City shall have the right to clear, prune, and remove vegetation, including trees and shrubs, remove fallen limbs or branches and mow vegetated areas in the Trail Easement Area, provided such cleared areas remain in a condition compatible with the natural surroundings, take measures to discourage littering and other acts that would encroach upon the natural features of the trail corridors or diminish its attractiveness, take steps to educate users in trail etiquette, and include guidelines for users in maps and other trail publications all at the City's sole cost and expense.

4. In the event the City damages or unreasonably disturbs any portion of the Grantee's land outside of the Trail Easement Area, the City shall restore the Grantee's land to the extent damaged or disturbed to a condition substantially similar to the condition that existed immediately prior thereto to the extent practicable.

5. The City agrees, to the extent permitted by law, to defend, indemnify and save the Grantee, its successors and assigns, including any ground and underlying lessor(s) of the Property, harmless from and against any and all claims and demands, with the exception of such claims or demands arising from the negligence of the Grantee, its successors and assigns, or any such ground or underlying lessor(s), or their respective employees, agents, representatives and contractors, for, or in connection with, any accident, injury or damage whatsoever caused to any person or property arising, directly or indirectly, from the use of the public access trail or occurring in, on or about the Property or any part thereof and from and against any and all costs, expenses and liabilities incurred in connection with any such claim or demand.

6. The provisions of this perpetual easement, which is executed under seal, shall be binding upon and may be enforced against both the City and Grantee and their successors and assigns.

SETTLEMENT STATEMENT

City of Amesbury
To
Amesbury Real Estate Investment LLC
(Bailey's Pond Property)
December 15, 2017

Purchase Price	\$600,000.00
Pro Forma Taxes (12/15/17 – 6/30/18)	6,181.56
Recording Fees	POC
Credit (Deposit plus Interest on \$60,000.00)	<u>(\$125,304.78)</u>
Payable to KP Law, P.C.	\$480,876.78

Pro Forma Taxes: December 15, 2017 to June 30, 2018 = 198 days

Consideration is \$600,000.00; Tax Rate is \$18.99, for a per diem of \$31.22

198 x \$31.22 = \$6,181.56

City of Amesbury
To
Amesbury Real Estate Investment LLC
(Bailey's Pond Property)
December 15, 2017

Checks Out

City of Amesbury **\$130,609.56**

Balance of Two Escrow Accounts

\$5,304.78 is Interest on City of Amesbury Account

\$125,304.78 is Payment against Purchase Price

City of Amesbury **\$474,695.22**

Balance of Purchase Price

City of Amesbury **\$ 6,181.56**

Pro Forma Taxes

TOTAL TO CITY OF AMESBURY **\$611,486.34**



**TOWN OF AMESBURY
IN THE YEAR TWO THOUSAND TEN**

Sponsored By: Thatcher W. Kezer III, Mayor Bill No. 2010-018

At the meeting of the Amesbury Municipal Council held on February 23, 2010 in the Town Hall Auditorium the following action was taken:

A Resolution to Concur with the Mayor's signing of a Revised Purchase and Sale Agreement between the Town of Amesbury and Fafard Real Estate and Development Corporation

Summary: A resolution of the Municipal Council to concur with the Mayor's signing of a renegotiated Purchase and Sale agreement for Bailey's Pond. The agreement was negotiated by the Mayor and a team of Municipal Councilors and is designed to address the issues raised by the Massachusetts Inspector General regarding the original agreement.

Be it Resolved by the Municipal Council of the Town of Amesbury assembled and by the authority of the same, as follows:

Whereas the Mayor and Municipal Council received a letter from the Inspector General on July 13, 2006 outlining issues with the Purchase and Sale Agreement between the Town of Amesbury and Fafard Real Estate and Development Corporation,

Whereas, the Attorney Tom Urbelis, representing the city, reviewed the findings of the Inspector General and determined the city was best served by renegotiating the agreement rather than embark on costly and uncertain litigation; and

Whereas, the Mayor formed a negotiation team, including Attorney Tom Urbelis, Councilor Allen Neale and Councilor Robert Lavoie, to renegotiate the Purchase and Sale to address the issues raised by the Inspector General and secure an improved agreement for the city; and

Whereas, the negotiations have concluded with a revised Purchase and Sale that meets the city's goals; and

Whereas, to become effective the agreement requires signatures by the Mayor and Fafard Real Estate and Development Corporation ("Fafard"), and concurrence by the Municipal Council;

And Whereas, the Mayor and Fafard have signed the Revised Purchase and Sale Agreement.

Now therefore the Municipal Council does hereby concur with the Mayor's acceptance and signing of the agreement so that the Revised Purchase and Sale Agreement can be totally effective.

Councilor Mary Chatigny moved that the Municipal Council adopt the revised Resolution 2010-018.

Councilor Joseph McMilleon seconded. Voted Unanimous – 8Yes

Witness my hand and seal for the Town of Amesbury this 24th day of February, 2010


Town Clerk



TOWN OF AMESBURY
IN THE YEAR TWO THOUSAND TWO

SPONSORED BY: David T. Hildt, Mayor BILL No. 2002-13

At the meeting of the Amesbury Municipal Council held March 12, 2002 the following action was taken:

An Ordinance

That the town surplus the parcels of land identified as follows:

Map 98, Parcel 11 (21 Pond View Avenue)

Map 87, Parcel 1 (24 Pond View Avenue)

Map 88, Parcel 50 (Summit Avenue)

and a portion of Parcel 99 on Map 4 (77 Merrimac Street) as identified on the attached map in accordance with M.G.L. Chapter 30B.

Be it Ordained by the Municipal Council of the Town of Amesbury assembled, and by the authority of the same as follows:

Section 1. To vote to declare as surplus and available for sale through the Request for Proposal process for the purpose of redeveloping the properties in accordance with a Master Plan prepared for the area and referred to as the "Terresphere Plan", the land described as follows:

BAILEY'S POND

Summit Avenue (Map 88 - Parcel 50)

Parcel 1 -10.57 acres (more or less)

Beginning at the most southerly portion of the premises at land now or formerly of John J. Ryan Trustee; thence turning and running; N35-46' - 04" W a distance of four hundred eighty-nine and 0-0/100 feet (489.00), be land now or formerly of John J. Ryan, Trustee to a point on the southeasterly sideline of Summit Avenue; thence, Northeasterly and curving to the right along the arc of a curve having a radius of four hundred seventy-five and 11/100 feet (475.00) and a length of two hundred ninety-five and 3/100 feet (295.03) to a stone bound in the southeasterly side line of Summit Avenue; thence, N 69-19'-09" E as distance of two hundred fifty-two and 00/100 feet (252.00) to a point on the southeasterly sideline of Summit Avenue; thence, S 61-25'-13" E a distance of eighty-eight and 20/100 feet (88.20) to a point on the southwesterly sideline of Summit Avenue; thence, S 33-54'-13" E a distance of two hundred forty and 57/100 feet (240.57) to a point on the southwesterly side line of Summit Avenue; thence, S 40-12'-07" W a distance of one hundred and 52/100 feet (100.52) by land of the Amesburyport Trust, to a point; thence, S 38-33'-07" W a distance of nine hundred eight and 40/100 feet (908.40) by land of the Amesburyport Trust and by Bailey's Pond to the Point of beginning.

2002-13

(3)

- All related 21E issues resolved in accordance with applicable State and Federal regulations.
- Any outstanding environmental issues under MGL C 21E shall become the sole responsibility of the developer and the developer shall agree to indemnify, defend and hold the Town harmless for any 21 E issues.
- That the proposed development be for a mixed in accordance with a Master Plan of the area referred to as the "Terresphere" Plan.
- Minimum bid shall be as follows:
 - Map 87 - Parcel 1, Map 88 - Parcel 50, and a portion of Map 99 - Parcel 4 for the sum of \$1.00 (one dollar).
 - Map 98 - Parcel 11 in the sum of \$403,000.00 provided that the developer at the sole discretion of the Town may deduct from that amount cost related to a 21E site cleanup.
- Compliance with all zoning, licensing, and permitting requirements is a prerequisite.
- A developer pro forma must be presented to the Town with any proposal.
- All feasibility studies shall be shared with the Town and become the property of the Town if the developer is unable to complete the project.
- Developer shall reveal and show financial backing at all stages of the project upon request of the Mayor or Municipal Council.
- There shall be established a committee comprised of the following: a representative of the Mayor and a representative of the Municipal Council, a designee of the Alliance, a neighborhood representative, a bank or financial person, a local business person and a representative of the Office of Community and Economic Development for purposes of reviewing all proposals and making a recommendation to the Mayor and Council for award.
- that any award resulting from the proposed process shall necessitate the concurrence of the Municipal Council once the review committee has made a recommendation.

Motion by Leonard W. Johnson, Jr. for acceptance, seconded by Roger S. Benson.

ROLL CALL VOTE: YES 7 NO 2 (Maynard & Headley)

Witness my hand and seal for the Town of Amesbury this day of

Town Clerk