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# CITY OF NORTHAMPTON

MASSACHUSETTS

*In City Council,*

June 16, 2005

Upon the recommendation of Councilor Raymond LaBarge and Mayor Mary Clare Higgins

*Ordered, that*

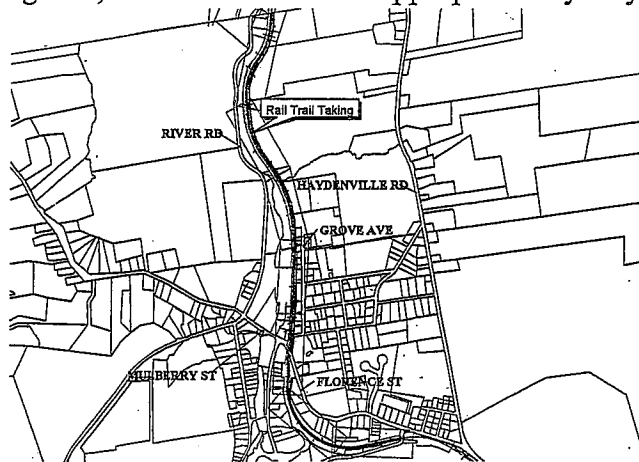
WHEREAS, On June 2, 2005, City Council voted an Order of Taking to acquire easements for a rail trail in Leeds; and

WHEREAS, That Order contained a Book and Page reference error in its Exhibit A, the detailed description of the easements being taken; and

**NOW, THEREFORE BE IT ORDERED,**

That the City Council adopts the revised Order of Taking of parcels of land containing easements for a rail trail from the Arch Street Bridge in Leeds to the Williamsburg Town Line along the former railroad right-of-way, including related access and construction easements, for the purpose of developing a program for bicycle paths, rail trails, and non-motorized pedestrian circulation systems network;

The \$86,000 previously received in grants, donations and funds appropriated by City Council will be used to pay damages.



In City Council, June 16, 2005  
Rules suspended, passed two readings and enrolled.

Attest: [Signature] Clerk of Council

Approved: Mary Clare Higgins, Mayor

A true copy.

Attest: [Signature] Clerk of Council

ORDER OF TAKING  
THE COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

CITY OF NORTHAMPTON

WHEREAS, the City of Northampton (hereinafter called the "City") is a public body and corporate, organized and existing pursuant to the provisions of the Massachusetts General Laws, with offices at 210-212 Main Street, City Hall, Northampton, Hampshire County, Massachusetts; and

WHEREAS, pursuant to M.G.L. Chapter 40 and Chapter 79 §2 and the Northampton Charter §13, and the Acts and Resolves of Article 11, Chapter 123 of the Acts of 1954, the City has the power to purchase, lease or otherwise acquire real property or any interest therein; and

WHEREAS, in accordance with the provisions of M.G.L. Chapter 40 and Chapter 79 §2 and the Northampton Charter §13, and the Acts and Resolves of Article 11, Chapter 123 of the Acts of 1954, the City has initiated a program for bicycle paths, rail trails, and non-motorized pedestrian circulation systems ("Project").

WHEREAS, the City of Northampton has determined that it is necessary to acquire certain easements, as identified below, in order to carry out the Project; and

WHEREAS, approval to acquire said easements, and an appropriation of the necessary funds has been made by the City Council of the City of Northampton;

NOW, THEREFORE, it is ordered that acting through and under the authority of M.G.L. Chapter 40 and Chapter 79 §2, as amended, and the Northampton Charter §13, and the Acts and Resolves of Article 11, Chapter 123 of the Acts of 1954 and pursuant to the powers set forth in those Acts, Charter and Statute and all other authority thereunto enabling, and pursuant to the provisions of Massachusetts General Laws, Chapter 79, as amended, and of any and every power and authority to it, granted or implied, the City of Northampton, hereby takes for itself AN EASEMENT by eminent domain, for the purposes associated with the rail trail in land in Northampton, Massachusetts comprising 3.779 acres, more or less, and an additional rail trail construction easement. The easement areas are more particularly described in Exhibit A which is attached hereto and incorporated by reference herein.

The property in which the Easement, hereinafter defined, is taken is supposed to be owned by the MASSACHUSETTS ELECTRIC COMPANY ("MEC"), a Massachusetts corporation with an address at 25 Research Drive, Westborough, Massachusetts, 01582, who is the alleged owner, with a possible interest in the property by some of the abutting property owners, namely:

Joseph V. De Salvio and Mary Jenifer McKenna, Florence Street, Leeds (Book 6057, Page 130); and Joseph V. De Salvio and Mary Jenifer McKenna, 89 Florence Street, Leeds (Book 6057, Page 130); and

Bernice M. Gero and Christine L. Slingerland, 8 Arch Street, Leeds (Book 6320, Page 279); and Francis B. Sweeney and Anita A. Sweeney, 51 Arch Street, Leeds (Book 987, Page 216); and Francis J. Sweeney and Linda M. Sweeney, 75 Arch Street, Leeds (Book 1676, Page 108); and

Katharina L. Norwood and Devin A. Norwood, 12 Warners Row, Leeds (Book 5421, Page 338); and  
 Vicki J. Hicks and Janice Mazzallo, 85 Florence Street, Leeds (Book 5731, Page 258); and  
 Gary R. Green, 73 Florence Street, Leeds (Book 5287, Page 31); and  
 Marin J. Rule and Lynn C. Rule, 55 Florence Street, Leeds (Book 2332, Page 197); and  
 Eric J. Elliott and Devon C. Elliott, 53 Florence Street, Leeds (Book 6950, Page 314); and  
 James Yurgielewicz and Nancy J. Miller, 45 Florence Street, Leeds (Book 3488, Page 7); and  
 Megan R. O'Brien and Barry R. Paine (deceased), 93 Arch Street, Leeds (Book 6594, Page 3); and  
 Mary J. Ryan and Rebecca J. Ryan, 41 Florence Street, Leeds (Book 5392, Page 24); and  
 James S. Elliott and Kathleen M. Elliott, 39 Florence Street, Leeds (Book 1606, Page 255); and  
 James J. Tacy, Eugene A. Tacy, and Richard J. Tacy, Main Street, Leeds (Book 3955, Page 1); and  
 NALI Associated, LLC, 175 Main Street, Leeds (Book 7703, Page 1); and  
 Roman Catholic Bishop of Springfield, 195 Main Street, Leeds (Book 528, Page 113); and  
 Roman Catholic Bishop of Springfield, 191 Main Street, Leeds (Book 2092, Page 239); and  
 Karen E. Carter and Betsy Cerber, 223 Main Street, Leeds (Book 5529, Page 84); and  
 Lisa Beth Tennyson, 225 Main Street, Leeds (Book 5926, Page 56); and  
 Laurence F. Bouley, 227 Main Street, Leeds (Book 2246, Page 53); and  
 Heather A. Bell and Alan W. Schneider, 233 Main Street, Leeds (Book 6688, Page 251); and  
 Earl F. Rolland, 237 Main Street, Leeds (Book 5731, Page 22); and  
 Karen M. Kelley, 4 Grove Avenue, Leeds (Book 4577, Page 136); and  
 Paul D. Cherulnik and Beverly E. Cherulnik, 20 Grove Avenue, Leeds (Book 6595, Page 168); and  
 Gary M. Roodman and Rowena F. Roodman, 26 Grove Avenue, Leeds (Book 6805, Page 154); and  
 Henry Canby, Courtlandt Canby, and Natalie Canby, 42 Grove Avenue, Leeds (Book 6810, Page 25);  
 and  
 William Montgomery and Linda Butler, Grove Avenue, Leeds (Book 2571, Page 39 and 40); and  
 William Montgomery and Linda Butler, 74 Grove Avenue, Leeds (Book 2571, Page 39 and 40); and  
 James Mias and Robin Corsythe-Mias, 60 Grove Avenue, Leeds (Book 2851, Page 16); and  
 Marpa S. Eager and David Eric Davis, 7 Mulberry Street, Leeds (Book 6418, Page 120); and  
 Marpa S. Eager and David Eric Davis, 12 Mulberry Street, Leeds (Book 6825, Page 231); and  
 Deborah Jacobs, 82 Grove Avenue, Leeds (Book 2069, Page 76); and  
 John J. Hanley, Trustee of Beaver Brook Nominee Trust, 60 Grove Avenue (Book 5869, Page 6); and  
 John J. Hanley, Trustee of Beaver Brook Nominee Trust, Grove Avenue (Book 5869, Page 6); and  
 John J. Hanley, Trustee of Beaver Brook Nominee Trust, Haydenville Road (Book 5917, Page 206);  
 and  
 Catherine Rossi of 67 Avon Place, Springfield, MA as guardian/guardian-ad-litem of Bernard  
 Preezynski, Grove Avenue, Leeds (Book 1639, Page 277, Probate Case #04P0158G1); and  
 Heirs of Joseph Eli Boisvert Greenwood, Grove Avenue, Leeds (Book 797, Page 186); and  
 Roman Catholic Bishop of Springfield, Haydenville Road, Leeds (Book 659, Page 377); and  
 Massachusetts Electric Company, 545 Haydenville Road, Leeds (Book 1627, Page 347); and  
 Judith Ann Vile, Douglas Jerry Vile, and James Kenneth Vile, River Road, Leeds (Book 4123, Page  
 327); and  
 James D. Pratt, 377 River Road, Leeds (Book 4527, Page 273); and  
 Robert J. Archbald and Beatrice T. Archbald, River Road, Leeds (Book 3450, Page 92, Divorce  
 #03D0165DV)

This taking is of a non-exclusive easement over the underlying in areas described in Exhibit A ("Easement") and is incorporated by reference herein.

EXCEPTING FROM the easement rights herein taken are (i) the fee interest in and to the underlying Property; (ii) any and all buildings, structures, facilities and appurtenances, standing on, over, under, across, within, through, upon or affixed to the underlying Property, including, without limitation any and all facilities, equipment and appurtenances used by MEC and others in its business, including, without limitation, the transmission and distribution of high and low voltage electric energy or the transmission of intelligence, including, without limitation, lines of buried and above ground wires and cables and lines of towers or poles or both (now or hereinafter erected) together with wires and cables strung upon and from the same, and all ducts, conduits, raceways, conductors, terminals, sustaining and protective fixtures, underground expansion stabilizers, manholes, hand holes, guy wires, junction boxes, foundations, anchors, braces, fittings, riser poles and all housings, connectors, switches, footbridges, and causeways; and (iii) any and all wires, pipes, conduits, poles and other appurtenances for the conveyance of water, sewerage, gas, oil, steam electricity and telephone communication and other utilities now lawfully in or upon the Easement and any easements with respect thereto; however, notwithstanding any other language in this section, the City has the right to require MEC to relocate any of MEC's facilities, at the City's own expense and subject to reasonable approval from MEC, to construct, maintain, replace, repair, and use a rail trail.

AND FURTHER ORDERED that in accordance with the provisions of M.G.L. Chapter 79 §6, as amended, an award of eighty-six thousand dollars (\$86,000.00) is made by the City of Northampton for damages sustained by the owner or owners and all other persons, including all mortgagees of record, having any and all interest in the Property and entitled to any damages by reason of the taking. The City of Northampton reserves the right to amend the award at any time prior to payment for good cause shown.

AND FURTHER ORDERED that a representative of the City of Northampton shall record this Order of Taking in the Hampshire County Registry of Deeds, in Northampton, Massachusetts, within 30 days from its final passage, and shall notify the Treasurer and Collector of Taxes in the City of Northampton of this taking in accordance with M.G.L. Chapter 79 §7F, and shall cause notice of the taking to be given to all persons entitled thereto and to do all things necessary for the validity of this Order.

IN WITNESS WHEREOF, we, the City Council of the City of Northampton, have executed this Order of Taking this 16<sup>th</sup> day of ~~May~~ <sup>June</sup>, 2005.

WITNESS TO ALL: Wm Nuttallman, Clerk of Council  
CITY COUNCIL, CITY OF NORTHAMPTON

Michael R. Bardsley  
Michael R. Bardsley

James M. Dostal  
James M. Dostal

William H. Dwight  
William H. Dwight

Paul Spector  
Paul Spector

Marilyn Richards  
Marilyn Richards

Rita M. Bleiman  
Rita M. Bleiman

Alex Ghiselin  
Alex Ghiselin

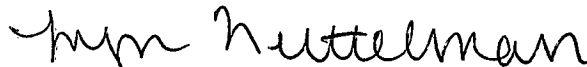
Marianne L. LaBarge  
Marianne L. LaBarge

Raymond W. LaBarge  
Raymond W. LaBarge

CERTIFICATE OF THE CLERK  
CITY COUNCIL, CITY OF NORTHAMPTON

I, Lyn Nuttelman, the Clerk of the City Council of the City of Northampton, hereby certify that the attached Order of Taking of certain easements located in Northampton, Hampshire County, Massachusetts, was executed on ~~May~~ <sup>June</sup> 16, 2005, by Michael R. Bardsley, James M. Dostal, William H. Dwight, Paul Spector, Marilyn Richards, Rita M. Bleiman, Alex Ghiselin, Marianne L. LaBarge, and Raymond W. LaBarge, who as of that day, were and are the duly elected members of the City Council of the City of Northampton.

Signed this 16<sup>th</sup> day of ~~May~~ <sup>June</sup>, 2005.



Lyn Nuttleman, City Council Clerk  
City of Northampton

## EXHIBIT A

The Permanent Right-of-Way Easements, being a perpetual right and easement to construct, install, repair, maintain, operate, use and patrol an improved "rail trail" to accommodate public use and access and Construction Easements, being a right to construct, install, repair, maintain improvements for a rail trail on the permanent easement, over a portion of the land located westerly of the Arch Street Bridge in the Leeds section of Northampton, Hampshire County, Massachusetts, shown as "Proposed 20' Wide Permanent Easement" and "Temporary Construction Easement" on a plan entitled "Plan of Land in Northampton, Massachusetts, Prepared for City of Northampton, Leeds Rail Trail Easement Plans" Sheets 1 to 4 of 4 prepared by Huntley Associates, P.C., and signed by Paul R. Lussier, Registered Professional Land Surveyor, and dated March 17, 2004, recorded in the Hampshire County Registry of Deeds in Plan Book 200, Page 27.



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**EASEMENT**

The undersigned **JOHN J. HANLEY**, as Trustee of the **BEAVER BROOK NOMINEE TRUST**, of Apt. 29E 180 Riverside Drive, New York, New York 10069 ("Grantor"),

In consideration of One Dollar (\$1.00), the receipt of which is hereby acknowledged,

GRANTS, to the **CITY OF NORTHAMPTON**, City Hall, 210 Main Street, Room 11, Northampton, Massachusetts 01060, and its successors and permitted assigns, ("Grantee") in perpetuity the following described non exclusive EASEMENT,

On a parcel of land located in the village of Leeds in the City of Northampton, Hampshire County, Massachusetts on the land identified as "Permanent Easement" and the land identified as "Ex. City of Northampton Easement" and that portion of the land identified as "Grove Avenue" owned by the Grantor on a plan entitled "Northampton Norwottuck Rail Trail in Northampton, General Plan Grove Ave. Connection" pages 1 and 2 attached hereto as Exhibit A ("EASEMENT")

This conveyance creates no new property boundaries.

For Grantors' title, see deed recorded at the Hampshire County Registry of Deeds at Book 5869, Page 6 and Book 5917, Page 206.

The Grantor grants to the Grantee, its inhabitants and the general public a non exclusive easement to pass and re-pass on foot and by non-motorized vehicle on said EASEMENT, subject to regulations adopted by the Grantee. The Grantor further grants to the Grantee and their representatives and agents the right to build, maintain, use, repair, and replace a multi-use rail trail on the EASEMENT.

Grantor reserves, for himself and his successors and assigns, the right to use the easement area for all purposes for which a right of way or roadway may be used, including the right to pass by motor vehicles, the right to install water, sewer, electric utilities (including telephone and cable), and drainage utilities (including conduit for storm detention basin across easement area) over the easement area, and to install any other utilities that may be used in connection with single family homes. Grantor reserves the right of access over the easement area for detention basin maintenance and the right to use said area for access to forest management and harvesting of forest products under approved forest management practices as allowed under the terms of a Conservation Restriction dated September 12, 2006, said Conservation Restriction being recorded simultaneously herewith in Book **9109** Page **5 8** of the Hampshire County Registry of Deeds. Grantor, or his successors in title, shall be responsible for repairing any damage to the multi-use trail as a result of the activities detailed within this paragraph within a reasonable time period.



In Witness Whereof, this 8<sup>th</sup> day of February, 2007

**BEAVER BROOK NOMINEE TRUST**

*John J. Hanley*  
By: John J. Hanley, Sole Trustee

**COMMONWEALTH OF MASSACHUSETTS**

Hampshire, ss

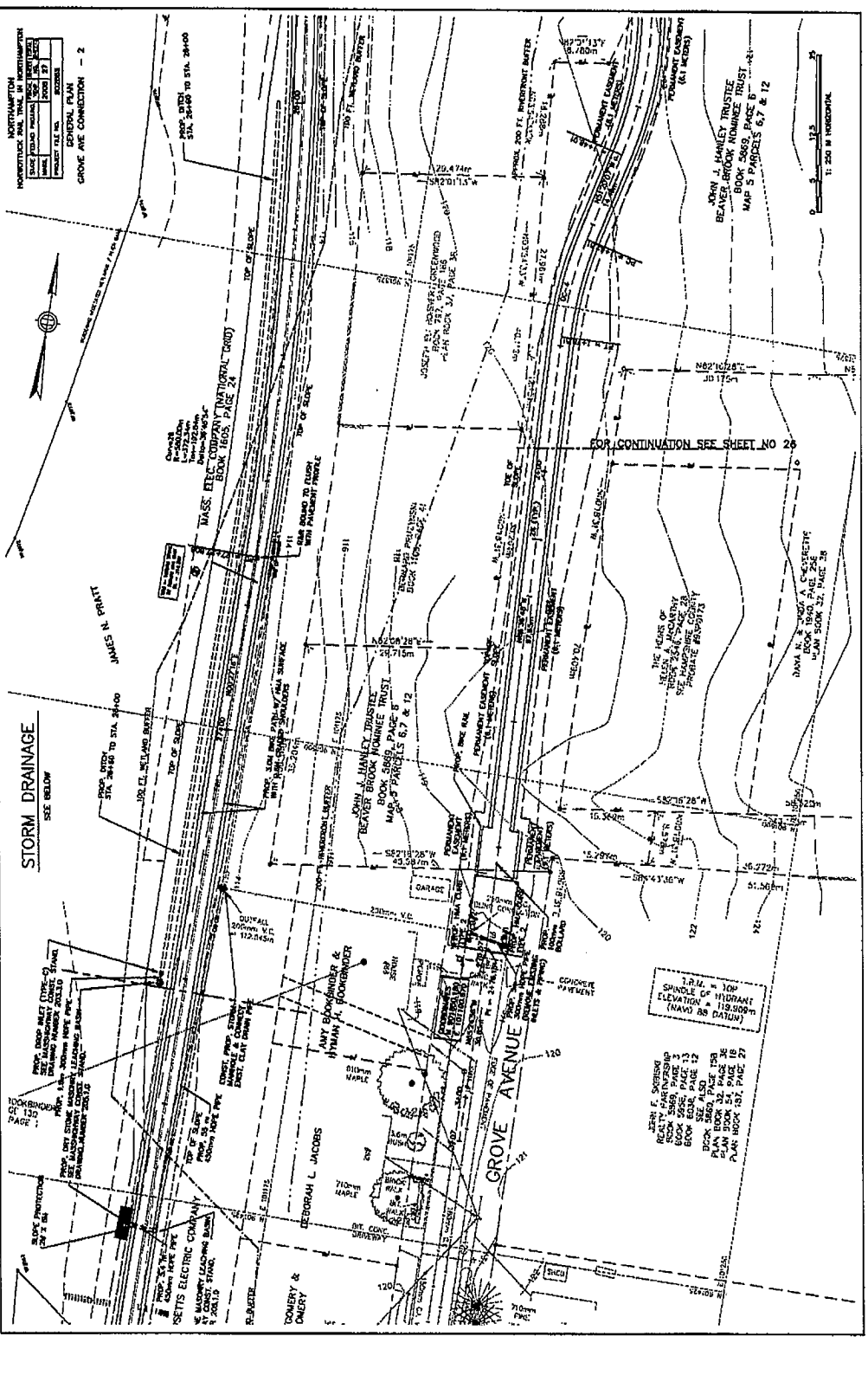
February 8, 2007

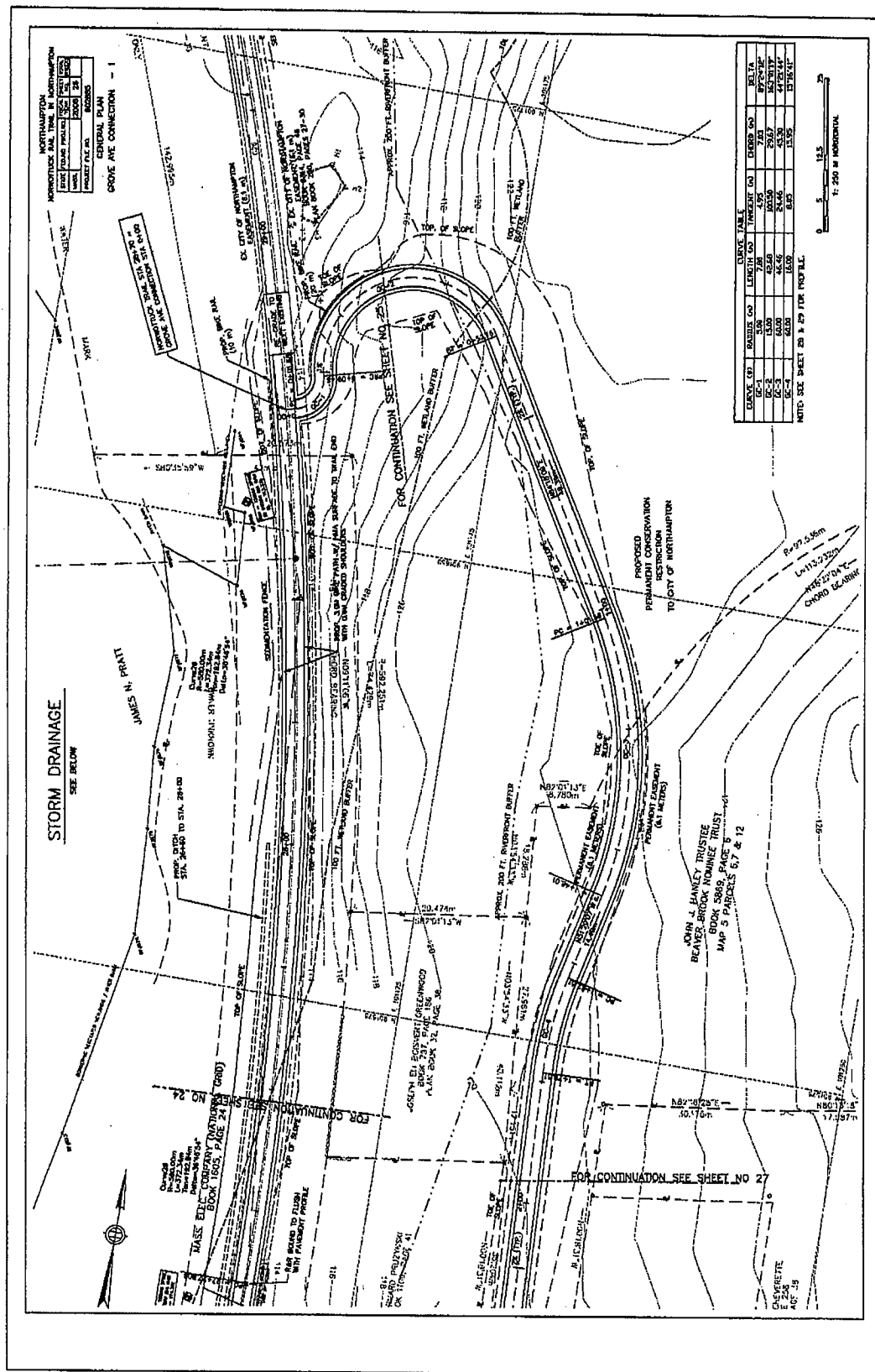
Then personally appeared the above-named John J. Hanley, authorized, sole Trustee of the Beaver Brook Nominee Trust, the undersigned Notary Public, proved to me through satisfactory evidence of notification, which was personal knowledge to be the persons whose names are signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purpose.



Beaver Brook trail easement

*Jeanne Lamica Pandolfi*  
Notary Public  
My commission expires:





MARIANNE L. DONOHUE