

OPTION TO BUY

Conservation Restriction Form

TOWN OF LEE

To

**The Commonwealth of Massachusetts
Department of Fish & Game
Division of Fisheries and Wildlife
100 Cambridge Street
Boston, MA 02114**

To the Massachusetts Department of Fish & Game:

of **Town of Lee**
32 Main Street, Lee, MA 01238

hereinafter called "GRANTOR", for good and valuable consideration including funds to be expended by the Commonwealth under this Option for title examinations, etc. in reliance on this Option, the adequacy of which is hereby expressly acknowledged by GRANTOR, grants to the Commonwealth of Massachusetts acting by and through its Department of Fish & Game, 100 Cambridge Street, Suite 620, Boston MA 02114, hereinafter called the "COMMONWEALTH", the exclusive right and option to purchase, upon the terms hereinafter set forth, the land(s) described in Section I below, hereinafter called the "Premises", with all buildings and improvements thereon, if any, and all rights, hereditaments, easements, and appurtenances thereunto belonging.

I. Premises to be purchased (*include legal description, title reference, lot numbers, street address, assessor's map/parcel numbers, acreage, and plan references, as applicable*):

See Addendum A

**Land of the Town of Lee, formerly Daley
±4.3 acres, 1235 Pleasant Street, Lee
Lee Assessor Map 29, Lot 90**

II. The Premises shall be conveyed to the COMMONWEALTH by a consensual Order of Taking unless the GRANTOR determines that a conveyance by deed is preferred.

The following method of conveyance is applicable to this conveyance: (*check method selected*)

 X Consensual Order of Taking of Conservation Restriction

 Conservation Restriction

If acquired by Consensual Order of Taking of Conservation Restriction, the Premises shall be free of all encumbrances and title defects except those expressly agreed to by the COMMONWEALTH.

If conveyed by Conservation Restriction, GRANTOR shall convey to the COMMONWEALTH a good and clear record and marketable title to the Premises, including all mineral and water rights, hereditaments, and appurtenances thereunto belonging, free from all encumbrances and title defects except those expressly agreed to by the COMMONWEALTH.

III. If the title to the Premises is registered and the conveyance is by Conservation Restriction, said Conservation Restriction shall be in a form sufficient to entitle the COMMONWEALTH to obtain from the Land Court a Certificate of Title to the Premises showing title vested in the COMMONWEALTH. GRANTOR shall deliver with said deed all instruments, if any, necessary to enable the COMMONWEALTH to obtain such Certificate of Title.

IV. The purchase price for the Premises shall be:

One Hundred Thousand Dollars and no cents
(Write out figures)

(\$100,000.00)
(Numerals)

Said purchase price shall be paid by check drawn by the State Treasurer of the COMMONWEALTH or his designee.

V. This Option shall be irrevocable for a period of one hundred eighty (180) days from the date of its execution by GRANTOR.

The COMMONWEALTH shall have the power to exercise this Option to Purchase upon the terms and conditions set forth herein within said period of one hundred eighty (180) days. Exercise of this Option by the COMMONWEALTH shall be effective upon verbal notice or by the delivery of written notice, by mail, electronic mail or hand delivery, thereof to GRANTOR or such representative as GRANTOR may designate in writing.

In the event the COMMONWEALTH fails to exercise this Option within one hundred eighty (180) days of the date of execution by GRANTOR, this Option shall expire and the rights hereby created shall be null and void.

VI. Following exercise of this Option by the COMMONWEALTH, the COMMONWEALTH shall prepare and process all documents necessary to close the transaction within a reasonable time period, except documents which must be provided by GRANTOR such as the Owner's Duplicate Certificate of Title in the case of registered land.

**IF PURCHASE IS BY CONSENSUAL ORDER OF TAKING OF
CONSERVATION RESTRICTION:**

GRANTOR hereby affirms that GRANTOR has voluntarily elected to convey the aforescribed interest in said real property to the COMMONWEALTH via a consensual eminent domain acquisition in which an Order of Taking recorded in the appropriate Registry of Deeds will effect transfer of title thereto.

A draft Order of Taking shall be prepared by the COMMONWEALTH and

forwarded to GRANTOR or his/her/its designated representative for approval. Following approval, the COMMONWEALTH shall have the Order of Taking executed by the appropriate governmental authority and shall submit the Order of Taking to the Office of the Attorney General for review.

Following said review and all other necessary reviews, GRANTOR and the COMMONWEALTH shall set a date for closing, with said closing to occur not later than 30 days from the date the Order of Taking is signed.

Payment of the award for the damages incurred from the consensual taking shall be made upon the recording of the Order of Taking and GRANTOR's tendering of a properly executed Acceptance of Full Settlement along with GRANTOR's pro rata share of real estate taxes, if any, as required under Section XI.

GRANTOR hereby covenants that 1) this method of acquisition has been explained to GRANTOR and is fully acceptable, 2) GRANTOR will accept as an award for the damages sustained by this consensual taking the purchase price as agreed to herein, and 3) in exchange for tender by the COMMONWEALTH of a check payable to GRANTOR or GRANTOR's designee in the amount agreed to herein, GRANTOR will sign an Acceptance of Full Settlement acknowledging the receipt and adequacy of said award and releasing the COMMONWEALTH from any additional claim(s) for damages.

IF PURCHASE IS BY GRANT OF A CONSERVATION RESTRICTION:

A draft deed shall be prepared by the COMMONWEALTH and forwarded to GRANTOR or his/her/its designated representative for approval. Following approval, said deed properly signed by GRANTOR shall be forwarded to the COMMONWEALTH to be held in escrow to allow review of said deed by the Office of the Attorney General. Following said review and all other necessary reviews, the signed deed may be returned to GRANTOR if GRANTOR so requests.

The approved signed deed shall be formally delivered by GRANTOR to the COMMONWEALTH at such time as is mutually agreed upon by the parties, said date of delivery not to exceed one hundred eighty (180) days from the date of the exercise of this Option by the COMMONWEALTH. Delivery of said deed shall be made at the Registry of Deeds in which said deed is properly recordable unless otherwise agreed upon in writing.

Payment of proceeds due GRANTOR shall be tendered to GRANTOR upon delivery and recording of the deed and receipt by the Commonwealth of GRANTOR's pro rata share of real estate taxes, if any, as required under Section XI.

VII. Full possession of the Premises free of all tenants and occupants, except as provided herein, is to be delivered at the time of closing, said Premises to be then (a) in the same condition as is now, reasonable use and wear excepted, (b) not in violation of any building and zoning laws, (c)

in compliance with the provisions of any instrument referred to in Section II hereof, and (d) free from trash and refuse of any kind, regardless of whether said trash or refuse was on the Premises on the date this Option To Purchase is signed.

VIII. If GRANTOR is unable to give good and clear record and marketable title, make conveyance of, or deliver possession of the Premises in conformity with the provisions set forth in this Option To Purchase, then GRANTOR shall make reasonable efforts to remove any defects in title and to deliver possession as required herein, in which event GRANTOR shall give written notice of these efforts to the COMMONWEALTH at or before the time for performance.

At the election of the COMMONWEALTH, the time for performance may be extended for such time period as the COMMONWEALTH may determine. The COMMONWEALTH, however, may elect to accept non-conforming title or Premises at a purchase price agreed to by both parties hereto.

IX. Risk of loss or damage to the Premises due to fire or other casualty, including but not limited to Act of God, shall remain with GRANTOR until such time as title actually passes.

X. The recording of an Order of Taking or the acceptance of a deed by the COMMONWEALTH shall be deemed to be full performance and discharge of every agreement and obligation herein contained except those agreements and obligations that are to be performed after delivery of the deed or recording of the Order of Taking or are to survive the transfer of title to the COMMONWEALTH.

XI. All taxes, assessments, and liens on the Premises at the time of conveyance to the COMMONWEALTH shall be satisfied by GRANTOR at or before the transfer of title. Water and sewer use charges, if any, and real estate taxes for the current year shall be apportioned to the date of recording.

At closing GRANTOR shall deliver his/her/its check or money order payable to the Collector of Taxes for the Town(s) in which the Premises are located for all obligations apportioned to GRANTOR.

All utility charges and other similar assessments shall be paid by GRANTOR until the date of recording.

If the amount of said taxes is not known at the time of closing, taxes shall be apportioned on the basis of the taxes assessed for the preceding year.

Should the actual tax rate or assessment result in an increased tax obligation for the period during which GRANTOR held title, GRANTOR shall forward to the Department of Fish and Game, 100 Cambridge Street, Suite 620, Boston MA 02114, a check made payable to the Collector of Taxes of the Town/City in which the Premises are situated in the amount by which GRANTOR'S actual pro rata share exceeds GRANTOR'S estimated tax payment made hereunder.

Should the tax obligation decrease as a result of an abatement or lower tax rate or valuation, GRANTOR hereby waives any claim thereto against the COMMONWEALTH.

XII. During the term of this Option, the COMMONWEALTH and its employees, agents and contractors may enter upon the Premises at reasonable times to conduct surveys, appraisals, hazardous waste investigations, and for any other purpose related to this transaction.

XIII. GRANTOR agrees that the Premises shall remain in the same condition that it is in at the time this Option is signed until closing and that GRANTOR shall prevent and refrain from any use of the Premises for any purpose or in any manner that would adversely or materially affect the COMMONWEALTH's intended use of the Premises for fish and wildlife habitat conservation and associated public recreation.

In the event such use occurs on the Premises, the COMMONWEALTH may, without liability, refuse to accept the conveyance of title, in which event this Option shall be terminated and the rights created hereunder shall become null and void.

Alternatively, the COMMONWEALTH may elect to accept conveyance of the Premises or a portion thereof, in which case there may be an equitable adjustment of the purchase price based on the change in circumstances.

XIV. GRANTOR warrants and represents to the COMMONWEALTH that, other than reasonable quantities of over-the-counter household and garden products used and stored in conformity with label instructions, to the best of GRANTOR's knowledge neither GRANTOR nor anyone else has ever generated, treated, stored, released, discarded or disposed of Hazardous Waste on the Premises nor to GRANTOR's knowledge has any generation, treatment, storage, release, discard or disposal of Hazardous Waste elsewhere than on the Premises resulted in contamination of the Premises.

For the purposes of this Option, "Hazardous Waste" shall mean any "hazardous material" or "oil" as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, as amended, and the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c.21E, as amended, and in regulations adopted thereunder. This representation by GRANTOR shall specifically survive the COMMONWEALTH's acceptance of a deed to or recording of an Order of Taking for the Premises.

XV. If this Option is exercised by the COMMONWEALTH as provided in Section V, it shall be construed as a Purchase and Sale Agreement between the parties. At any time, however, the obligation on the part of the COMMONWEALTH shall become null and void if any of the following occur:

- (a) the Governor and/or the Governor's Council refuse to assent to this transaction;
- (b) the Executive Office of Administration and Finance refuses to issue a check for

this transaction;

(c) the Office of the Attorney General or the Division of Capital Management and Maintenance refuses to approve this transaction or documents pertinent thereto;

(d) the Fisheries and Wildlife Board refuses to approve this purchase; or

(e) it becomes unlawful for the COMMONWEALTH to perform.

GRANTOR expressly agrees that in no event shall GRANTOR seek recourse against the COMMONWEALTH should (a), (b), (c), (d), or (e) or any combination thereof occur.

The COMMONWEALTH expressly agrees that, after exercise of this Option, the COMMONWEALTH shall use its best efforts to obtain such approvals or remove such illegality should (a), (b), (c), (d), or (e) occur. The COMMONWEALTH shall have such additional time in which to make the above efforts as GRANTOR may determine.

XVI. GRANTOR acknowledges that they have had a minimum of three business days to review this Option and also that they have had the opportunity to consult with an attorney prior to signing.

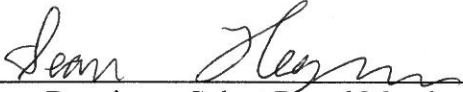
XVII. This Option is subject to the provisions of the Addenda attached, as follows:

ADDENDUM A – Description of parcel to be acquired

ADDENDUM B – Sketch of parcel to be acquired

ADDENDUM C – Agreement Regarding Use of Consensual Order of Taking of
Conservation Restriction

SIGNED AND SEALED this 15th day of October, 2025.



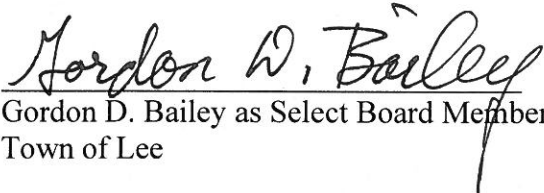
Sean Regnier as Select Board Member/Chair
Town of Lee

SIGNED AND SEALED this 15th day of October, 2025.



Bob Jones as Select Board Member/Clerk
Town of Lee

SIGNED AND SEALED this 15th day of October, 2025.



Gordon D. Bailey as Select Board Member
Town of Lee

ADDENDUM A
Land of the Town of Lee, formerly Daley
±4.3 acres, 1235 Pleasant Street, Lee
Lee Assessor Map 29, Lot 90

The land located on the south side of Pleasant Street, in the Town of Lee, Berkshire County, Commonwealth of Massachusetts, Bounded and described as follows:

FIRST PARCEL: Bounded

Northwesterly by the State Road leading from Lee Village past the Pleasure Park to South Lee;

Easterly by land, now or formerly of James O'Brien, and

Southwesterly by the Second Parcel herein described;

SECOND PARCEL: Beginning at the southeast corner of the First Parcel herein described;

thence

Westerly on said First Parcel to said State highway; thence on said highway to the Cove Bridge, so-called; thence

Easterly on the Housatonic River to land now or formerly of James O'Brien; thence on

Westerly line of land now or formerly of said James O'Brien to the place of beginning.

Containing six acres, more or less.

Subject to flowage rights, if any, acquired by the American Writing Paper Company or its predecessors in title, by reason of the existence of its dam across the Housatonic River above its paper mill at South Lee.

Subject to the pole rights, if any, acquired by the American Telephone and Telegraph Company from Mrs. C.C. Ball and Minnie E. Ball by grant, dated May 23, 1900, and recorded with the Berkshire Middle District Registry of Deeds at Pittsfield in Book 309, Page 468.

Subject to the right to construct a drain granted by Amy J. Nettleton to the Commonwealth of Massachusetts, by deed dated September 18, 1930, and recorded with said Registry of Deeds in Book 438, Page 602.

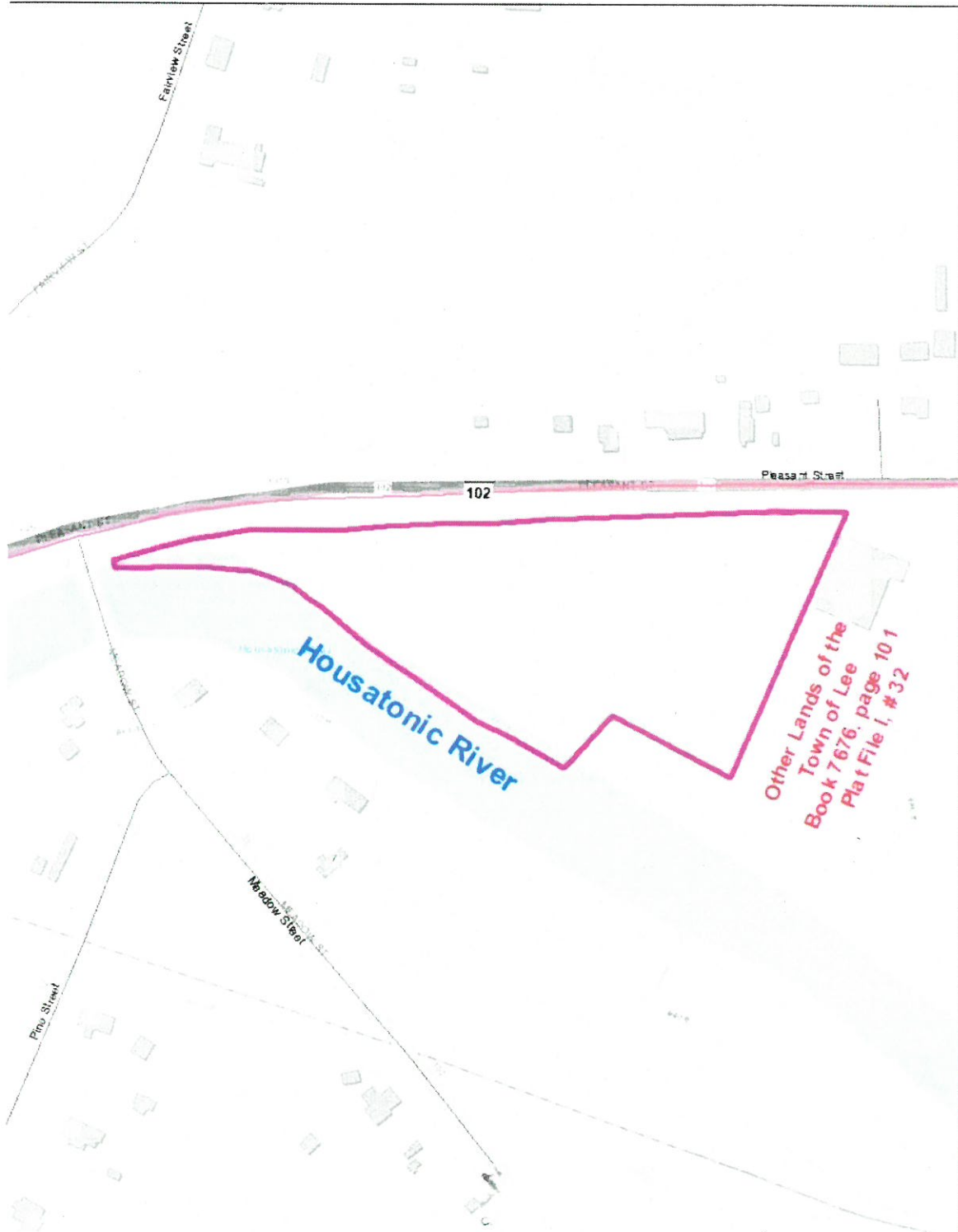
Excepting and reserving from the above-described premises those certain portions thereof taken from highway purposes by the Commonwealth of Massachusetts.

Excepting and reserving from the above-described premises that portion of land conveyed by William E. Bailey to The Mead Corporation by deed dated December 23, 1965 and recorded with said Registry of Deeds in Book 811, Page 310.

Subject to a sewer easement given to the Town of Lee, dated May 26, 1978 and recorded with said Registry of Deeds in Book 1004, Page 279.

Being all and the same premises conveyed to the Town of Lee by deed of Robert J. Daley and Letishia Daley, Trustees, of the Robert J. Daley and Litishia A. Daley dated _____ and recorded with the Berkshire Middle District Registry of Deeds in Book ____, Page ____.

ADDENDUM B

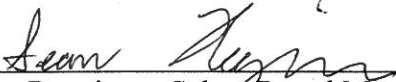


ADDENDUM C

AGREEMENT REGARDING USE OF CONSENSUAL ORDER OF TAKING FOR
TRANSFER OF REAL PROPERTY

Subject to my/our review and approval of the Order of Taking and Acceptance of Full Settlement, I/we agree to the use of a consensual order of taking for the transfer of the real estate described in the attached OPTION TO PURCHASE.

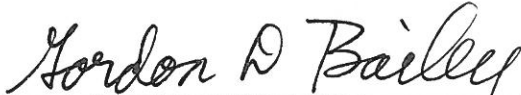
At or prior to closing, I/we agree to sign an ACCEPTANCE OF FULL SETTLEMENT in the amount indicated in the Option to Purchase and understand that the Acceptance will acknowledge our agreement to the adequacy of the Commonwealth's award for this consensual taking and release the Commonwealth from any claim by me/us for additional damages. I/we understand that I/we and my/our counsel will have ample time to review and approve all documents prior to their execution.



Sean Regnier as Select Board Member/Chair
Town of Lee



Bob Jones as Select Board Member/Clerk
Town of Lee



Gordon D. Bailey as Select Board Member
Town of Lee