

EASEMENT

THE DISCOVERY MUSEUMS, INC. (“Grantor”), a Massachusetts non-profit corporation, having an address of 177 Main Street, Acton, Massachusetts 01720, owner of a certain parcel of land and the improvements thereon located at 177 and 183 Main Street, Acton, Middlesex County, Massachusetts, and more particularly described on Exhibit A attached hereto (the “Property”), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, grants to the TOWN OF ACTON, a municipal corporation with an address of 472 Main Street, Acton, Massachusetts 01720 (“Grantee”), the perpetual, non-exclusive right and easement for recreational purposes in accordance with M.G.L. c. 21 § 17C to pass and repass over all portions of the Property that are identified as driveways, sidewalks or paths (collectively, the “Easement Area”) and are depicted on the plan entitled “Site Plan-Discovery Woods”(the “Plan”), which is recorded herewith and attached hereto as Exhibit B on the terms and conditions set forth herein.

With respect to the rights and easements hereby established, Grantor and Grantee hereby agree as follows:

1. The rights granted under this Easement may be exercised by Grantee and the public.
2. The use of the Easement Area shall be limited to access on foot and by non-motorized vehicles.
3. The Easement Area may only be used during those hours in which Grantor is open for business and operating its museum facilities provided, however, that in the event that Grantor sells the Property or no longer operates the Property as a museum, the hours during which the Easement Area may be used by the public shall be limited to those hours during which Grantee permits the public to enter and make use of the Great Hill Conservation and Recreation Land (“Great Hill”) located adjacent to the property and owned by Grantee, unless Grantee, in its sole discretion, agrees to limit the hours of such access to other times as may be required by a subsequent owner of the Property.
4. Grantor, at its sole cost and expense, shall inspect, maintain and repair the Easement Area so that it at all times provides a clear path with unencumbered access to Great Hill; provided, however, that Grantor shall not be obligated to remove snow from the Easement Area. Grantee shall have the right, but not the obligation, to maintain and repair the Easement Area if Grantor fails to do so and to remove snow therefrom and deposit snow on other areas of the Property determined by Grantor to be within a reasonable distance of the Easement Area.

5. Upon not less than ninety (90) days prior written notice to Grantee and approval thereof, which approval will not be unduly withheld, Grantor may change the location or locations of the Easement Area in whole or in part from time to time but any such relocation shall provide the public with access equivalent to that shown on the Plan.
6. Grantor shall not (i) place nor permit to remain any improvements within Easement Area, including without limitation sheds and fencing, or (ii) except as expressly provided in this Section 6, interfere with Grantee's use of the Easement Area. If Grantor is in violation of this provision, Grantee shall have the right, but not the obligation, upon thirty (30) days' notice to Grantor of a violation, to remedy the violation and receive reimbursement from Grantor. Grantor may from time to time temporarily (i.e. not more than thirty (30) days) close down any portion of the Easement Area, so long as at least one (1) or more clear and unencumbered access ways to Great Hill remain open for use by Grantee and members of the public.
7. Grantor hereby agrees not to grant any other easements, leases, deeds, licenses or any other rights to the Easement Area that will interfere with the rights of Grantee without the prior written consent of Grantee. Any easement, lease, deed, license, or any other rights granted in violation of this provision shall be null and void.
8. All rights and privileges granted herein, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their respective successors, assigns, and legal representatives.
9. Nothing in this Easements limits the ability of Grantor and Grantee to avail themselves of the protections offered by any applicable law affording immunity to Grantor and Grantee including, to the extent applicable, the so-called "Recreational Use Statute", M.G.L. c. 21, §17C(a). This Easement is granted for the express purpose of permitting members of the public to use such land for recreational purposes, at their own risk, without imposing a charge or fee therefor, and neither Grantor nor Grantee shall at any time impose a charge or fee on members of the public for the use of the Easement Area or for any other purpose.
10. Grantor warrants and represents that it has the sole and exclusive right to grant the Easement, and that there are no mortgages or encumbrances of record or otherwise on the Easement Area that will negate or negatively impact this Easement.
11. The parties agree that the parties may apply to any court, state or federal, for specific performance of this Easement or an injunction against any violation of this Easement, or for such other relief as may be appropriate, since the amount of damage arising from the default under any of the terms of this Easement would be difficult to ascertain and may not be compensable by money alone.

12. This Easement is appurtenant to the land that is part of the Town owned Great Hill Area, as more particularly described in a deed from Donald B. Prouty and Charles F. Putnam as Trustees of the Jenks Charitable Foundation dated July 18, 1972 and recorded in the Registry in Book 12249, Page 047.

For Grantor's title to the Property, see title references set forth in Exhibit A attached hereto and incorporated herein by reference.

[Remainder of Page Intentionally left blank]

Executed as a sealed instrument this day of , 2016.

THE DISCOVERY MUSEUMS, INC.

By: _____
Name:
Title: President

By: _____
Name:
Title: Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this ____ day of _____, 2016, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was Government Issued Photo Identification, Personal Knowledge, Other: _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purposes.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this ____ day of _____, 2016, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was Government Issued Photo Identification, Personal Knowledge, Other: _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purposes.

Notary Public
My Commission Expires:

ACCEPTANCE OF EASEMENT

We, the undersigned, being a majority of the Town of Acton Board of Selectmen, hereby certify that at a meeting duly held on _____ day of _____, 2016, the Board voted to accept the foregoing Easement.

TOWN OF ACTON
By its Board of Selectmen

Peter J. Berry, Chair

Janet K. Adachi, Vice-Chair

Frances J. Osman, Clerk

Katie Green

Chingsung Chang

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

On this _____ day of _____, 2016, before me, the undersigned Notary Public, personally appeared Katie Green, Janet K. Adachi, Peter Berry, Franny Osman and Chingsung Chang proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose, and that he/she/they has/have authority to sign as a/the Member(s) of the Board of Selectmen of the Town of Acton, before me.

Notary Public
My Commission Expires:

EXHIBIT A

Legal Description of the Property