

MEMORANDUM OF AGREEMENT

This Memorandum of Understanding (“**MOA**”) is made and entered into as of this ____ day of _____, 2023 by and between the Massachusetts Department of Transportation, having offices at 10 Park Plaza, Boston, Massachusetts 02116 (“**MassDOT**”) and the CITY/TOWN of _____, a municipal corporation within the Commonwealth of Massachusetts, having offices at _____ (“**Municipality**”). Municipality and MassDOT may hereafter sometimes be collectively referred to as the “Parties” and individually as the “Party.”

WHEREAS, MassDOT has developed a program by which it provides municipalities with bike passage signage described in Exhibit A (“**Signage**” or “**Signs**”) for installation in *municipally owned public roadways* as a tool to reduce vulnerable road user fatalities; and

WHEREAS, Municipality desires to participate in the program and has requested Signage to install in the municipally owned roadway(s) identified in Exhibit B (the, “**Locations**”); and

WHEREAS, Municipality has agreed to install and maintain the Signage at the Locations in accordance with the terms provided herein (“**Project**”); and

WHEREAS, MassDOT and Municipality seek to confirm their respective rights and obligations in connection with the Project as set forth in this MOA.

NOW, THEREFORE, in consideration of the promises herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Signage.**

- (a) MassDOT will provide Municipality with the Signage described in Exhibit A. MassDOT will fund the entire cost of the Signage, including the cost of delivery to Municipality. Title to the Materials will pass to Municipality upon delivery.
- (b) It is understood and agreed that MassDOT’s procurement of the Signage is contingent upon availability and continued appropriation of federal and/or state funds, and if for any reason whatsoever, such funds are terminated or reduced or otherwise become unavailable, MassDOT may terminate this MOA in whole or in part.

2. **Installation.**

- (a) Municipality, at its sole expense, shall install the Signage at the Locations. Aside from

the materials provided by MassDOT, Municipality shall provide all necessary labor, materials, equipment, and other services necessary to install the Signs in accordance with vendor specifications.

- (b) Each Sign must be installed in conformance with the requirements of Section 2 of the 2009 *Manual of Uniform Traffic Control Devices (MUTCD)*.
- (c) Municipality is solely responsible for evaluating the specific site constraints for each Location and for providing all necessary traffic control devices and/or police details necessary to safely complete the Project.
- (d) Municipality agrees and acknowledges that the Signage must be installed within the public layout on a municipally owned roadway. Municipality shall obtain, at its sole cost and expense, any and all applicable permits, approvals, including local approvals, and/or clearances required by local and state agencies, commissions, or bodies necessary for the completion of the Project prior to installing the Signage.
- (e) Municipality shall install each Sign within ninety (90) days of its delivery to Municipality. If Municipality cannot complete the installation within the ninety-day period, Municipality shall promptly, at its sole expense, return the uninstalled Signs to MassDOT by delivering the Signage to the location designated by MassDOT.
- (f) Upon the completion of the Project, Municipality shall provide MassDOT with photographic documentation of the installed Signage, along with documentation evidencing the date of installation for each Sign.

3. Future Maintenance.

Municipality shall, at its sole expense, be responsible for the maintenance and upkeep of the Signage used for the Project. Municipality shall maintain the installed Signs in good repair throughout the Signs' useful life. MassDOT shall not be responsible for the replacement of the Signs at the end of their useful life. Notwithstanding anything contained herein to the contrary, Municipality's maintenance obligations shall survive the expiration or termination of this MOA.

4. Term.

This MOA shall be effective as of the date of full execution by Municipality and MassDOT and, unless terminated earlier as provided herein, shall expire on two years from the date of sign delivery (“**Expiration Date To Be Confirmed by MassDOT**”).

5. Termination.

This MOA may be terminated by mutual agreement of the Parties, upon such terms and conditions as the Parties may mutually agree upon. Such termination shall be effective in accordance with a written agreement by the Parties. Termination under this section shall not constitute a waiver of the rights of either Party to damages or other remedies related to this MOA, except to the extent that the mutual agreement terminating this MOA so specifies.

MassDOT may, by written notice to the Municipality, also terminate this MOA if the Municipality neglects or fails to comply with any provision of this MOA in accordance with its terms or within the time specified for performance herein. In the event this MOA is terminated pursuant to this provision or Section 1(b) above, MassDOT shall not be liable to the Municipality for any costs incurred or burdens assumed upon or subsequent to, and associated with, such termination.

6. Compliance with Laws.

Municipality, in meeting its obligations hereunder, shall comply with all applicable federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations and ordinances.

7. Indemnification.

To the extent permitted by the laws of the Commonwealth, Municipality shall indemnify, defend (at Municipality's sole expense and with counsel reasonably acceptable to MassDOT), and hold harmless MassDOT and all of MassDOT's officers, agents, and employees, from and against any and all suits, claims, proceedings, liabilities, losses damages, penalties, charges and expenses (including attorneys' fees and experts' fees) of every name and nature, based on or arising out of any actual or alleged loss or injury (including death) to persons or damage to real or tangible property that are caused or alleged to be caused, in whole or in part, by, or to arise out of the acts or omissions of, Municipality, or its employees, contractors, subcontractors, or agents, in its performance of the obligations set forth herein. The foregoing indemnification obligations shall survive the expiration of this MOA.

8. Successors and Assigns.

This MOA shall be binding upon and inure to the benefit of the Parties hereto and their permitted successors and assigns. This MOA may not be assigned without the prior written consent of MassDOT.

9. Notice.

Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified or registered mail, postage prepaid, return receipt requested, or (c) by a commercial overnight courier that guarantees next day delivery and provides a receipt. Such notices shall be addressed as follows:

If to MassDOT: Massachusetts Department of Transportation
Highway Division of Traffic & Safety Engineering
10 Park Plaza
Boston, MA 02116
Attention: _____

If to Municipality: _____

Attention: _____

or to such other address as either Party may from time to time specify in writing to the other Party. Any notice shall be effective only upon delivery.

10. Authority.

The individuals executing this MOA represent that they are empowered and duly authorized to so execute this MOA on behalf of the Parties they represent.

11. Miscellaneous.

This MOA represents the entire agreement between the Parties with respect to the subject matter hereof, superseding any prior oral or written agreements or understandings regarding the same, and any modification amendment or change to the terms and conditions hereof shall be binding only when expressed in writing and signed by both Parties hereto. This MOA may be signed in multiple counterparts each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. This MOA shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts, without regard to its choice of law rules. If any provision or condition of this

MOA shall be deemed invalid or unenforceable, the remaining provisions and conditions shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

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SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, Municipality and MassDOT have caused this MOA to be executed by their duly authorized officers or representatives as of the date first above written.

MASSACHUSETTS DEPARTMENT OF
TRANSPORTATION

By: _____
Name:
Title:
Date:

MUNICIPALITY

By: _____
Name:
Title:
Date:

Exhibit A



bike passing - under 35 mph;
 2.0" Radius, 0.5" Border, 0.3" Indent, Black on White;
 "MOTORISTS", C 2K 75% spacing;
 "GIVE 4 FT", C 2K;
 "TO PASS", C 2K;
 Bicycle;



bike passing 35 mph +;
 2.0" Radius, 0.5" Border, 0.3" Indent, Black on White;
 "MOTORISTS", C 2K;
 "GIVE 4 FT", C 2K;
 "TO PASS", C 2K; Bicycle;

Signs shall be mounted on single 2.25 inch by 2.25 inch square tube posts conforming to Subsections 840.60 and M8.18.3 of the MassDOT Standard Specifications. Signs shall be installed in accordance with the requirements and guidance provided in Section 2A.16 and Figure 2A-2 of the MUTCD.

