TOWN OF BEDFORD
DEPARTMENT OF PUBLIC WORKS

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November 10, 2022

Memo to File

RE: Minuteman Bikeway Extension – Summary of Environmental Permitting/ Notice of Intent

Both public and private projects that include proposed land alteration and have the potential to impact a protected resource area or associated buffer zone must file for permits from the Conservation Commission and the Massachusetts Department of Environmental Protection (MassDEP). Municipalities are exempt from paying the filing fee. For the Minuteman Bikeway Project (the "project"), the Notice of Intent (NOI) was filed on January 27, 2022 by the Town's environmental and transportation consultants, VHB Inc. The project was discussed at the subsequent Conservation Commission meeting on Wednesday, February 9, 2022.

The project fully complies with the State's Wetland Protection Act regulations related to bordering vegetated wetland, 100-ft Buffer Zone, bordering land subject to flooding (floodplain), and Riverfront Area.

Under local regulations (Bedford Wetlands Protection Bylaw & Regulations), the project required a variance for the following reasons:

- The project requires work within 25-ft of protected resource areas;
- The project exceeds the maximum 25% allowable impervious area within the 100-ft wetland buffer.

It is important to note that these areas within the 25-foot Buffer Strip, 50-foot Buffer Zone, and 100-ft Buffer Zone of resource areas consists of the previously disturbed railway embankment and active gravel pedestrian and bicycle path, existing roadways, and residential and municipally owned properties.

Under the Town's local wetland bylaws, a variance may be granted if necessary to accommodate an overriding community, regional, state or national public interest. At the February 9th Conservation Commission meeting, the project received approval for both the Notice of Intent and the Variance

request. The Order of Conditions for the Notice of Intent was issued on February 14, 2022 and has an expiration date of February 14, 2025. As noted in the General Conditions under the Massachusetts Wetlands Protection Act #5: This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.

As a condition of Transportation Improvement Program grant funding, Massachusetts Department of Transportation (MassDOT) and Federal Highway Administration (FHWA) require the Town to dedicate in perpetuity any Town-owned land used for the project as a way to protect the public investment. This project does not go beyond the bounds of the former 75-foot-wide railroad corridor. However, through a detailed title search conducted by attorneys specializing in former railroad right of way, it was found that the Conservation Commission, like many abutting owners, actually still owned to the centerline of the former railroad corridor along the Elm Brook and Dellovo Conservation Area parcels. The same cannot be said regarding the land within the former rail corridor adjacent to the Webber and Kelley Conservation Areas, which is under Select Board control.

At the same meeting the NOI was considered, the Conservation Commission voted to approve the Declaration and Dedication of Public Land for Temporary Construction Easements and Permanent Easements for the Elm Brook and Dellovo Conservation Areas. Again, these easements are entirely within the former railroad corridor. The Commission also voted in favor to certify that these temporary and permanent easements are not detrimental to the recreational use of these two Conservation Areas by signing the necessary Section 4(f) *de minimis* Impact Determination forms. [Note: The Select Board took the same necessary votes for Select Board-controlled municipal parcels at their meeting on February 7, 2022]

The Section 4f forms were subsequently submitted by MassDOT to the FHWA to receive the National Environmental Policy Act (NEPA) Categorical Exclusions for the project. The Categorical Exclusion certifies that this federally-funded project does not have a significant impact on the environment and therefore does not require a more detailed environmental analysis.