MEMORANDUM OF AGREEMENT

This **Memorandum of Agreement** ("**MOA**") is made and entered into this 18th day of ~~March~~ April, 2023 by and between the Massachusetts Department of Transportation, having offices at 10 Park Plaza, Boston, Massachusetts 02116 ("**MassDOT**"), and the City/Town of Southampton, a municipal corporation within the Commonwealth of Massachusetts, having offices at 210 College Highway Southampton ("**Municipality**"). MassDOT and the Municipality may hereafter be collectively referred to herein as the "Parties" and individually as the "Party."

WHEREAS, MassDOT administers a Federal-Aid grant program that provides Combination Dynamic Speed Feedback and School Zone Speed Sign assemblies ("**Speed Feedback Signs**" or "**Sign Assemblies**") to municipalities for installation in existing municipal school zones to enhance roadway user safety; and

WHEREAS, Municipality has proposed to install Speed Feedback Signs provided by MassDOT at the School(s) in the existing municipal school zone (s) described in Exhibit A, attached hereto, (the "**Locations**") in its approved Combination Dynamic Speed Feeback and School Zone Speed Sign Assembly Grant Application; and

WHEREAS, the proposed Locations are within the public right of way in a municipal school zone that conforms with the requirements of Sections 7A.01 and 7A.05 of the 2022 *Massachusetts Amendments to the Manual on Uniform Traffic Control Devices*; and

WHEREAS, Municipality has agreed to install the proposed Speed Feedback Signs at the Locations in accordance with the terms provided herein (the "**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 obligations contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, MassDOT and the Municipality hereby agree, each with the other, as follows:

1. **Speed Feedback Signs.** MassDOT will provide Municipality with the Speed Feedback Signs described in Exhibit B, attached hereto. MassDOT will fund the entire cost of the Sign Assemblies, including the cost of delivery to Municipality. Title to the Signs will pass to Municipality upon delivery.

   It is understood and agreed that MassDOT's procurement of the Speed Feedback Signs is contingent upon availability and continued appropriation of federal 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 immediately.

2. **Installation**. Municipality, at its sole expense, shall install the Speed Feedback Signs at the aforementioned Location(s). Aside from the Sign Assemblies provided by MassDOT, Municipality shall provide all necessary labor, materials, equipment, and other services necessary to install the Speed Feedback Signs in accordance with vendor specifications. Municipality shall comply with all federal, state, and local laws, ordinances, rules and regulations applicable to the installation of the Sign Assemblies.

   Municipality shall install each Speed Feedback Sign in conformance with the requirements of Sections 7B.09 and 2A.19 of the 2009 *Manual of Uniform Traffic Control Devices (MUTCD)*. Prior to installation, Municipality personnel and/or contractors shall attend a training conducted by MassDOT and/or its vendor, free of charge, at a MassDOT District Office to be designated.

   Municipality shall also 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 Speed Feedback Signs. This includes, but is not limited to, any applicable MassDOT Access Permits to enter upon the State Highway. **Nothing contained herein shall be deemed to as permission for Municipality and/or its contractors to enter upon the State Highway for the performance of any activities in connection with the Project, including but not limited to, Municipality's installation, maintenance, repair, and operation obligations as set forth herein, without first obtaining any and all applicable permits.**

   Municipality shall install each Sign Assembly within ninety (90) days of its delivery to Municipality. If Municipality cannot complete the installation within the ninety-day period, it may request an extension. Any request for an extension must be made in writing to MassDOT soon as practicably possible, but not later than sixty (60) days after Municipality's receipt of the Sign Assemblies. Municipality's request shall include a justification for the requested extension, the anticipated installation date, and any other information deemed necessary by MassDOT. MassDOT, in its sole and exclusive discretion, may agree to grant said request for an extension of time if it finds that sufficient justification has been provided by the Municipality.

   Within a week of installing each Sign Assembly, Municipality shall provide to MassDOT both the latitude and longitude (in decimal degrees (DD) format: e.g. 34.11914, -118.30036) of the installed assembly unit and the serial number or other unique identification number of the unit. This unit identification information must be included when delivering the collected data from each unit pursuant to Section 4 of this MOA.

   Within six (6) months of the installation of the Speed Feedback Signs, Municipality shall

provide a brief written report to MassDOT describing Municipality's experiences [training, installation, data collection, associated costs (including without limitation time spent) and benefits and any unintended consequences both positive and negative]. This report is separate from the data reporting requirements in Section 4.

3. **Operation and Maintenance**. Municipality, at its sole cost, shall be solely responsible for the operation, maintenance, repair, and disposal at the end of service life, and other handling of the Speed Feedback Signs. The Speed Feedback Signs shall be designated, located, and operated in accordance with the Standards of MassDOT for such devices. The Police Department of Municipality shall be the enforcement agency for traffic regulations established in accordance with the with this MOA and the Speed Feedback Signs installed in connection therewith.

   Municipality, in accordance with the provisions of Sections 109(d) and 116 of Title 23 USC, shall properly maintain the way and all Speed Feedback Signs and under the control of Municipality within the Project area. This obligation includes features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. This requirement does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs. Municipality's obligations under this Section 3 shall survive the expiration of this MOA.

4. **Data**. Municipality shall electronically deliver to MassDOT all data gathered from the Signs (1) during the first thirty (30) day period immediately following the Signs' installation and (2) at any other such time as may be requested by MassDOT until January 1, 2026. Such data will be delivered to MassDOT in a form and manner acceptable to MassDOT (including without limitation in accordance with any information security protocols designated by MassDOT, if applicable). Municipality's obligations under this Section 4 shall survive the expiration of this MOA.

5. **Term**. This MOA shall be effective as of the date of full execution by Municipality and MassDOT and, unless terminated earlier as provided herein or otherwise agreed in writing by the Parties, shall remain in full force and effect for a period of two (2) years after Municipality's receipt of the Sign Assemblies. 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.

   In addition, MassDOT may, by written notice to Municipality, terminate this MOA in any one of the following circumstances:

   (a) 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, and Municipality fails to cure any such failure within thirty (30) calendar days after receipt of notice specifying such failure. In the event this MOA is terminated pursuant to this provision, MassDOT shall not be liable to the Municipality for any costs incurred or burdens assumed upon or subsequent to, and associated with, such termination.

(b) The applicable Federal funding source fails to appropriate or otherwise make available funds for the Signs. In the event this Agreement is terminated pursuant to this provision, MassDOT shall not be liable to Municipality for any costs.

In the event that MassDOT terminates this MOA subsequent to the delivery of the Sign Assembly to Municipality but prior to its installation, Municipality shall, at its expense, return the Sign Assembly to the applicable MassDOT District Office.

6. **Compliance with Laws**. Municipality, in meeting its obligations hereunder, shall comply with all applicable federal, state, county, municipal and other governmental statues, laws, rules, orders, regulations and ordinances. Municipality's obligations under this Section 6 shall survive the expiration of this MOA.

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. Municipality's obligations under this Section 7 shall survive the expiration or earlier termination of this MOA.

8. **Notices:** 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:

MASSDOT: James V. Terlizzi, P.E.
MassDOT Traffic & Safety
10 Park Plaza, Room 7520
Boston, MA 02116

The MUNICIPALITY: Edward J. Gibson, Town Administrator
Town of Southampton
210 College Highway, Suite 7
Southampton, MA. 01073

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.

9. **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.

10. **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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IN WITNESS WHEREOF, the Parties have executed this MOA as an instrument under seal as of the date last written below.

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

By: Patricia A Leavenworth

Name: Patricia Leavenworth

Title: District 2 Highway Director

06/22/2023

MUNICIPALITY

Town of Southampton

By: Edward J. Gibson

Name: Edward J. Gibson

Title: Town Administrator/CFO

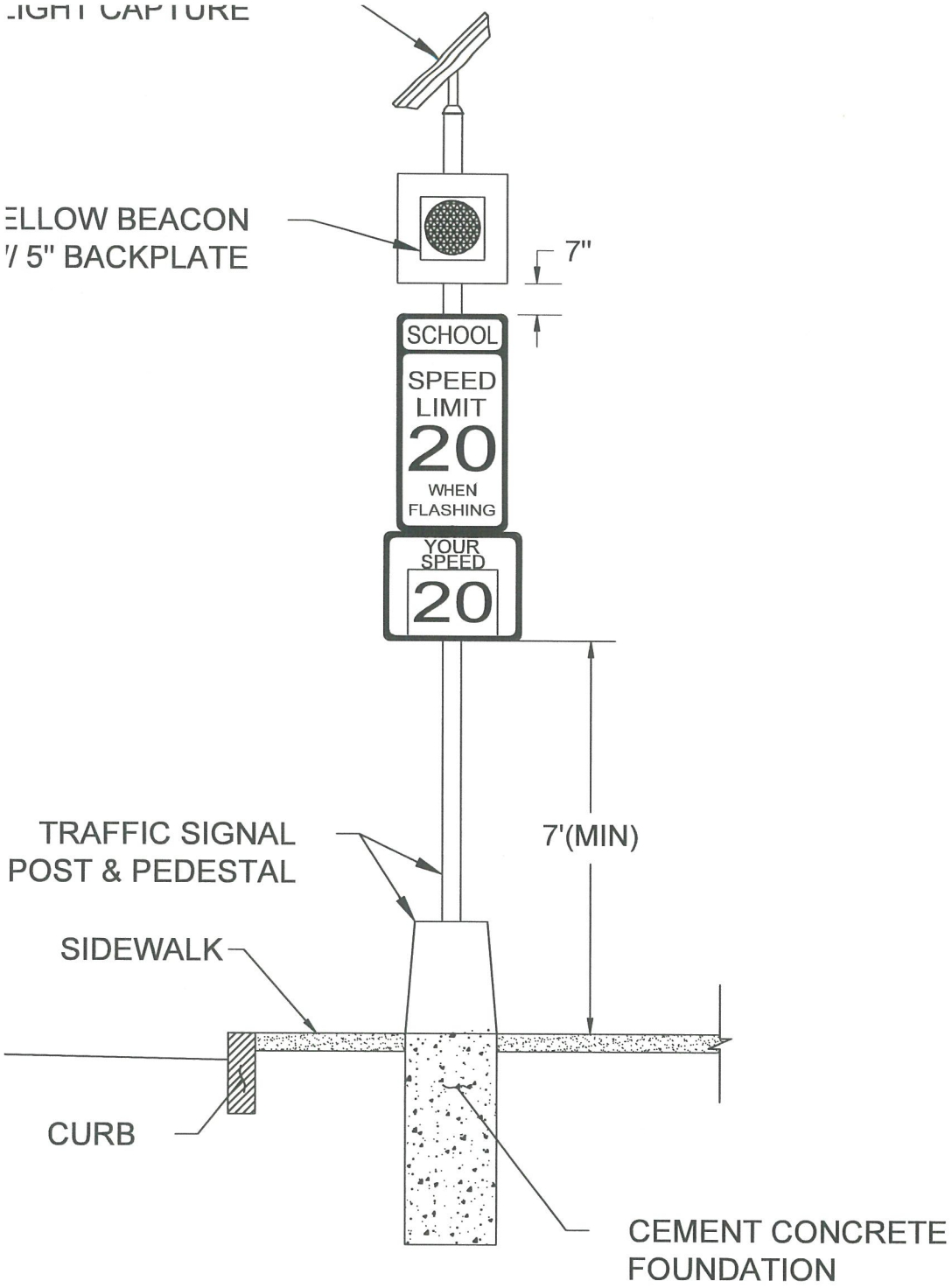
EXHIBIT A

COMBINATION DYNAMIC SPEED FEEDBACK SIGN AND SCHOOL ZONE LOCATIONS

1. WILLIAM E. NORRIS **School in the existing municipal school zone at the following streets(s):** POMEROY MEADOW AND GUNN (EXT.) RDS

EXHIBIT B

COMBINATION DYNAMIC SPEED FEEDBACK AND SCHOOL ZONE SPEED LIMIT SIGN ASSEMBLY DESCRIPTION



1. REFER TO THE SPECIAL PROVISIONS FOR S
THE NEMA ENCLOSURE SHALL BE POLE-MOUNTE
SHALL BE PLACED IN A MANNER WHERE IT WOUI
PROTRUDING OBJECT UNDER ADA/AAB REQUIRE

MAJOR ITEMS LIST

1 CEMENT CONCRETE FOUNDATION PER 8
1 TRAFFIC SIGNAL POST AND PEDESTAL
1 CIRCULAR YELLOW BEACON
1 S5-1 SIGN
1 SPEED FEEDBACK CHANGEABLE MESSAC
1 RADAR UNIT
1 SOLAR PANEL SYSTEM
1 NEMA ENCLOSURE FOR ALL COMPONEN
FUNCTIONAL REQUIREMENTS PER SPEC

PLUS ALL MOUNTING AND SUPPORTING
WIRING NECESSARY TO COMPLETE A W