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MEMORANDUM OF AGREEMENT

AMONG

**THE FEDERAL HIGHWAY ADMINISTRATION,
THE MASSACHUSETTS STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**REGARDING THE REPLACEMENT OF THE
MITCHELL RIVER BRIDGE (C-07-001)**

IN CHATHAM, MASSACHUSETTS

WHEREAS, the Federal Highway Administration (FHWA), in consultation with the Massachusetts State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation, pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. Part 470(f)], has determined that the proposed demolition of the Mitchell River Bridge (in order to construct a new bridge on the same alignment) will have an adverse effect on that National Register-eligible structure; and

WHEREAS, FHWA, through the Massachusetts Department of Transportation (MassDOT), has defined the undertaking's area of potential effect as comprising the Mitchell River Bridge (C-07-001), which carries Bridge Street over the Mitchell River in Chatham, Massachusetts; the properties abutting the immediate approach roadways along Bridge Street; and areas along the banks of the Mitchell River that are in view of the bridge; and

WHEREAS, the Mitchell River Bridge is an electrically powered, cable-lift, simple-trunnion, single-leaf timber bascule drawbridge with eleven timber stringer approach spans supported on timber pile bents; and

WHEREAS, the bridge's existing timber superstructure, including the single bascule draw span and all eleven approach spans, was entirely constructed of new timber elements in 1980 on a substructure that reused many of the timber piles from the previous bridge (built 1925, widened 1949) on this crossing, intermixed with many new timber piles, all new wooden pier caps, all new pile bent cross-bracing, and all new reinforced concrete abutments — all built in 1980; and

WHEREAS, the Keeper of the National Register of Historic Places (National Register) has determined, in a notification dated October 31, 2010, that the existing Mitchell River Bridge has “exceptional significance” and, therefore, is eligible for listing in the National Register as “one of a continuous line of wooden drawbridges that have spanned this crossing for over 150 years” and as “the last remaining single-leaf wooden drawbridge in Massachusetts (and perhaps the United States), despite its less-than-50 years age;” and

WHEREAS, the Mitchell River Bridge is not located in any historic district that is either listed in or has been determined eligible for listing in the National Register; and

WHEREAS, MassDOT has determined that the Mitchell River Bridge is structurally deficient, functionally obsolete, and cannot prudently be rehabilitated to serve current transportation needs for an acceptable design-life; and

WHEREAS, the Town of Chatham owns and maintains the Mitchell River Bridge; and

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WHEREAS, FHWA has undertaken an extensive Section 106 consultation process with numerous local, statewide, and national parties; and

WHEREAS, MassDOT has participated in the Section 106 consultation process and has been invited to sign this Memorandum of Agreement (MOA) as an invited signatory; and

WHEREAS, the Town of Chatham Board of Selectmen has participated in the Section 106 consultation process and has been invited to sign this Memorandum of Agreement (MOA) as an invited signatory; and

WHEREAS, other parties have participated in the Section 106 consultation process and have been invited to sign this MOA as concurring parties, including the Chatham Historical Commission, the Friends of the Mitchell River Wooden Drawbridge, Pease Boat Works & Marine Railway, Preservation Massachusetts, the National Trust for Historic Preservation, the Historic Bridge Foundation, the Indiana Historic Spans Taskforce, James L. Cooper, PhD, and George Myers; and

WHEREAS, FHWA and MassDOT have notified the Wampanoag Tribe of Gay Head/Aquinnah, the Mashpee Wampanoag Indian Tribal Council, and the Massachusetts Board of Underwater Archaeological Resources about the proposed project and have invited their comments; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), FHWA has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination with specified documentation and the Council has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, FHWA, the SHPO, and the Council agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the adverse effect of the proposed undertaking on historic properties.

STIPULATIONS:

FHWA shall ensure that the following provisions are carried out:

I. DESIGN OF NEW REPLACEMENT BRIDGE

FHWA shall ensure that MassDOT designs and constructs a context-sensitive new bridge to replace the existing National Register-eligible Mitchell River Bridge. The proposed new bridge shall be comprised of a single-leaf bascule draw span and five approach spans. The principal structural members of the proposed new draw span shall be steel girders and steel floor beams and the principal structural members of the five approach spans shall be glue-laminated (glulam) timber beams. The decking, sidewalks, bridge railings, and at-curb barriers on all six spans shall be constructed of timber. All connections on the superstructure shall be made with steel fasteners. The substructure of the proposed new bridge shall be comprised of two reinforced concrete abutments, one reinforced concrete bascule pier, and five concrete-filled steel pipe piers. The outer elevations of the bascule pier and the wingwalls of the abutments shall be clad with stone. FHWA has provided conceptual drawings and architectural renderings of this design, known as Alternative 3, to

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all parties that have been involved in the Section 106 consultations for this project. Those drawings and renderings were included as enclosures with FHWA's Section 106 Adverse Effect submittal dated November 9, 2011.

II. FURTHER CONSULTATION

- A. FHWA and MassDOT shall convene at least one additional public meeting in Chatham of the Section 106 consulting parties to discuss the sketch plans (25% design phase) and aesthetic details of the proposed new replacement bridge as described in Stipulation I. The sketch plans will show the dimensions and profile of the new bridge but may not show its structural or aesthetic details. FHWA and MassDOT, however, will ensure that more refined computer-generated renderings of the aesthetic details of the proposed bridge are made available to the Section 106 consulting parties and the public prior to the public meeting. FHWA will provide hard copies (11" x 17") or electronic versions of the sketch plans and architectural renderings to each Section 106 consulting party (as each party may prefer) at least fourteen days prior to the public meeting in Chatham. Written comments regarding the sketch plans or renderings may be submitted to FHWA (Pamela S. Stephenson, Division Administrator, Federal Highway Administration, 55 Broadway, 10th Floor, Cambridge, MA 02142) by the Section 106 consulting parties or the public. FHWA and MassDOT shall review and consider all comments received within fourteen days following the public meeting, before proceeding to final design.
- B. FHWA shall invite all Section 106 consulting parties to the public meeting in Chatham to consult on further refinement of the sketch plans and aesthetic details of the proposed new bridge, regardless of whether or not any of those parties has chosen to sign this MOA.
- C. Aesthetic details of the proposed new bridge to be discussed at the public meeting in Chatham shall include, but shall not necessarily be limited to, the following:
1. The materials to be used to construct the pier caps on the five concrete-filled steel pipe piers.
 2. The design of the stone cladding to be used on the outer elevations of the bascule pier and the wingwalls of the abutments.
 3. Whether the existing timber railings along the outer edges of the present bridge's sidewalks shall be salvaged and reinstalled on the proposed new bridge or shall new timber railings be designed and constructed for installation on the new bridge.
 4. The paint color to be used on the steel pipe piers and the steel beams of the bascule span.
- D. The Section 106 consulting parties public meeting described in this stipulation shall be held in addition to the project's design public hearing and the NEPA Environmental Assessment public hearing.

III. ARCHIVAL DOCUMENTATION

- A. FHWA shall ensure that MassDOT prepares archival-quality photographic documentation of the existing bridge in the form of 8" x 10" black and white prints made from 35 mm black and white negatives. Photographs shall depict aerial views of the existing bridge and its surroundings, as well as views of the bridge's elevations, bascule span and operating system, deck, abutments, and piers, and context views

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showing the bridge in relation to its setting. All photographs shall be identified on the back in pencil, with no affixed labels, unmounted but sleeved in archival-quality, unbuffered envelopes, the contents of each envelope identified and numbered in pencil on the envelope. The negatives shall be sleeved in appropriate archival-quality negative holders, which shall be suitably labeled. All photographs shall be keyed by number to a site plan printed on archival-quality paper. A list of photographic views printed on archival-quality paper also shall be included.

- B. All photographic documentation described in Subsection A shall be completed prior to the commencement of any construction associated with the proposed bridge replacement project.
- C. MassDOT shall include photocopies of selected pages from the original 1980 construction plans for the Mitchell River Bridge, including a site plan, elevations, and details. Photocopies shall be printed on archival-quality 11"x17" paper, which shall be folded in half for storage.
- D. MassDOT shall include photocopies of any other existing paper documentation, copied on archival-quality paper, which FHWA, MassDOT, and any of the Section 106 consulting parties shall mutually agree to include.
- E. MassDOT shall submit one original set of photographic documentation (with negatives) to the Chatham Historical Commission for transmittal to an appropriate local repository. All paper documentation described in Subsections A, C, and D shall be enclosed in an archival-quality file folder and included with the photographic documentation. All documentation, including photographs, shall be enclosed in an archival-quality box.
- F. MassDOT shall include a compact disc containing all photographic and paper documentation with the archival documentation. FHWA shall provide copies of that compact disc to all Section 106 consulting parties.

IV. FUTURE NATIONAL REGISTER DETERMINATION OF ELIGIBILITY

Once the construction of the new Mitchell River Bridge is completed, FHWA shall ensure that information about the bridge is made available to any person or entity that might choose to pursue a formal National Register Determination of Eligibility (DOE) for the new bridge. FHWA and MassDOT shall support that pursuit by providing photocopies or electronic copies of any existing documentation in MassDOT files to assist in the preparation of that DOE. Such documentation, which shall be provided in a timely manner upon the request of the preparer of the DOE, may include the final project plans for the new bridge, photographs, and any information that was included in the original DOE package sent to the Keeper on August 31, 2010.

V. POST-REVIEW DISCOVERIES

If FHWA or MassDOT determines that the undertaking will affect a previously unidentified property that may be eligible for listing in the National Register of Historic Places, or will affect a known historic property in an unanticipated manner, FHWA and MassDOT shall make reasonable efforts to avoid, minimize or mitigate any adverse effects to such properties

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and determine actions that they can take to resolve any adverse effects following the procedures in 36 CFR 800.13(b). In the event that a post-review discovery involves a property or properties that may have traditional cultural and religious significance to federally recognized Indian tribes, FHWA, in coordination with MassDOT, shall consult with the appropriate Indian tribe(s) in accordance with the requirements of 36 CFR 800.13(b) and established procedures for Section 106 tribal consultation for Massachusetts. If pre-contact cultural resources are discovered or unanticipated effects on pre-contact period resources are found, FHWA, in coordination with MassDOT, will consult with the appropriate federally recognized Indian tribes in accordance with established procedures for Section 106 tribal consultation for Massachusetts.

VI. DURATION

This MOA will be null and void if its terms are not carried out within five years from the date of its execution. Prior to such time, FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with 36 CFR 800.6(c)(7).

VII. DISPUTE RESOLUTION

Should any party to this agreement, or any party consulted under this agreement, object in writing to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including FHWA's proposed resolution, to the Council. The Council shall provide FHWA with its advice on the resolution of the objection within thirty days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Council, signatories and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
- B. If the Council does not provide its advice regarding the dispute within the thirty day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the Council with a copy of such written response.
- C. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per 36 CFR 800.6(c)(7). If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

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Once the MOA is terminated, FHWA must either (a) execute an MOA pursuant to 36 CFR 800.6 or (b) request, take into account, and respond to the comments of the Council under 36 CFR 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by FHWA, the SHPO, and the Council and implementation of its terms evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION, MASSACHUSETTS DIVISION

By: _____ Date: _____
Pamela S. Stephenson, Division Administrator

MASSACHUSETTS STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Brona Simon, State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
John M. Fowler, Executive Director

INVITED SIGNATORIES:

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Frank DePaola, Administrator, Highway Division

TOWN OF CHATHAM

By: _____ Date: _____
Florence Seldin, Chairperson, Board of Selectmen

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REGARDING THE REPLACEMENT OF THE
MITCHELL RIVER BRIDGE (C-07-001) IN CHATHAM, MASSACHUSETTS

CONCURRING PARTY

CHATHAM HISTORICAL COMMISSION

By: _____
Robert D. Oliver, Chairman

Date: _____

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CONCURRING PARTY

FRIENDS OF THE MITCHELL RIVER WOODEN DRAWBRIDGE

By: _____
Norman Pacun

Date: _____

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CONCURRING PARTY

PEASE BOAT WORKS & MARINE RAILWAY

By: _____
Michael Pease, President

Date: _____

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CONCURRING PARTY

PRESERVATION MASSACHUSETTS

By: _____
James W. Igoe, President

Date: _____

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NATIONAL TRUST FOR HISTORIC PRESERVATION

By: _____
Elizabeth Merritt, Deputy General Council

Date: _____

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CONCURRING PARTY

HISTORIC BRIDGE FOUNDATION

By: _____
Kitty Henderson, Executive Director

Date: _____

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CONCURRING PARTY

INDIANA HISTORIC SPANS TASKFORCE

By: _____
Paul Brandenburg, Chairman

Date: _____

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CONCURRING PARTY

JAMES L. COOPER, PHD

By: _____
James L. Cooper, PhD

Date: _____

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CONCURRING PARTY

GEORGE MYERS

By: _____
George Myers

Date: _____