

Agreement #8149

**MEMORANDUM OF AGREEMENT
BRUCE FREEMAN BIKEWAY**

This agreement is entered into this 11 day of June, 1997 by and between the Massachusetts Department of Environmental Management (DEM), 100 Cambridge Street, Boston, MA 02202, the Massachusetts Highway Department (MHD), 10 Park Plaza, Boston, MA 02116, the Town of Chelmsford, 50 Billerica Road, Chelmsford, MA 01824, The Town of Westford, 55 Main Street, Westford, MA 01886, and the City of Lowell, 375 Merrimack Street, Lowell, MA 01852 (hereinafter referred to as the MUNICIPALITIES).

Whereas, there is a public consensus for the development, design and construction of a proposed bicycle/pedestrian facility along a former railroad right-of-way in the MUNICIPALITIES and said facility is commonly referred to as the BRUCE FREEMAN BIKEWAY, hereinafter referred to as the FACILITY as shown on the attached locus plan attached hereto as "EXHIBIT A"; AND

Whereas, all parties agree that it is in the publics' best interest for DEM to manage the planning and design process, MHD to provide engineering, design and construction services and the Municipalities to operate, maintain and repair the bikepath; AND

Whereas all parties agree to the following issues relative to the Planning, Design, Construction, Future Ownership and Maintenance of said FACILITY; NOW

Therefore, in consideration thereof, said parties agree with each other as follows:

MASSACHUSETTS HIGHWAY DEPARTMENT

The Massachusetts Highway Department (MHD) agrees to provide DEM and the MUNICIPALITIES with the following resources necessary to complete the work as described above:

- ◆ MHD, based on a scope of services and budget prepared after consultation with DEM, will select a design firm, prequalified by MHD's Architects and Engineers Review Board, to do all the work necessary to complete the design of said FACILITY;
- ◆ MHD, with the assistance of DEM, will negotiate and execute a contract for design with the prequalified firm selected by MHD;
- ◆ MHD will appoint a project manager from its Engineering Expediting Section to assist DEM throughout the planning and design process;

MASSACHUSETTS HIGHWAY DEPARTMENT (Cont'd)

- ◆ MHD will assist DEM by providing technical reviews and advice relative to the following areas of design related issues: Survey, Civil, Structural, Geotechnical, Environmental, Utility and/or Railroad Coordination, Landscape Architecture and Hydraulics;
- ◆ MHD will hold a Public Hearing for the project after a 25% design for the project has been approved by both MHD and DEM;
- ◆ MHD, subsequent to the completion of plans, specifications and a final estimate for the FACILITIES by DEM, shall advertise for construction, receive bids, award and construct said facilities in conformance with the project design and environmental permits;
- ◆ MHD agrees to assign a full-time Resident Engineer to the project at no expense to DEM or the MUNICIPALITIES. Said resident Engineer shall be an employee of MHD;
- ◆ Following the completion of the construction of said FACILITIES, MHD through its Secretariat, the EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION (E.O.T.C.), shall maintain ownership of the right-of-way;
- ◆ MHD shall make all payments directly to the design consultant. DEM shall see that the consultants' invoice(s) are in a format consistent with the MHD's policies and procedures. Said policies and procedures are on file with MHD and shall be made available to DEM prior to the commencement of work. All work done by the DEM and MHD shall be done in accordance with MHD's Standard Specifications for Highways and Bridges-1995 Metric Edition, as amended;
- ◆ Upon completion of the design, MHD will advertise for bids and execute a contract for construction with the apparent low bidder. MHD will make all payments directly to MHD's General Contractor;
- ◆ MHD would reconstruct the facilities in the future provided:
 1. That the major repairs are not the result of long neglect or a lack of proper maintenance.
 2. That the funding for the reconstruction of said bikeway is programmed by the applicable regional planning agency.
 3. The project obtains the necessary approval of MassHighway's Project Review Committee.

MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

The Massachusetts Department of Environmental Management agrees to provide MHD and the MUNICIPALITIES with the following resources necessary to complete the work as described above:

- ◆ DEM, at no cost to MHD or the MUNICIPALITIES, shall assign a project manager to the project during the planning and design process. The project manager shall be responsible for coordinating local and community issues, conducting plan reviews during design, assisting in the design negotiations, attending all public meetings including the public hearing to be held after approval of the 25% design stage and the preconstruction conference, reviewing and approving all consultant invoices prior to processing by MHD, reviewing and commenting on changes to the project scope and extra work orders during construction;
- ◆ DEM agrees to coordinate with MHD and the MUNICIPALITIES all issues pertaining to public participation, environmental permitting, cultural resources and public affairs.
- ◆ DEM agrees to assist MHD on issues relating to the community and the Right-of-Way/Property process.

MUNICIPALITIES

The MUNICIPALITIES agree to provide MHD and DEM with the following resources necessary to complete the work as described above as well as, preserve the investment of all interested parties:

- ◆ Each MUNICIPALITY shall appoint a bikeway technical advisory committee contact person/alternate to attend design development meetings as needed and act as a liaison between MHD/DEM and the respective Municipality. These Bikeway advisory committee members are to be responsible for design reviews and approvals;
- ◆ Following approval of the 25% design, a representative of each MUNICIPALITY agrees to attend the public hearing which will be held at a location determined by the MUNICIPALITIES and provided at no cost to MHD or DEM;
- ◆ Following completion of the construction and acceptance of the project by MHD and DEM; ownership of the FACILITY'S right-of-way shall vest with MHD THROUGH E.O.T.C., the maintenance and operation of said FACILITIES shall vest with the MUNICIPALITIES;
- ◆ Each MUNICIPALITY shall assume the costs of ~~bikeway infrastructure repairs and~~ maintaining the FACILITIES constructed within their respective municipal borders;
- ◆ In the event lighting is constructed as part of this project or in the future, any and all electrical and maintenance costs shall be borne by the MUNICIPALITIES.