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WAIVER OR MODIFICATION OF REPLACEMENT LAND REQUIREMENTS OF M.G.L. c. 3 § 5A

PROJECT: Proposed Disposition of Land in the Town of Andover for Bridge Replacement Purposes
MUNICIPALITY: Andover
EEA FILE NUMBER: A97_025_009
PROJECT PROPONENT: Massachusetts Department of Transportation (“MassDOT”)
DATE: March 11, 2026

Pursuant to M.G.L. c. 3 § 5A(a), a public entity that is proposing to use for another purpose or otherwise dispose of land or an interest in land subject to Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts (“Article 97”) may request a waiver or modification of the otherwise-applicable requirement to provide replacement land, provided that:

1. the disposition involves only the transfer of legal control between public entities and does not involve any other change, including, but not limited to, a change allowing the land to be used for another purpose; or
2. the transfer is of land or interest in land that is of insignificant natural resource and recreation value and is less than 2,500 square feet in area and the transfer serves a significant public interest.

This determination constitutes solely a waiver or modification of the replacement land requirements pursuant to M.G.L. c. 3 § 5A(a) and does not indicate that the Secretary of Energy and Environmental Affairs takes any position on the Project or on whether it complies with the Executive Office of Energy and Environmental Affairs (“EEA”) Article 97 Land Disposition Policy or any law or regulation.

Project Description:

The project involves the replacement of the existing Tewksbury Street Bridge in the town of Andover (“the Project”). In an Alternatives Analysis posted on EEA’s website¹, MassDOT describes the existing bridge as being in “poor condition” and having “numerous deficiencies”. As a part of this bridge replacement, the Town of Andover will need to convey easements over small portions of land subject to Article 97, which consists of mostly of sloped brush along the roadway with limited natural resource or

¹ <https://www.mass.gov/info-details/article-97-an-act-preserving-open-space-in-the-commonwealth-mgl-c-3-ss-5a>

recreational value. The impacted area was reviewed by Natural Heritage and Endangered Species Program (NHESP), who determined the project would not result in a prohibited Take of state-listed rare species. These dispositions are necessary for grading and bridge infrastructure. The total impact of all easements is 704 square feet.

The project is described in more detail in an Alternatives Analysis and supplemental materials provided by MassDOT which are posted on EEA's website.

Determination:

Based on the information provided by MassDOT, and an independent analysis conducted by EEA, the proposed project meets the criteria for the requested waiver of the replacement land requirements pursuant to M.G.L. c. 3 § 5A because the project serves a significant public benefit and involves a disposition of land which has insignificant natural resource and recreational value and impacts less than 2500 square feet. I therefore waive the requirement for the provision of replacement land associated with the Project.