

**MEMORANDUM OF AGREEMENT  
BETWEEN U.S. ARMY CORPS OF ENGINEERS,  
MASSACHUSETTS HISTORICAL COMMISSION, SUDBURY HISTORICAL  
COMMISSION, NSTAR D/B/A EVERSOURCE ENERGY, AND MASSACHUSETTS  
DEPARTMENT OF CONSERVATION OF RECREATION  
REGARDING THE SUDBURY-HUDSON TRANSMISSION RELIABILITY AND MASS  
CENTRAL RAIL TRAIL PROJECT, HUDSON, STOW, MARLBOROUGH, AND  
SUDBURY, MASSACHUSETTS,**

**WHEREAS** the U.S. Army Corps of Engineers (Corps) plans to issue a Department of the Army Permit to NSTAR d/b/a Eversource Energy (Eversource) and the Massachusetts Department of Conservation and Recreation (DCR) for the Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project in Hudson, Stow, Marlborough, and Sudbury, Massachusetts, (“the undertaking”) pursuant to [Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)] [Section 404 of the Clean Water Act (33 U.S.C. 1344)]; and [Section 103 of the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401)].

**WHEREAS**, the undertaking consists of installation of a new electric transmission line and construction of a rail trail within an existing inactive railroad right-of-way, including rehabilitation of one bridge and replacement of two bridges that meet the criteria of eligibility for listing in the National Register of Historic Places as contributing historic properties to a potential Central Massachusetts Railroad Historic District; and

**WHEREAS**, the Corps has defined the scope of the undertaking to include the permit area as shown in the figures submitted to the Corps on November 8, 2018, under a Request for Permit Area Determination.

**WHEREAS**, the Corps issuance of a Section 404 permit is subject to review under Section 106 of the National Historic Preservation Act (NHPA), as amended (16 U.S.C. 470f), which requires federal agencies to take into account the effects of their undertakings on historic properties listed in or eligible for inclusion in the National Register of Historic Places and afford the Advisory Council on Historic Preservation (“ACHP”) a reasonable opportunity to comment; and

**WHEREAS**, the Corps has determined that the undertaking shall have an adverse effect on Massachusetts Central Railroad Bridges #127, #128, and #130 , properties eligible for listing on the National Register of Historic Places, and has consulted with the Massachusetts Historical Commission (MHC) pursuant to 36 CFR Part 800, and 33 CFR Part 325, Appendix C, the regulations implementing Section 106 of the NHPA.

Modification of abutments and demolition of architectural elements of the Massachusetts Central Railroad Bridges #127 (MHC #SUD.901) in Sudbury and the Fort Meadow Brook Railroad Bridge/ Bridge 130 (MHC #HUD.908) in Hudson may be considered potential adverse effects; and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the Corps has notified the ACHP by letter dated [DATE], of its adverse effect determination with specified documentation, and the ACHP has chosen *not* to participate in the consultation pursuant to 36 CFR §800.6(a)(1)(iii); and

**NOW, THEREFORE**, the Corps, MHC, Eversource, and DCR agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties. The Corps will incorporate the following stipulations as conditions to any Section 404 permit issued to Eversource and DCR for this project.

## STIPULATIONS

**[NOTE FROM COUNSEL: Keep an eye out, when working with proponent and SHPO to negotiate stipulations, of provisions that would not be acceptable to the Corps (i.e. because they exceed the scope of the permitting action, impose ambiguous standards, are overly burdensome, etc.). Counsel will review MOAs, but it's easier to tailor down these stipulations to reasonable requests while at the negotiation stage.]**

The Corps shall ensure that the following measures are carried out in consultation with the MHC, Eversource, and DCR shall provide proof of compliance with such measures to the Corps and MHC:

### **I. Massachusetts Central Railroad Bridges #127, #128, and #130**

1. Rehabilitation of the Massachusetts Central Railroad Bridge #128 (MHC #SUD.900) in Sudbury that is consistent with the *Secretary of the Interior's Standards and Guidelines for Rehabilitation*, as follows: As part of the current bridge rehabilitation design, the existing steel girders, granite block abutments, timber piers, and cross-frames will be retained and reused. The existing timber ties, steel rails, timber deck, and timber handrail are to be removed and replaced. The existing 10'-1" long timber floor beams will be replaced with new 13'-2" long timber beams, which will slightly increase the overall width of the bridge deck. Since the original steel girders are to remain, the structural width of the bridge will remain unchanged. The new handrail will be made of timber and will be clearly identifiable as a new bridge element but will also be compatible with the existing historic fabric. The current plan will locate utility hangers to support conduits on the underside of the bridge deck.
2. The production of updated MHC Inventory forms for Massachusetts Central Railroad Bridges #127 (MHC #SUD.901) and #128 (MHC #SUD.900) in Sudbury and the Fort Meadow Brook Railroad Bridge/ Bridge 130 (MHC #HUD.908) in Hudson.
3. Photodocumentation to HABS/HAER standards of the Massachusetts Central Railroad Bridges #127 (MHC #SUD.901) and #128 (MHC #SUD.900) in Sudbury and the Fort Meadow Brook Railroad Bridge/ Bridge 130 (MHC #HUD.908) in Hudson.
4. Development and installation of interpretive signage at Massachusetts Central Railroad Bridges #127 (MHC #SUD.901) and #128 (MHC #SUD.900) in Sudbury and the Fort

Meadow Brook Railroad Bridge/ Bridge 130 (MHC #HUD.908) in Hudson that describe the history of the bridges and Massachusetts Central Railroad.

**[NOTE: Any stipulation included here needs to be enforceable, unambiguous, directly related to the work to be permitted by the DA, and justified in the administrative record for the permit action. Measures may include avoidance of certain areas, public education, posting of signage, particular design specifications, or review of plans/specs by the SHPO/THPO.]**

## **II. UNANTICIPATED DISCOVERIES**

If previously unidentified historic properties are discovered during Project construction that may be affected by the undertaking, Eversource and DCR shall notify the signatories of the discovery and cease all work at that location until the requirements of 36 CFR 800.13 and 33 CFR 325, Appendix C have been satisfied.

## **III. DURATION**

This MOA shall be null and void if its terms are not carried out within three (3) years from the date of its execution. Prior to such time, USACE may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation V, below.

**[NOTE: THE FOLLOWING PARAGRAPH IS OPTIONAL]**

## **IV. MONITORING AND REPORTING**

Each year following the execution of this MOA until, the work is complete, the permit expires or is terminated, Eversource and DCR shall provide all parties to this MOA a summary letter report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received by USACE in its efforts to carry out the terms of this MOA.

## **V. DISPUTE RESOLUTION**

At any time during the implementation of the measures stipulated in this MOA, should an objection to any such measure or its manner of implementation be raised by a signatory, the Corps will notify all signatories to the agreement, take the objection into account, and work as needed to resolve the objection. The disputing signatory Parties will first strive to resolve matters informally. If the signatories cannot agree regarding the dispute, the Corps shall then initiate appropriate actions in accordance with the applicable provisions of 36 CFR 800.

## **V. AMENDMENTS**

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment shall be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## **VI. TERMINATION**

If any signatory to this MOA determines that its terms shall not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation V, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the Corps 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 ACHP under 36 CFR § 800.7. The Corps shall notify the signatories as to the course of action it shall pursue.

Execution of this MOA by the Corps, MHC, Eversource, and DCR, and implementation of its terms evidence that the Corps has taken into account the effects of this undertaking on historic properties and satisfied its obligations under Section 106 of the NHPA.

**SIGNATORIES:**

\_\_\_\_\_  
[REGULATORY DIVISION CHIEF NAME] \_\_\_\_\_ Date  
Chief, Regulatory Division  
U.S. Army Corps of Engineers

\_\_\_\_\_  
Brona Simon \_\_\_\_\_ Date  
Massachusetts Historical Commission

\_\_\_\_\_  
Hudson Historical Commission \_\_\_\_\_ Date

\_\_\_\_\_  
Sudbury Historical Commission \_\_\_\_\_ Date

\_\_\_\_\_  
Eversource \_\_\_\_\_ Date

\_\_\_\_\_  
DCR \_\_\_\_\_ Date