

**Sudbury Historical Commission Draft  
MEMORANDUM OF AGREEMENT  
BETWEEN THE U.S. ARMY CORPS OF ENGINEERS  
AND THE MASSACHUSETTS HISTORICAL COMMISSION  
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 (File No. NAE-2017-01406) in Hudson, Stow, Marlborough, and Sudbury, Massachusetts, (“the undertaking”) pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344); and

**WHEREAS**, the undertaking consists of the discharge of fill material in order to install a new electric transmission line and construct a rail trail within an existing inactive railroad right-of-way, including the removal of the rails and wood ties, the modification of two culverts, the alteration of the historical setting, association and context of the Section Tool House, the rehabilitation of two bridges and the replacement of one bridge that meet the criteria of eligibility for listing in the National Register of Historic Places as contributing historic properties to the Central Massachusetts Railroad Corridor 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 and the Area of Potential Effects encompassing the Central Massachusetts Railroad Corridor Historic District; and

**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 (54 U.S.C. 306108), 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 the Central Massachusetts Railroad Corridor Historic District, a property eligible for listing in the National Register of Historic Places, and has consulted with the Massachusetts Historical Commission (MHC) pursuant to 36 CFR Part 800; and

**WHEREAS**, the Corps has consulted with NSTAR d/b/a Eversource Energy and the Massachusetts Department of Conservation and Recreation regarding the effects of the undertaking on the Sudbury – Hudson electric utility line/rail trail and has invited them to sign this MOA as invited signatories pursuant to 36 CFR §800.6(c)(2); and

**WHEREAS**, the Corps has consulted with the Wampanoag Tribe of Gay Head/Aquinnah, the Mashpee Wampanoag Tribe and the Narragansett Indian Tribe, for which the historic properties may have religious and cultural significance and has invited them the to sign this Memorandum

of Agreement (MOA) as concurring parties pursuant to 36 CFR §800.6(c)(3); and

**WHEREAS**, the Corps has consulted with the Sudbury Historic Commission and the Hudson Historic Commission regarding the effects of the undertaking on the Sudbury – Hudson electric utility line and rail trail and has invited them to sign this Memorandum of Agreement (MOA) as concurring parties pursuant to 36 CFR §800.6(c)(3); 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);

**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**

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

### **I. Historic Properties Avoidance and Protection Measures**

- A. Eversource and the DCR shall implement the “Historic Properties Avoidance and Protection Plan” (HPAPP), attached to this MOA as Exhibit 1. The HPAPP outlines specific measures to be taken prior to, during, and after construction activities of Eversource Phase I and DCR Phase II to protect, avoid, and/or minimize impacts to National Register eligible identified historic properties and their contributing resources located in the Area of Potential Effects such as archaeological sites and railroad-related features.

### **II. Central Massachusetts Railroad Corridor Historic District**

- A. Eversource and the DCR shall produce updated MHC Inventory Forms for Massachusetts Central Railroad Bridges #127 and #128 (MHC#s SUD.901 and SUD.900, respectively) in Sudbury and Fort Meadow Brook Railroad Bridge #130 (MHC# HUD.908) in Hudson.
- B. Eversource and the DCR shall be responsible for the production of Historic American Engineering Record (HAER) Documentation of Massachusetts Central Railroad Bridges #127 and #128 (MHC#s SUD.901 and SUD.900, respectively) to be undertaken by an Architectural Historian qualified under 36 CFR 61. The HAER Documentation shall consist of a structure report to include large format photographs, photo key and index, measured drawings, site plan, and an architectural/historical narrative (“Level II documentation”).

A digital draft HAER Document shall be submitted to the MHC for one round of review and comment; any comments shall be received within 30 days of submittal. If no comments are received from the MHC within 30 days of submittal, the project proponents will be free to

proceed. One draft copy shall then be provided within 30 days by Eversource Energy and the DCR on behalf of USACE to NPS for review and comment. Removal, rehabilitation and construction of Bridges #127 and #128 will not commence until NPS comments or a conditional letter of approval is received; however, construction on the remaining portions of the project will not be delayed by this activity. A copy of the final HAER Documentation shall be provided to the Hudson and Sudbury Historical Commissions.

- C. Photo documentation for the HAER Document by Eversource and DCR of the Massachusetts Central Railroad Bridge #130/Fort Meadow Brook Railroad Bridge #130 (MHC# HUD.908) in Hudson, and Bridges #127 and #128 (MHC# SUD.901 and SUD.900, respectively) shall comply with the Historic American Building Survey (HABS)/HAER standards.
- D. Development, placement and installation by DCR, in consultation with the Hudson and Sudbury Historical Commissions, shall consist of four 24" x 36" interpretive panels that describe the history of the Central Massachusetts Railroad bridges #127, #128, and #130, the Section Tool House, with one panel each to be located at Massachusetts Central Railroad Bridges #127 and #128 (MHC#s SUD.901 and SUD.900, respectively), Section Tool House (MHC# SUD.282) and Fort Meadow Brook Railroad Bridge #130 (MHC# HUD.908) in Sudbury and Hudson.
- E. Development, placement and installation by DCR, in consultation with the Sudbury Historical Commission, of one 24" x 36" interpretive panel that describes the history of the diamond junction between the Central Massachusetts Railroad and the Framingham & Lowell Railroad.
- F. Development, placement and installation by DCR, in consultation with the Hudson and Sudbury Historical Commissions, of two 24" x 36" interpretive panels that describe the general history of the Central Massachusetts Railroad, with one panel each to be located in Hudson and in Sudbury.
- G. Development, placement and installation of 15 railroad feature markers by DCR consisting of approximately 18" square signs on granite posts, including markers for railroad features to be removed, in consultation with the Sudbury Historical Commissions; and development, placement and installation of up to 15 railroad feature markers by DCR consisting of approximately 18" square signs on granite posts, including markers for railroad markers to be removed, in consultation with the Hudson historical Commission.
- H. Rehabilitation of the Massachusetts Central Railroad Bridge #128 (MHC# SUD.900) in Sudbury by Eversource that is consistent with the *Secretary of the Interior's Standards and Guidelines for Rehabilitation*, as follows: the existing steel girders, timber piers, cross-frames, and X (specify number here) number of the granite block abutments will be retained in place and reused. The existing timber ties, steel rails, timber deck (non-historic), and timber handrail (non-historic) are to be removed and replaced. 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 retention of the two Bridge #128 plate girders, to be removed, saved, and placed at a location, in consultation with the Sudbury
- I. Eversource and DCR will create a viewing area adjacent to Bridge 128 where the public may be able to view the bridges' plate girders.
- J. The retention of the two Bridge #127 plate girders, to be removed, saved, and placed by Eversource at a location to be determined in consultation with the Sudbury historical Commission.

- K. Installation of granite markers (6-foot-tall 8" x 8" pillars, lettered on two sides with 2.5"-high lettering) by DCR in the vicinity of the East Sudbury Station Archaeological Site (SUD.HA.39), South Sudbury Station Archaeological Site (SUD.HA.26), Wayside Inn Station Archaeological Site (SUD.HA.38), Gleasondale Station Archaeological Site (HUD.HA.8), and the Ordway Station Archaeological Site (HUD.HA.9).
- L. The retention of representative sections of rail, pairs each of two different rail lengths, to be removed at the bolts, one pair each placed by Eversource, in consultation with the Sudbury Historical Commission, at the Section Tool House and at two rail rests locations, such rails to be donated to the Sudbury Historical Commission.

### **III. UNANTICIPATED DISCOVERIES**

If previously unidentified historic properties are discovered during Project construction Phases I and II that may be affected by the undertaking, Eversource and DCR shall promptly notify, first orally then in writing, the signatories and the Hudson and Sudbury Historical Commissions 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.

### **IV. 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 VII, below.

### **V. MONITORING AND REPORTING**

On an annual basis, on the anniversary date of the execution of this MOA until the earlier of completion of the work, expiration of the permit, or termination of the permit Eversource and DCR shall provide all parties to this MOA and the Hudson or Sudbury Historical Commissions 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 or objections received by USACE in its efforts to carry out the terms of this MOA.

### **VI. DISPUTE RESOLUTION**

At any time during the implementation of the requirements of the stipulations in this MOA, should an objection to any such requirements or their manner of implementation be raised by a signatory or the Hudson or Sudbury Historical Commissions, the Corps will promptly notify first orally and then in writing, all signatories and the Hudson and Sudbury Historical Commission, and stop work on the disputed activity, and work as needed to resolve the objection. The disputing signatory Parties and the Hudson and Sudbury Historical Commissions will first strive to resolve matters informally. If the signatories and Hudson and Sudbury Historical Commissions cannot agree regarding the dispute, the Corps shall then initiate appropriate actions in accordance with the applicable provisions of 36 CFR 800.

### **VII. 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.

**VIII. 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 VII, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories and the Hudson and Sudbury Historical Commissions.

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 and the Hudson and Sudbury Commissions in writing 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, title \_\_\_\_\_ Date  
Massachusetts Historical Commission

**INVITED SIGNATORIES:**

\_\_\_\_\_  
NSTAR d/b/a Eversource Energy \_\_\_\_\_ Date  
\_\_\_\_\_ name, title

\_\_\_\_\_  
Department of Conservation and Recreation \_\_\_\_\_ Date  
\_\_\_\_\_ name, title

**CONCURRING:**

\_\_\_\_\_  
Hudson Historical Commission  
\_\_\_\_\_ name, title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sudbury Historical Commission  
\_\_\_\_\_ name, title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Aquinnah Wampanoag Tribe  
\_\_\_\_\_ name, title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mashpee Wampanoag Tribe  
\_\_\_\_\_ name, title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Narragansett Tribe  
\_\_\_\_\_ name, title

\_\_\_\_\_  
Date