

**MEMORANDUM OF AGREEMENT  
BETWEEN THE U.S. ARMY CORPS OF ENGINEERS  
AND THE MASSACHUSETTS HISTORICAL COMMISSION, NSTAR d/b/a  
EVERSOURCE ENERGY AND THE MASSACHUSETTS DEPARTMENT OF  
CONSERVATION AND 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 (USACE) is reviewing a Department of the Army Permit application from 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 into waters of the U.S. in order to install a new electric transmission line and construct a rail trail within an existing inactive railroad right-of-way, including, but not limited to, the removal of the rails and wood ties, the modification of two culverts, the replacement of Bridge # 127 and Bridge # 130, and the rehabilitation of Bridge # 128, which are contributing historic properties to the Central Massachusetts Railroad Corridor Historic District, which is eligible for listing in the National Register of Historic Places. Bridge # 127 and Bridge # 128 are also individually eligible for listing in the National Register of Historic Places; and

**WHEREAS**, the USACE has defined the scope of the undertaking to include the permit area and Area of Potential Effects (APE) as shown in the figures submitted to the USACE on May 23, 2022; and

**WHEREAS**, the USACE 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 USACE 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), the office of the State Historic Preservation Officer, pursuant to 33 CFR Part 325, Appendix C and 36 CFR Part 800, the regulations implementing Section 106 of the NHPA; and

**WHEREAS**, the USACE has consulted with Eversource and DCR regarding the effects of the undertaking on historic properties and has invited them to sign this Memorandum of Agreement (MOA) as invited signatories pursuant to 36 CFR §800.6(c)(2); and

**WHEREAS**, the USACE 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 to sign this MOA as concurring parties pursuant to 36 CFR §800.6(c)(3); and

**WHEREAS**, the USACE has consulted with the Sudbury Historical Commission and the Hudson Historical Commission regarding the effects of the undertaking on historic properties and has invited them to sign this Memorandum of Agreement (MOA) as concurring parties pursuant to 36 CFR §800.6(c)(3); and

**WHEREAS**, the USACE reviewed all comments received from the consulting parties and project-specific information submitted by the applicants and determined there were no prudent or feasible alternatives to demolition and replacement of Bridge 127, primarily due to the extensive deterioration of the existing steel plate girders and timber piles currently submerged in Hop Brook; and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the USACE has notified the ACHP by letter dated **February 16, 2022**, 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 USACE, 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 USACE will incorporate the following stipulations as conditions to any Section 404 permit issued to Eversource and DCR for this project.

## **STIPULATIONS**

The USACE 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 USACE and MHC:

### **I. HISTORIC PROPERTIES AVOIDANCE AND PROTECTION MEASURES**

- A. Eversource and 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 significant, including National Register eligible identified, historic properties and their contributing resources such as archaeological sites and railroad-related features.

## **II. CENTRAL MASSACHUSETTS RAILROAD CORRIDOR HISTORIC DISTRICT**

- A. Eversource and 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. Eversource and DCR responsibility shall be complete when the updated MHC Inventory Forms are submitted to the MHC and USACE.
- B. Eversource shall produce 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 may proceed. One draft copy shall also be provided by Eversource Energy, on behalf of USACE, to the National Park Service, Northeast Regional Office (NPS) for review and comment. Removal of Bridge #127 and rehabilitation of Bridge #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 digital PDF copy of the final HAER documentation shall be provided to the Hudson and Sudbury Historical Commissions. Eversource’s responsibility shall be complete when one final archival copy of the HAER documentation (one set of photographs/negatives) is submitted to the NPS and the final HAER documentation (one hard copy and one digital PDF copy on CD-ROM) is submitted to the MHC.

Design plans for the rehabilitation of Bridge # 128 shall also be submitted to the MHC for review and comment. If no comments are received from the MHC within 30 days of submittal, the project proponents may proceed with the rehabilitation of Bridge # 128.

- C. Eversource and DCR shall produce photo documentation to Historic American Building Survey (HABS)/HAER standards of the Massachusetts Central Railroad Bridge #130/Fort Meadow Brook Railroad Bridge (MHC# HUD.908) in Hudson prior to demolition. Eversource and the DCR responsibility will be complete after submitting the photo documentation (one hard copy and one digital PDF copy) to the MHC.

- D. If the SHC is interested in taking possession of some or all of the stones to be removed from the abutment of Bridge #128 that will not be used in rehabilitation of the bridge, Eversource shall deliver the stones to a location within the Town of Sudbury, provided the SHC has presented Eversource with written authorization from a proper board/authority of the Town of Sudbury or other underlying landowner no later than sixty (60) days after the issuance of the USACE permit for the project. The written documentation from the SHC shall identify the specific property and location therein to which the SHC wants the abutment stones delivered. Although Eversource will direct its contractor to take reasonable care to reduce damage to the stones during removal from Bridge # 128, Eversource does not make any representation regarding the condition in which stones will be provided to the SHC. Eversource's responsibilities under this provision shall be complete when the stones have been delivered to the property designated by the SHC and after documentation of the completion of such delivery has been provided by Eversource to the USACE.
- E. DCR shall develop, place, and install one 24" x 36" interpretive panel design that describes the history of the Central Massachusetts Railroad Bridges #127, #128, and #130 (MHC #s SUD.901, SUD.900, and HUD.908, respectively). This design shall be fabricated and installed in three locations: at Bridges #127 and #128 in Sudbury, and at Bridge #130 in Hudson. These signs shall be installed within 12 months of DCR completing construction of the rail trail. DCR shall develop the interpretive panels in consultation with the MHC, SHC, HHC and any other interested consulting parties. The interested consulting parties shall also be provided an opportunity to preview and provide comment on each panel before final design. Prior to finalizing the design, MHC shall be provided 30 days to review and approve the final design. If MHC does not respond, DCR shall produce the final design. DCR's responsibility under this Stipulation will be complete upon installation of the panels and DCR providing the USACE, MHC and Consulting Parties a final digital PDF copy.
- F. DCR shall develop, place, and install one 24" x 36" interpretive panel that describes the history of the diamond junction between the Central Massachusetts Railroad and the Framingham & Lowell Railroad. This sign shall be installed within 12 months of DCR completing construction of the rail trail. DCR shall develop the interpretive panels in consultation with the MHC, SHC, HHC and any other interested consulting parties. The interested consulting parties shall also be provided an opportunity to preview and provide comment on each panel before final design. Prior to finalizing the design, MHC shall be provided 30 days to review and approve the final design. If MHC does not respond, DCR shall produce the final design. DCR's responsibility under this Stipulation will be complete upon installation of the panels and DCR providing the USACE, MHC and the Consulting Parties a final digital PDF copy.

- G. DCR shall develop, place, and install one 24" x 36" interpretive panel at the Section Tool House (MHC ID # SUD.282) that describes the history of the Section Tool House. This sign shall be installed within 12 months of DCR completing construction of the rail trail. DCR shall develop the interpretive panels in consultation with the MHC, SHC, HHC and any other interested consulting parties. The interested consulting parties shall also be provided an opportunity to preview and provide comment on each panel before final design. Prior to finalizing the design, MHC shall be provided 30 days to review and approve the final design. If MHC does not respond, DCR shall produce the final design. DCR's responsibility under this Stipulation will be complete upon installation of the panels and DCR providing the USACE, MHC and the Consulting Parties a final digital PDF copy.
  
- H. DCR shall develop, place, and install one 24" x 36" interpretive panel design that describes the general history of the Central Massachusetts Railroad. This design shall be fabricated and installed in two locations in total, with one panel each to be located in each town. These signs shall be installed within 12 months of DCR completing construction of the rail trail. DCR shall develop the interpretive panels in consultation with the MHC, SHC, HHC and any other interested consulting parties. The interested consulting parties shall also be provided an opportunity to preview and provide comment on each panel before final design. Prior to finalizing the design, MHC shall be provided 30 days to review and approve the final design. If MHC does not respond, DCR shall produce the final design. DCR's responsibility under this Stipulation will be complete upon installation of the panels and DCR providing the USACE, MHC and the Consulting Parties a final digital PDF copy.
  
- I. DCR shall develop, place, and install up to 20 railroad feature markers consisting of approximately 18" square signs on steel posts, including markers for railroad features to be removed. These signs shall be installed within 12 months of DCR completing construction of the rail trail. DCR shall develop the interpretive panels in consultation with the MHC, SHC, HHC and any other interested consulting parties. The interested consulting parties shall also be provided an opportunity to preview and provide comment on each panel before final design. Prior to finalizing the design, MHC shall be provided 30 days to review and approve the final design. If MHC does not respond, DCR shall produce the final design. DCR's responsibility under this Stipulation will be complete upon installation of the panels and DCR providing the USACE, MHC and Consulting Parties a final digital PDF copy.

- J. Eversource shall rehabilitate the Massachusetts Central Railroad Bridge #128 (MHC# SUD.900) in Sudbury in a manner 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 the majority 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.
- K. DCR shall install granite markers (6-foot-tall 8" x 8" pillars, lettered on two sides with 2.5"-high lettering) 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). These granite markers shall be installed within 12 months of DCR completing construction of the rail trail.
- L. Eversource shall retain three pairs of representative sections of rail, of two different rail lengths, that were removed from their original location during construction. The rails are to be removed at the bolts and neatly stacked at the Section Tool House and beside two rail rest locations in Sudbury. This shall be completed in consultation with the SHC, MHC, and the DCR. Eversource's responsibility shall be complete after the rail sections are stacked at the locations identified above.

### **III. TRIBAL MONITORING**

- A. Eversource shall provide notification of the construction schedule and site access for the Narragansett Indian Tribe, Mashpee Wampanoag Tribe, and Wampanoag Tribe of Gay Head (Aquinnah) to monitor ground disturbing construction activities at designated areas of interest within the limit of work, as identified to Eversource by each tribe in advance.

#### **IV. UNANTICIPATED DISCOVERIES**

If properties are discovered that may be historically significant or unanticipated effects on historic properties found, Eversource and DCR shall follow the steps outlined in the Post Review Discoveries Plan attached in Exhibit 2, in accordance with the requirements of 36 CFR 800.13 and 33 CFR 325, Appendix C.

#### **V. DURATION**

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

#### **VI. MONITORING AND REPORTING**

Each year following the execution of this MOA until the work is complete, or the permit expires or is terminated, Eversource and DCR shall provide all parties to this MOA a summary 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.

#### **VII. 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 USACE 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 USACE shall then initiate appropriate actions in accordance with the applicable provisions of 36 CFR 800.

#### **VIII. 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.

#### **IX. 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 signatories to attempt to develop an amendment per Stipulation VII, above. If within thirty (30) days an amendment cannot

National Historic Preservation Act Section 106 Memorandum of Agreement for Resolution of Adverse Effects to the Central Massachusetts Railroad Corridor Historic District, Sudbury and Hudson, Middlesex County, Massachusetts, U.S. Army Corps of Engineers, Corps Reference Number USACE NAE-2017-1406.

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 USACE 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 USACE shall notify the signatories as to the course of action it shall pursue.

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

**SIGNATORY:**

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**Tammy Turley**  
Chief, Regulatory Division  
New England District  
U.S. Army Corps of Engineers

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Date

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**SIGNATORY:**

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**Brona Simon**  
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Date

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**INVITED SIGNATORY:**

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**Catherine Finneran**  
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**INVITED SIGNATORY:**

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**Douglas J. Rice**  
Commissioner  
Department of Conservation and Recreation

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Date

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**CONCURRING PARTY:**

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**Brian Weeden**  
Chairman  
Mashpee Wampanoag Tribe

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Date

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**CONCURRING PARTY:**

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**John Brown III**  
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Date

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**CONCURRING PARTY:**

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**Cheryl Andrews-Maltais**  
Chairwoman  
Wampanoag Tribe of Gay Head (Aquinnah)

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Date

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**CONCURRING PARTY:**

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**Peter Breton**  
Chair  
Hudson Historical Commission

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**CONCURRING PARTY:**

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**Chris Hagger**  
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**CONCURRING PARTY:**

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