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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36493

PROTECT SUDBURY INC. -
VERIFIED PETITION FOR DECLARATORY ORDER

Daniel R. Elliott
Daniel Elliott PLLC
2000 Pennsylvania Avenue NW
Suite 7000
Washington, DC 20006
(703) 863-9670

Counsel for
Protect Sudbury Inc.

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PROTECT SUDBURY INC. -
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Petitioner, Protect Sudbury Inc. ("Protect Sudbury"), hereby respectfully petitions the Surface Transportation Board ("STB" or "Board") for a declaratory order to eliminate uncertainty pursuant to its authority under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321, finding (1) that a line of railroad in the Town of Sudbury, Massachusetts ("Sudbury") owned by the Massachusetts Bay Transportation Authority ("MBTA") is not abandoned and remains subject to the jurisdiction of the STB and (2) MBTA cannot encumber the line of railroad in such a manner that unduly interferes with the reactivation of rail service.

THE PARTIES

Protect Sudbury is a non-profit organization located in Sudbury. Protect Sudbury's mission is to preserve and protect the environment, landscape, health, safety, historic character, and property values of Sudbury. Its primary objective is to prevent all power lines along the MBTA rail line that runs through the town and to prevent above-ground power lines anywhere in Sudbury.

Sudbury is located about 18 miles west of Boston. It was incorporated in 1689 and has a population of 18,173. It has an area of 24.7 miles. It is an historic town with hundreds of historic landmarks.

The MBTA is one of the oldest public transit systems in the United States. It is also the largest transit system in Massachusetts. As a division of the Massachusetts Department of Transportation, the MBTA provides subway, bus, commuter rail, ferry, and paratransit service to eastern Massachusetts and parts of Rhode Island.

The Boston and Maine Corporation (“B&M”), known as the Boston and Maine Railroad, was a U.S. Class I railroad in northern New England. At the end of 1970, B&M operated 1,515 route-miles on 2,481 miles of track when it entered bankruptcy. In 1983, the B&M emerged from bankruptcy when it was purchased by Guilford Transportation Industries. Guilford Rail System changed its name to Pan Am Railways (“PAR”) in 2006. Technically, B&M still exists today but only as a non-operating ward of PAR. B&M owns the property, while Springfield Terminal Railway, a B&M subsidiary, operates the trains and performs maintenance. CSX Transportation is presently in the process of purchasing significant portions of PAR, which proceeding is pending before the STB.

Eversource Energy (“Eversource”) is a publicly traded, Fortune 500 energy company headquartered in Hartford, Connecticut, and Boston, Massachusetts, with several regulated subsidiaries offering retail electricity, natural gas service, and water service to approximately 4 million customers in Connecticut, Massachusetts, and New Hampshire. Following its 2012 merger with Boston-based NSTAR, Northeast Utilities, the predecessor to Eversource, had more than 4,270 circuit miles of electric transmission lines, 72,000 pole miles of distribution lines, and

6,459 miles of natural gas pipeline in New England. On February 2, 2015, Northeast Utilities and all its subsidiaries rebranded themselves as "Eversource Energy". The stock symbol changed on February 19, 2015, from "NU" to "ES".

The Massachusetts Department of Conservation and Recreation ("DCR") is the steward of one of the largest state parks systems in the country. Its 450,000 acres is made up of forests, parks, greenways, historic sites and landscapes, seashores, lakes, ponds, reservoirs, and watersheds. Its main office is located in Boston.

THE RAIL LINE AT ISSUE

The rail line at issue here was part of branch line called the Central Massachusetts Railroad Division of the B&M (the "Line"). The subject railroad right of way or corridor enters from Wayland, MA near Landham Road and exits in Marlborough, MA within the so-called Memorial Forest. The subject railroad right of way is also shown on certain railroad valuation plans (Val Plans V5/14, V5/15, V5/16, V5/17, V5/18, and V5/19) recorded with the Middlesex South Registry of Deeds in Plan Book 442B, Plans 55R through 60R. The Line in Sudbury runs from milepost B23/N81 to B27/N86. It is now a portion of the Mass Central Rail Trail. (A map of the Line is attached hereto as Exhibit A.)

The Central Massachusetts Railroad Division of the B&M was built in the 1800s and ran from Boston to Northampton, MA in 1888. This branch line has a long and storied history, but for purposes of this Petition, the relevant facts begin when B&M entered bankruptcy in 1970, *In the Matter of Boston and Maine Corporation*, Debtor, United States District Court for the District of Massachusetts ("District Court"), Docket No. 70-250-M. On March 12, 1970, certain bondholders of the B&M filed a petition, instituting proceedings in the District Court for reorganization of the railroad in accordance with Section 77 of the Bankruptcy Act (11 U.S.C. §

205). The bondholders' petition was approved, and trustees of the B&M and its property were appointed by the District Court.

In the bankruptcy proceeding, on December 24, 1976, the Trustees of the property of the B&M granted to the MBTA in a deed (a copy of which is attached hereto as Exhibit B) all of their “right, title and interest (sufficient to permit the Authority to operate a passenger and freight rail service over the rail line rights of way...) in and to the Trustees Railroad rights of way”, which included the Central Massachusetts Railroad Division (the “Deed”). Deed at 1, 14. This grant of title was recorded by Deed by the Trustees at Book 13117 Page 113. In said Deed, the Trustees reserved the right and easement to continue Trustees’ freight transportation business. MBTA owned the real estate and had the right “to use, maintain and alter said properties as it sees fit.” Deed at 1-2. MBTA also had the right “to exercise control over the use, condition, maintenance and operation of said property.” Deed at 5-6. See also Deed at 15 (Trustees had sole operating and maintenance control over the “freight only” rail lines which included the Central Massachusetts Branch.) MBTA had the right to give written notice to the Trustees to use a line exclusively. Upon receipt of said notice, the Trustees were required to seek abandonment authority from the ICC. Deed at 22. Upon receipt of abandonment authority from the Interstate Commerce Commission (“ICC”), the Trustees had no right to reinstate freight rail service without written approval from MBTA. Deed at 24.

In addition to the Deed, the subject railroad right-of-way is also subject to the terms and provisions of a Taking by MBTA, dated February 16, 1977, and recorded in Book 13156, Page 34. The purpose of the taking was to provide and extend mass transportation facilities for public use, layout and construct rapid transit extension. The land was taken in fee simple.

Section 17(a) of the Public Law 96-101, 93 Stat. 736 (1979), the Milwaukee Railroad Restructuring Act, transferred jurisdiction over the B&M abandonments and discontinuances from the ICC to the District Court in No. 70-250-M. In 1979, B&M filed an application to abandon two branch lines, including the Central Massachusetts Branch from milepost B10.50 near Waltham North, MA to the end of the line at that time near Berlin, MA at milepost B32.18, a distance of 21.68 miles in the Counties of Middlesex and Worcester, MA. This part of the Central Massachusetts Branch includes the Line at issue here that runs through Sudbury. B&M stated that it did not own the right-of-way, tracks, structures, or other materials on the lines proposed for abandonment because they were owned by MBTA pursuant to the Deed. The ICC stated that the B&M could not abandon these lines because it did not own them but instead must seek discontinuance of service. B&M supported its application for discontinuance of service by stating that the lines do not generate a sufficient demand for service which would justify continued operation or warrant rehabilitation. The ICC recommended to the District Court that the Trustees should be permitted to discontinue service over the Central Massachusetts Branch Line. *Robert W. Messerve and Benjamin H. Lacy, Trustees of the Property of the Boston and Maine Corporation, Debtor, Abandonment between Waltham North, Berlin, and Marlboro, MA*, AB-32 (Sub-No. 7F) (ICC decided March 26, 1980) (A copy of this decision is attached hereto as Exhibit C.)

On October 3, 1980, the District Court issued a Memorandum and Order that followed the ICC's recommendation. The Order found it to be in the best interests of the B&M and consistent with the public interest to permit the discontinuance by B&M of freight service over the Central Massachusetts Branch Line. *In the Matter of Boston and Maine Corporation*, 70-250-M (D. Mass., October 3, 1980) (A copy of this decision is attached hereto as Exhibit D.)

After the issuance of this Order by the District Court, there has been no rail service on the Central Massachusetts Branch Line by MBTA, B&M, or any other rail carrier. Also, there is no evidence that this Line was ever abandoned by MBTA or B&M since freight service was discontinued pursuant to the 1980 Order. Therefore, the Line at issue in this proceeding in Sudbury remains in the national rail system and subject to the jurisdiction of the STB.

However, the story of this Line does not end there. On December 30, 2010, MBTA and the Massachusetts Department of Conservation and Recreation (“DCR”) entered into a trails-use agreement over the Central Massachusetts Branch from Waltham to Berlin, MA, which includes the Line at issue here in Sudbury (“Agreement”). (A copy of this Agreement is attached hereto as Exhibit E.) According to the Agreement, the trail is 15’ wide with 2’ shoulders on either side. Agreement at 2. The term of this lease Agreement is 99 years, except MBTA may terminate it upon 2-years notice. DCR understands that MBTA may use the right-of-way for rail transportation in the future. Agreement at 4. The MBTA may continue to utilize the rail corridor but any portion so utilized in connection with third-party transactions will continue to provide for the continuity of the rail trail corridor. Agreement at 8.

Moreover, on June 9, 2017, MBTA and Eversource entered into an option agreement for a subsurface transmission line easement on the Central Massachusetts Branch line in Hudson, Stow, Marlborough, and Sudbury, MA. (A copy of the option agreement is attached hereto as Exhibit F.) The project would result in a new 115 kv electric transmission line along the rail right-of-way for approximately 8.63 miles, including the Line. The form of the non-exclusive, perpetual easement was attached to the agreement as Exhibit C. It provides Eversource the right to construct, reconstruct, lay, operate, maintain, repair, replace, rebuild, upgrade and/or remove the improvements within the easement. Easement at 1. The option specifically mentions it is

subject to the DCR trails-use agreement and cannot materially interfere with DCR's use of its leased premises. Option at 3.

The form easement reserves to MBTA the right to install, operate, repair, and maintain transportation/rail infrastructure within the easement area provided that such rights will not unreasonably interfere with Eversource's use of the easement for its purposes. Easement at 2. MBTA reserves the right to relocate Eversource's improvements to another location at any time after 20 years from the date of the easement if in MBTA's opinion Eversource's improvements interfere with the use of MBTA's right-of-way for the operation of its transportation system and for no other purpose. MBTA must give Eversource five-years notice after the twenty-year period requesting such relocation. Easement at 3. When MBTA is using the right-of-way for transportation purposes, the easement is subject to the requirements of MBTA to operate its transportation service. Easement at 5.

Moreover, Eversource must ensure that the installation, operation, maintenance, repair, replacement, relocation, and removal of its improvements comply with MBTA's standards for engineering and safety referenced in MBTA Railroad Operations Directorate. However, MBTA specifically waived the following standards in the MBTA Railroad Operations Directorate dated August 2014¹ : I Guidelines and Procedures for Construction on MBTA Railroad Property, Section 9.01 C2; II Maintenance and Protection of Railroad Traffic, Sections 2.10 and 2.11; IV Pipeline Occupancy Specifications, and V Specifications for Wire Conduit and Cable Occupations, Sections 3.02 E 1, 4.01 B, and 5.01 including plates II, III, IV, and VI. Easement at 14-15.

¹ www.mbtarealty.com/wp-content/uploads/pdf/RROpsGuidelinesandProcedures.pdf

Finally, the construction of this subsurface transmission line will result in the removal of all rail tracks and a substantial portion of the ballast on the Line.

ARGUMENT

A Declaratory Order Is Proper Here.

Under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321, the STB has discretionary authority to issue a declaratory order to terminate controversy or remove uncertainty. The STB has exercised broad discretion in handling such requests, considering a number of factors, including significance to the industry and ripeness of the controversy. *Delegation of Authority--Declaratory Order Proceedings*, 5 I.C.C.2d 675, 767 (1989).

First, this controversy is ripe. As discussed herein, MBTA owns the Line at issue that runs through Sudbury. B&M obtained discontinuance authority from the ICC in 1980, but the Line was never abandoned. No rail traffic has run on this Line since the 1970s. Therefore, the landowners who abut the right-of-way seek clarity about the status of this Line to protect their interests in their land. Only the STB can confirm whether this Line has been abandoned as it has exclusive jurisdiction over such decisions. Therefore, Protect Sudbury seeks the STB's guidance on what the present state of this Line is, so it can determine what legal avenues are available to these abutting landowners.

Moreover, this matter has great significance to the rail industry. First, it is important to understand the status of this Line and others like it. When B&M sought discontinuance authority, the ICC stated that abandonment was not proper because the railroad did not own the underlying property rights. However, since that time, the ICC/STB has allowed abandonments

to occur in similar situations by railroads in the same shoes as B&M. Therefore, there is confusion about what party should seek abandonment on lines like the one at issue.

In addition, when a line has not been abandoned, like the one that runs through Sudbury, the owner cannot encumber the line to the extent that reactivation of rail service is not possible. In this situation, MBTA, as described above, has agreed to two easements over the right-of-way that prohibit reactivation of rail service in the future for at least twenty-five years. One of the Board's primary purposes is to protect the United States rail system and to make sure that railbanked lines are not interfered with in such a manner. As a result, a determination about whether these easements prohibit rail service reactivation on this Line is important for the protection of U.S. rail-banked lines.

The Line Has Not Been Abandoned and Thus Remains Subject to the Jurisdiction of the STB.

Congress gave the Board exclusive and plenary authority over rail line abandonments, and Board authority is required before a railroad line can be lawfully abandoned. *Chicago & N.W. Transp. Co. v. Kalo Brick & Tile Co.*, 450 U.S. 311, 319-21 (1981); *Phillips Co. v. Denver and Rio Grande Western R.*, 97 F.3d 1375 (10th Cir. 1996), *cert. denied*, 521 U.S. 1104 (1997). The courts have been clear that “[a]bsent . . . valid . . . abandonment [authority] . . . a state may not require a railroad to cease operations over a right-of-way.” *National Wildlife Federation v. ICC*, 850 F.2d 694, 704 (D.C. Cir. 1988) (citing *New Orleans Terminal Co. v. Spencer*, 366 F.2d 160 (5th Cir. 1966) (*New Orleans Terminal*)). Thus, any party seeking the abandonment of a line of railroad, or discontinuance of rail service, must first obtain appropriate authority from the Board. *See Consolidated Rail Corp. v. ICC*, 29 F.3d 706 (D.C. Cir. 1994). In short, the abandonment of a line of railroad may occur only if authorized by the Board. *See* 49 U.S.C. § 10903; 49 CFR § 1152.

Here, B&M sought abandonment authority from the District Court in 1979 in accordance with the Milwaukee Railroad Restructuring Act. The ICC advised the District Court that B&M could not abandon the Line because it did not own the right-of-way. Instead, MBTA owned the right-of-way at that time pursuant to the Deed. B&M only owned a freight easement over the Line like in the *State of Maine*² line of cases that are commonplace now. Therefore, the District Court authorized the discontinuance of rail service over the Line but not an abandonment.

A full abandonment not only extinguishes the common carrier obligation as to a line, but also removes the underlying right-of-way from the STB's jurisdiction. *Hayfield N. R.R. v. Chicago & N.W. Transp. Co.*, 467 U.S. 622 (1984) (once abandonment authority is exercised, the right-of-way is no longer subject to Federal rail regulation and its disposition is subject to state property law instead). In contrast, discontinuance authority relieves the carrier from its obligation to provide service over the line, but the carrier holds the right-of-way in reserve for potential future reactivation of rail service (i.e., it "railbanks" the line). In other words, the discontinuance of service as opposed to full abandonment of a line avoids the extinguishment of any rail easements under state property laws and the return of such property to reversionary interest holders. *Preseault v. ICC*, 494 U.S. 1, 5-6 n. 3 (1990).

² In Finance Docket No. 31847, *State of Maine, Department of Transportation—Acquisition and Operation Exemption—Maine Central Railroad Company* (not printed) (ICC served May 24, 1991) (*State of Maine*), the ICC addressed the question of whether a given transaction involves the sale of a rail line and thus requires this agency's approval under section 10901, or is simply an unregulated sale of assets. In that case, the ICC dismissed for lack of jurisdiction a notice of exemption involving the sale by Maine Central Railroad Company (MEC) to the State of Maine (the State) of the physical assets of a rail line, including the track. In concluding that the sale involved only the transfer of assets, rather than a rail line, the ICC noted: (1) that there was no intention by the parties to transfer seller's common carrier obligation; (2) MEC intended to continue operations over the line through its subsidiary, Springfield Terminal Railroad; and (3) MEC retained an exclusive easement over the line that would ensure MEC (and its successors and assigns) "both the full right and necessary access to maintain, operate and renew the line."

Therefore, because B&M only obtained discontinuance authority for the Line, MBTA presently holds the right-of-way subject to possible reactivation of rail service until a proper abandonment of the Line occurs. Assumedly, MBTA may argue that it is a noncarrier under the *State of Maine* doctrine because it does not have the authority to operate freight service over this Line, as it gave that exclusive right to B&M in the freight easement pursuant to the Deed in 1976. Therefore, MBTA might take the position that it cannot obtain abandonment authority because it is not subject to the jurisdiction of the STB as a commuter authority and accordingly, all rights on this Line have been properly extinguished. However, that does not change the fact that this Line has never been abandoned and remains subject to the jurisdiction of the STB.

For example, in *Illinois Central R.R. Company – Abandonment Exemption – in St. Tammany Parish, LA*, AB-43 (Sub-No. 154X) (ICC served Jul. 2, 1992), the Illinois Central, without ICC approval, sold the real estate underlying the right-of-way at issue in that proceeding to a private buyer, thereby causing the ICC to seek more information about whether this transaction would impair IC's ability to obtain abandonment authority. The ICC found the IC retained an exclusive easement over the land underlying the track to permit continued rail operations by IC. The easement provided that the buyer could not interfere in any way with continuing rail operations on the property. Because of this easement, the ICC found based on *State of Maine* that IC retained the necessary legal interest in the line to obtain abandonment authority.

Therefore, it is clear despite the ICC's holding in 1979 that B&M could not abandon the line because it did not own the property, that B&M is the party that must seek abandonment authority here unless a third party petitions the Board for an adverse abandonment of the Line. *See, e.g., Boston and Maine – Abandonment Exemption – in Middlesex County, MA*, AB-32

(Sub-No. 99X) (STB served December 7, 2006) (B&M abandonment of line owned by MBTA); *Boston and Maine Corporation – Exemption – Discontinuance of Service in Essex County, MA*, AB-32 (Sub-No. 37X) (ICC decided June 20, 1988) (B&M discontinuance notice treated as abandonment on right-of-way owned by MBTA), *but see Boston and Maine Corporation – Discontinuance of Service Exemption – in Essex County, Mass.*, AB-32 (Sub-No. 106X) (STB served March 3, 2015) (Only discontinuance by B&M used on line owned by MBTA); *Massachusetts Bay Transportation Authority and Boston and Maine Corporation – Abandonment and Discontinuance Exemption – in Middlesex County, MA*, AB-32 (Sub-No. 44X) (ICC decided July 12, 1991) (B&M and MBTA filed for discontinuance and abandonment on line owned by MBTA). Therefore, Sudbury seeks a determination from the Board that this Line is not abandoned and remains subject to the jurisdiction of the STB to clarify the inconsistencies in the various decisions regarding abandonment of this Line and others like it in the past.

MBTA’s Easements on this Railbanked Line Unduly Interfere with the Ability of a Rail Carrier to Reactivate Rail Service on It.

Based on the foregoing analysis of the Line, it is apparent that it remains a railbanked line that has not been abandoned. Therefore, it remains subject to the jurisdiction of the STB. As noted, the courts have been clear that “[a]bsent...valid...abandonment [authority]...a state may not require a railroad to cease operations over a right-of-way.” *National Wildlife Federation*, 850 F.2d at 704 (citing *New Orleans Terminal*). State actions that prevent reactivation of a line subject to STB jurisdiction are precluded. *Union Pacific Railroad Company – Petition for Declaratory Order*, FD 34090, slip op. at 4 (STB served Nov. 9, 2001).

For example, in *New Orleans Terminal*, 366 F.2d at 163-64, the court found unenforceable a Parish ordinance directing a Parish attorney to take action, by suit, to compel removal of rail street crossings. Similarly, in *Des Moines v. Chicago & N.W. R. Co.*, 264 F.2d 454, 457-60 (8th Cir. 1959), the court found that the city could not, by suit, oust a railroad from use of city streets upon “forfeiture” of a “grant” and “contract” without abandonment authority. Also, in *Union Pacific*, FD 34090, the Board found that the City’s efforts to prevent reactivation of a rail line by removing rail tracks pursuant to an agreement were precluded as an attempt to regulate the abandonment of an interstate rail line. *See also Maumee & Western Railroad Company and RMW Ventures LLC – Petition for Declaratory Order – CSX Transportation, Inc. Crossing Rights at Defiance, OH*, FD 34527, slip op. at 7 (STB served May 9, 2007) (“A carrier may not undercut another carrier’s ability to fulfill its common carrier obligation by unilaterally severing track of the other carrier that is part of the national transportation system.”); *Wisconsin Department of Transportation – Abandonment Exemption – in Winnebago County, WI*, AB-343 (Sub-No. 2X), *et al*, slip op. at 2 n. 3 (ICC served July 13, 1993) (Severing of line to build highway before receiving abandonment authority could be viewed as an “unlawful abandonment.”)

In *R.R. Ventures*, FD 33385 (STB served Jan. 7, 2000), a railroad, RVI, seeking abandonment had entered into an agreement with a city, Boardman, requiring as a condition precedent to reactivating rail service, the construction of a grade separated crossing. The local port authority, CCPA, filed an offer of financial assistance seeking to acquire the line at issue and asserted that this agreement creating a condition precedent to reactivation of the rail line should be precluded by the Board. The Board found:

While the Board encourages privately negotiated agreements, any contractual restrictions that unreasonably interfere with common carrier operations are deemed void as contrary to public policy. *See Hanson Natural Resources Company -- Non-Common Carrier Status -- Petition for a Declaratory Order*, Finance Docket No. 32248, slip op. at 3 (ICC served Dec. 5, 1994). *See also, United States v. Baltimore & O. R. R.*, 333 U.S. 169, 177-78 (1948) (Finding that parties may not enter into trackage rights agreements that abrogate rights and responsibilities under the statutory provisions of the Interstate Commerce Act). RVI's Agreement with Boardman contains such contractual restrictions. By creating conditions precedent to the resumption of rail service, most particularly CCPA's contemplated rail service under its OFA, such restrictions unreasonably interfere with the OFA process and the common carrier operations required by 49 U.S.C. 10904(f)(4)(A). These terms of the Agreement also circumvent our exclusive statutory authority to set the terms and conditions of the sale under 49 U.S.C. 10904(f)(1). Accordingly, we will grant CCPA's request and find that the terms of the Agreement that assign obligations to any party other than RVI and Boardman, and require construction of a grade separated crossing as a condition precedent to the restoration of rail service, are void as against public policy.

Slip op. at 3-4.

Similarly, here, MBTA has entered into two easement agreements on this railbanked Line that would interfere with the common carrier operations of any railroad that sought to reactivate service. As discussed herein, MBTA and DCR entered into a trails-use Agreement over the Line at issue. The trail is 15' wide with 2' shoulders on either side pursuant to the Agreement. The term of this lease Agreement is 99 years except MBTA may terminate it upon 2-years notice.

The MBTA may continue to utilize the rail corridor but any portion so utilized in connection with third-party transactions will continue to provide for the continuity of the rail-trail corridor. A trail now runs through the right-of-way on the Line.

Subsequently, as also discussed herein, MBTA and Eversource entered into an option agreement for a subsurface transmission line easement on the Line that runs through Sudbury. The project would result in a new 115 kv electric transmission line in the rail right-of-way for approximately 8.63 miles. The form of the non-exclusive, perpetual easement was attached to the option agreement as Exhibit C. It provides Eversource the right to construct, reconstruct, lay, operate, maintain, repair, replace, rebuild, upgrade and/or remove the improvements within the easement. Easement at 1. The option specifically mentions it is subject to the DCR trails-use agreement and cannot materially interfere with DCR's use of its leased premises. Option at 3.

The form easement reserves to MBTA the right to install, operate, repair, and maintain transportation/rail infrastructure within the easement area provided that such rights will not unreasonably interfere with Eversource's use of the easement for its purposes. Easement at 2. MBTA reserves the right to relocate Eversource's improvements to another location at any time after 20 years from the date of the easement if in MBTA's opinion Eversource's improvements interfere with use of MBTA's right-of-way for the operation of its transportation system and for no other purpose. MBTA must give Eversource five-year notice after the twenty-year period requesting such relocation. Easement at 3. When MBTA is using the right-of-way for transportation purposes, the easement is subject to the requirements of MBTA to operate its transportation service. Easement at 5.

Moreover, as also noted, while Eversource must ensure that the installation, operation, maintenance, repair, replacement, relocation, and removal of its improvements comply with

MBTA's standards for engineering and safety referenced in MBTA Railroad Operations Directorate, MBTA specifically waived the following standards in the MBTA Railroad Operations Directorate dated August 2014 : I Guidelines and Procedures for Construction on MBTA Railroad Property, Section 9.01 C2; II Maintenance and Protection of Railroad Traffic, Sections 2.10 and 2.11; IV Pipeline Occupancy Specifications, and V Specifications for Wire Conduit and Cable Occupations, Sections 3.02 E 1, 4.01 B, and 5.01 including plates II, III, IV, and VI. Easement at 14-15.

Also, the construction of this subsurface transmission line will result in the removal of all the existing rail tracks and large portions of the ballast on the Line.

In other words, MBTA has saddled this Line subject to the jurisdiction of the STB with two easements that simultaneously run through the right-of-way with no ability to relocate the Eversource subsurface transmission line for twenty-five years. Moreover, the installation of the transmission line will result in the removal of the rail track and most of the ballast on the Line, which clearly demonstrates MBTA's intent to eliminate the possibility of rail service reactivation on this Line. While MBTA can reactivate rail service on the Line pursuant to the transmission line easement, it cannot do so if these rail operations interfere with Eversource's use of the Line at least for the first twenty-five years. This restriction again shows MBTA's intent to end the possibility of rail reactivation here. Also, in this easement, MBTA waived various construction and occupancy specifications for this transmission project, thereby again providing evidence of its intent not to reactivate rail service or it would have followed the MBTA Railroad Operations Directorate. Therefore, this easement agreement that interferes with rail reactivation on the Line should be found to be void as against public policy like in *R.R. Ventures*.

CONCLUSION

Based on the foregoing discussion, Protect Sudbury respectfully asks the Board to issue a declaratory order finding (1) the Line has not been abandoned and remains subject to reactivation and (2) the easements imposed on the Line by MBTA unlawfully interfere with the right to reactivate rail service and are therefore void.

/s/ Daniel Elliott
Daniel Elliott PLLC
2000 Pennsylvania Avenue NW
Suite 7000
Washington, DC 20006
(703) 863-9670

Counsel for Protect Sudbury

March 11, 2021

CERTIFICATE OF SERVICE

In accordance with 49 C.F.R. § 1104.12, I hereby certify that on March 11, 2021, I served a copy of this Petition for Declaratory Order on counsel known to represent the following parties by the most expedient method, including email and first-class mail:

David S. Rosenzweig
Keegan Werlin LLP
99 High Street, Suite 2900
Boston, Massachusetts 02110
drosen@keeganwerlin.com
Counsel for Eversource Energy

George X. Pucci
KP Law, P.C.
101 Arch Street
12th Floor
Boston, Massachusetts 02110
gpucci@k-plaw.com
Counsel for Town of Sudbury

Ryan E. Ferch
Massachusetts Bay Transportation Authority Law Department
Ten Park Plaza, Suite 7760
Boston, MA 02116
rferch@mbta.com

Robert B. Culliford
Pan Am Systems, Inc.
1330 Connecticut Avenue, NW
Washington, DC 20036
rculliford@panamrailways.com

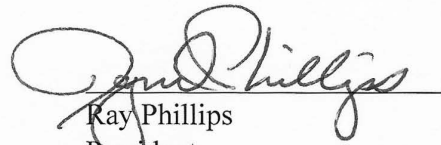
Thomas LaRosa
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston, Massachusetts 02114
Thomas.LaRosa@state.ma.us

/s/ Daniel R. Elliott

VERIFICATION

I, Ray Phillips, President of Protect Sudbury, Inc., hereby verify under the penalty of perjury that to the best of my knowledge, the foregoing Petition for Declaratory Order is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of Protect Sudbury, Inc., in connection with this proceeding before the Surface Transportation Board.

Executed this 10th day of March, 2021


Ray Phillips
President
Protect Sudbury, Inc.

Mass Central RR Milepost details

Southern Middlesex - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 8/11/2017 2:07:31 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
60277726	DEED		13117/113	12/27/1976	36549000.00
Property-Street Address and/or Description					
SEE RECORD					
Grantors					
BOSTON AND MAINE CORP, LACY BENJAMIN H TR, MESERVE ROBERT W TR					
Grantees					
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY					
References-Book/Pg Description Recorded Year					
13117/235 ORD 1976, 13156/34 CONF 1977, 13623/344 ORD 1979, 13718/6 ORD 1979, 14343/459 EXT 1981, 14589/190 ORD 1982, 15280/296 REL 1983, 15989/126 NONE 1985, 16499/283 REL 1985, 17442/400 REL 1986, 18703/52 ORD 1987, 18774/316 ORD 1987, 19109/198 NOT 1988, 19385/13 ORD 1988, 19482/243 ORD 1988, 19482/250 ORD 1988, 19482/258 ORD 1988, 19684/275 CERT 1989, 20122/133 ORD 1989, 20142/473 ORD 1989, 20187/27 CERT 1989, 20217/336 NOT 1989, 20439/376 ORD 1990, 20439/382 ORD 1990, 20452/77 ORD 1990, 20582/145 ORD 1990, 20807/324 ORD 1990, 20852/383 ORD 1990, 20852/409 ORD 1990, 21024/400 ORD 1991, 21024/408 ORD 1991, 21453/263 ORD 1991, 21527/389 ORD 1991, 21774/589 ORD 1992, 21774/598 ORD 1992, 23120/323 ORD 1993, 23785/208 ORD 1993, 25178/313 CERT 1995, 25438/398 ORD 1995, 25545/330 ORD 1995, 25545/342 ORD 1995, 25545/374 ORD 1995, 28320/87 ORD 1998, 29757/308 TAKE 1999, 31790/560 AFF 2000, 41601/372 ORD 2003, 41601/386 DECIS 2003, 44965/172 EASE 2005, 44990/247 ORD 2005, 53906/490 TAKE 2009, 54974/232 ORD 2010, 54974/205 ORD 2010, 54974/218 ORD 2010, 55345/159 ORD 2010, 56429/120 AGR 2011, 56429/248 AGR 2011, 57272/112 ORD 2011, 57272/96 ORD 2011, 57272/131 ORD 2011, 57272/147 ORD 2011, 57467/51 ORD 2011, 57783/530 ORD 2011, 57783/518 ORD 2011, 57783/502 ORD 2011, 59411/116 ORD 2012, 61242/356 AMEND 2013, 62920/425 NOT 2013, 62977/348 REL 2013, 63251/489 AGR 2014, 63989/83 ORD 2014, 64771/42 ORD 2015, 64771/56 CERT 2015, 69431/508 ORD 2017, 69553/133 EASE 2017, 69569/1 ORD 2017, 69610/266 ORD 2017					
Registered Land Certificate(s)-Cert# Book/Pg					

$$\begin{array}{r}
 130.50 \\
 3- \\
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 135.50
 \end{array}$$

1.73

Robert W. Meserve and Benjamin H. Lacy,
 Trustees of the Property of
 Boston and Maine Corporation, Debtor
 (See In the Matter of Boston and Maine Corporation, Debtor,
 United States District Court for the
 District of Massachusetts,
 Docket No. 70-250-M)

and

Massachusetts Bay Transportation Authority

December 24, 1976

05-28-1978
 119
 611
 366
 442

KNOW ALL MEN BY THESE PRESENTS

This Indenture, dated this 24th day of December, 1976, by and between ROBERT W. MESERVE and BENJAMIN H. LACY, as they are Trustees of the Property of Boston and Maine Corporation, Debtor, and not individually, (see In the Matter of Boston and Maine Corporation, Debtor, United States District Court for the District of Massachusetts, Docket No. 70-250-M) with offices at 150 Causeway Street, Boston, Suffolk County, Massachusetts, 02114, hereinafter called the "Trustees", (which expression shall include their successors and assigns where the context so requires or admits) and the MASSACHUSETTS BAY TRANSPORTATION AUTHORITY, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts, established under the provisions of Massachusetts General Laws, Chapter 161A, as amended, and having an usual place of business at 45 High Street in Boston, Suffolk County, Massachusetts, 02110, hereinafter called the "Authority", (which expression shall include its successors and assigns where the context so requires or admits).

WITNESSETH that the Trustees, in consideration of Thirty Six Million Five Hundred Forty Nine Thousand and no/100 Dollars (\$36,549,000.00), paid to them by the Authority, receipt whereof is hereby acknowledged, the said Trustees hereby grant to the Authority all of the said Trustees' right, title and interest (sufficient to permit the Authority to operate a passenger and freight rail service over the rail line rights of way and the Boston Engine Terminal Area, as hereinafter described), in and to the Trustees Railroad rights of way and other lands thereon

and including all track, signals, bridges, buildings, shops, towers and other improvements affixed thereto, and all rights and easements appurtenant thereto, all of the aforesaid property hereby conveyed is described in the plans entitled: LAND IN MASSACHUSETTS Robert W. Meserve and Benjamin H. Lacy, Trustees of the Property of Boston and Maine Corporation to the Massachusetts Bay Transportation Authority Scale: 1" = 100' Date: Dec. 1, 1975", Sheets 1 through 309, and noted as follows:

ESSEX COUNTY - NORTH - Recorded December 10, 1976, 16 sheets as Plan 7531 of 1976

VS 7.4

Maps SL1(r), 2, SL3, 4

VS 2

Maps 16, 17, 18, 19, 20(R), 21, 22(R), SL23, SL24, 25, 26, 27

ESSEX COUNTY - SOUTH - Recorded December 10, 1976, 87 sheets in Plan Book 141, Plan 20

VS 2

Maps 28, 29, 30, SL31, 32, 33, 34

VS 3

Maps 6, 7, SL8, SL9(R), SL10(R), SL11, 12, 13, 14(R), SL15, SL16(R), SL17, 18, 19, 20, 21(R), 22, 23, 24, 25, SL26, 27, 28, 29, 30, 31, 32, 33, 34, SL35(R), 36, 37, 38, 39

VS 7.3

Maps 3, 4, 5, 6, 7, 8, 9, 10(R), 11, 12, 13, 14, 15

VS 7.12

Maps SL1, SL2, 3, 4, 5, 6

VS 7.13

Maps 1(R), 2, 3, 4, 5, 6, 7(R), 8, 9, 10, 11, 12, 13, 14, 15, 16, 17

VS 13.7

Maps 4, 5, 6, 7, 8

VS 7.7

Maps 6, 7, 8(R), 9, 10

MIDDLESEX COUNTY - NORTH - Recorded December 6, 1976, 33 sheets in Book 123, Pages 74 through 106.

VS 2

Maps 15, 16

VS 13.1

Maps 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, SL23, SL24

VS 13.3
Maps 6, 7, 8
VS 13.6
Maps 1, 2, 3, 4
VS 15
Maps SL1, 2(R), 3, 4, 5, 6, 7, 8, 9
VS 7.18
Maps SL1

MIDDLESEX COUNTY - SOUTH - Recorded December 3, 1976,
141 sheets in Book 442, Sections A, B & C. (50 sheets
to a section.)

VS 1
Maps SL1, SL2, SL3a, SL5
VS 3
Maps SL1, SL2
VS 12
Maps SL1, SL2, SL2a, SL3
VS 35
Maps SL2, SL3
VS 5
Maps 1, A-1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
14, 15, 16, 17, 18, 19, 20, 21, 22, 23, SL24,
25, 26
VS 13.1
Maps SL1, 2, 3(R), 4, 5, 6(R), 7, 8, 9(R), 10, 11
VS 13.2
Maps 1, 2(R), 3, 3a, 4(R), 5, 6(R), 7, 8, SL9, 10,
11, 12, 13
VS 36.3
Maps 1, 2, 3, 8, 9(R), 10, 11, 12, 13
VS 13.4
Maps SL1, SL2(R)
VS 13.5
Maps 1, 2, SL3
VS 7.7
Maps SL1, 2(R), 3(R), 4 5
VS 7.3
Maps 1 & A1(R), 2, 3
VS 36.1
Maps SL1,
11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,
23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,
35, 36, 37, 38, 39, 40
VS 36.4
Maps 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15

SUFFOLK COUNTY - Recorded December 2, 1976 - 17 sheets in
Book 8913 - End.

VS 1
Maps SL1, SL2, SL2a, SL3a
VS 3
Maps SL2, SL3, SL4(R), 5, 6

VS 7.7
 Maps 5, 6
 VS 7.8
 Maps 1, 2
 VS 12
 Maps SL1, SL2a
 VS 35
 Maps SL1, SL2

WORCESTER COUNTY - NORTH - Recorded December 6, 1976,
 10 sheets in Plan Book 212, Plans 4 - 8.

VS 36.1
 Maps 40, 41, 42, 43, 44, 45, 46, SL47, 48, SL49

WORCESTER COUNTY - SOUTH - Recorded December 6, 1976,
 5 sheets in Plan Book 432, Plan 57 (Sheets 1 - 5).

VS 5
 Maps 26, 27, 28, 29, 30

but excepting therefrom the following five (5) bridges which are
 identified by B&M Bridge Number and situated in the location list-
 ed and shown on the following plans:

1. B&M Bridge #3.43, located in Cambridge, Middlesex County, and shown on plan marked: "Plan of Land In Cambridge, Mass. Showing Bridge and Easement Granted to the Commonwealth of Mass. (D.P.W.) By Robert W. Meserve and Benjamin H. Lacy, As Trustees of the Property of Boston and Maine Corporation, Debtor Scale: 40' to the inch January 31, 1975 Office of the Vice Pres-Engineering Billerica, Mass.
2. B&M Bridge #4.15, located in Medford, Middlesex County, and shown on plan marked: "Plan of Land In Medford, Mass. Showing Bridge and Easement Granted to the Commonwealth of Mass. (D.P.W.) By Robert W. Meserve and Benjamin H. Lacy, as Trustees of the Property of Boston and Maine Corporation, Debtor Scale: 40' to the inch January 31, 1975 Office of the Vice Pres-Engineering Billerica, Mass.
3. B&M Bridge #7.39, located in Belmont, Middlesex County, and shown on plan marked: "Plan of Land In Belmont, Mass. Showing Bridge and Easement Granted to the Commonwealth of Mass. (D.P.W.) by Robert W. Meserve and Benjamin H. Lacy, as Trustees of the Property of Boston and Maine Corporation, Debtor Scale: 40' to the inch January 31, 1975 Office of the Vice Pres-Engineering Billerica, Mass.

4. B&M Bridge #9.17, located in Waltham, Middlesex County, and shown on plan marked: "Plan of Land In Waltham, Mass. Showing Bridge and Easement Granted to the Commonwealth of Mass. (D.P.W.) by Robert W. Meserve and Benjamin H. Lacy, as Trustees of the Property of Boston and Maine Corporation, Debtor Scale: 40' to the inch January 31, 1975 Office of the Vice Pres-Engineering Billerica, Mass.
5. B&M Bridge #25.19, located in Lowell, Middlesex County, and shown on plan marked: "Plan of Land In Lowell, Mass. Showing Bridge and Easement Granted to the Commonwealth of Mass. (D.P.W.) by Robert W. Meserve and Benjamin H. Lacy, as Trustees of the Property of Boston and Maine Corporation, Debtor Scale: 40' to the inch January 31, 1975 Office of the Vice Pres-Engineering Billerica, Mass.

to be recorded herewith and shown on Exhibit A(1 - 5) annexed hereto; said Grantors hereby reserve the right to convey said excluded bridges together with an easement for their location, maintenance and repair, as shown on said plans, to the Commonwealth of Massachusetts, Department of Public Works, on or before December 31, 1981.

RESERVED FREIGHT EASEMENT

The Trustees hereby reserve unto themselves, their successors and assigns, the right and easement as are appropriate and necessary to the continuance of the Trustees' freight transportation business at present and reasonably foreseeable levels of traffic volume and activity and in the general manner in which it is now conducted; said reserved right and easement shall include reasonable access over the conveyed Real Estate to the easement areas without undue interference from the activities of the Authority. Concurrently, it is the general intention of the parties to this Instrument that the Authority, as the result of this conveyance, will own said Real Estate and, as owner, will have the right, subject to this reservation for freight purposes, to use, maintain and alter said properties as it sees fit and will have the right to schedule passenger trains with priority over the

Trustees' freight trains, provided said freight trains will move without undue interruption to freight service by the Authority and, further, the said Authority will exercise control over the use, condition, maintenance and operation of said property.

The reserved freight easement, hereinabove referred to, shall also include the use of facilities in order to continue Trustees' freight service as set forth below:

(A) NON-LINE AREAS AND FACILITIES

1. Outside of the Boston Engine Terminal Area.

Outside of the Boston Engine Terminal Area, which Area is shown on plan entitled: "Boston and Maine Corporation Robert W. Meserve and Benjamin H. Lacy, Trustees Scale: 1" = 200' Date: December 1, 1975", said plan being marked Exhibit "B", attached hereto and made a part hereof, the Trustees shall retain the right and easement to continue to use, and use in the future, all those areas of land and buildings, and all of that equipment, excluding passenger rolling stock, and all of the facilities other than lines of railroad including, but not limited to yards, freight buildings, public delivery facilities, buildings now located in the Town of Billerica, all shops and all servicing facilities situated outside of said Boston Engine Terminal area.

(a) Provided, however, the Authority shall have the right to make such use as it may desire of said Non-Line Areas to the extent that such use by the Authority does not materially interfere with the

then current or then reasonably foreseeable use of such Non-Line Areas and Facilities by the Trustees in conducting railroad freight operations; provided, further, that in the event such use by the Authority materially interferes with the Trustees' use of such Non-Line Areas or Facilities, then the Trustees shall be provided equivalent, substitute areas or facilities for use by the Trustees, but without interruption of the Trustees' use of such Non-Line Areas or Facilities and at no cost to said Trustees.

(b) Provided, further, that during such time as the Non-Line Areas or Facilities are used exclusively by the Trustees, said Trustees shall, at their own expense, maintain and keep such non-line areas and facilities in as good order and repair as they are at the time of execution of this instrument, reasonable wear and tear excepted. Provided, further, at such time as such non-line areas and facilities shall be used by the Authority in conjunction with Trustees, the expenses relating to the non-line areas and facilities shall be borne jointly in accordance with their use as determined initially by that Agreement entitled: "OPERATING AGREEMENT" by and between the Trustees and the Authority, dated March 18, 1976, which OPERATING AGREEMENT is attached hereto and made a part hereof, and marked Exhibit "C", or as the same may be amended or extended, and thereafter by any written Agreement which shall be entered into between the Trustees and the Authority.

(c) Provided, further, the Trustees' right to continue to use, or to use in the future, "Non-Line Areas or Facilities" and the Trustees' obligation to maintain same, which obligation shall cease in the event that any of the following contingencies occur:

(I) A voluntary surrender of such use of "Non-Line Areas or Facilities" by the Trustees as evidenced by notice to that effect given to the Authority, or

(II) In the event the Authority shall

(i) have a bona fide use for such "Non-Line Areas or Facilities" in connection with its rail or transit commuter service, or

(ii) have a bona fide specific intention to sell or lease such "Non-Line Areas or Facilities", or

(iii) have a bona fide specific intention to make improvements or repairs to such "Non-Line Areas or Facilities", which repairs the Trustees have, in writing, declined to make or which the Trustees fail to make after reasonable opportunity and after receipt of notice concerning said improvements or repairs, provided that the Trustees are not then using, nor have any then reasonably foreseeable need to use, such "Non-Line Areas or Facilities".

In the event the Trustees do cease to use and maintain, as provided above, said Authority shall be entitled to a release of such rights, executed in recordable form, but said release shall be recorded only in the event of the conveyance or long-term lease of the "Non-Line Areas or Facilities" involved.

In the event such conveyance or long-term lease does not occur, as intended by the Authority, or such improvement or repair is not accomplished within six (6) months after the Authority's notice of its intention to make such improvement or repair has been given to the Trustees, then the release shall be returned to the Trustees and the Trustees' rights shall return to the status quo prior to notice of the Authority's intention.

(d) Trustees' right to continue to use machinery which is included in the "Non-Line Areas and Facilities" shall not include the right to move said machinery without prior approval of the Authority; provided, further, right to continue to use said machinery shall impose no obligation upon either the Authority or the Trustees to maintain, repair or replace said machinery.

2. Non-Line Facilities Within the Boston Engine Terminal Area.

Except as hereinafter provided, the right of the Authority to use and control "Non-Line Areas and Facilities" within the said Boston Engine Terminal Area shall be exclusive and the right of the Trustees to continue to use "Non-Line Areas and Facilities" shall not extend to or include those lands, tracks, buildings and facilities situated within the Boston Engine Terminal Area, except in the following instances:

(a) The Trustees shall have the continuing right to use, in conjunction with the Authority, both through line and any necessary tracks which provide any access thereto within the Boston Engine Terminal Area, which through line tracks and access tracks are necessary to service facilities.

(b) The Trustees shall have the right to use, in conjunction with the Authority, sanding, fueling and minor locomotive repair facilities, as they currently exist or may be suitably replaced or altered, within the Boston Engine Terminal Area.

(c) Trustees shall have the right to use, in conjunction with the Authority, the existing diesel house, storage facilities, wheel truing machine, drop pit, and associated facilities in the "Track 40 Area", all of which are included in the area of Joint Use within the Boston Engine Terminal Area, as defined in Exhibit "B", together with space for a wrecker and snow plow, and the freight car repair facilities adjacent to said diesel house.

The Trustees' right to continue to use the existing diesel house, storage facilities, wheel truing machine, drop pit and associated facilities, as well as space for wrecker and snow plow and space adjacent to diesel house shall terminate upon the expiration of one year after receipt of written notice of such termination by the Authority; provided, however, that no such notice of termination shall be effective if it is given to the Trustees prior to the expiration

of two (2) years from the date hereof; provided, further, no such termination by the Authority shall give the Trustees any right to either substitute facilities or to economic damages.

(d) The Trustees shall pay to the Authority for such use as they may make of the facilities described in sub-paragraph (b) and (c) above, a sum equal to their share of the maintenance costs of such facilities as each party's use of such facilities relates to the total use of such facilities by the Trustees and the Authority.

(B) PERIMETER LINES

The Trustees shall have the continuing right and easement to use, in the conduct of their freight services, the following lines hereinafter referred to as "perimeter lines", which termination shall include related trackage, freight service buildings and signal facilities. Perimeter Lines are as follows:

WEST ROUTE MAIN LINE
NEW HAMPSHIRE/MASSACHUSETTS BORDER
(Val. Sec. 2, Map 34, Sta. 1921+14.73)
TO LOWELL JUNCTION, MASSACHUSETTS
(Val. Sec. 2, Map 17, Sta. 1037+00)

NEW HAMPSHIRE MAIN LINE
BLEACHERY, MASSACHUSETTS
(Val. Sec. 13.1, Map 23, Sta. 1299+00)
TO NEW HAMPSHIRE/MASSACHUSETTS BORDER
(Val. Sec. 15, Map 9, Sta. 1818+41.0)

FITCHBURG ROUTE MAIN LINE
WILLOWS (AYER), MASSACHUSETTS
(Val. Sec. 36.1, Map 33, Sta. 1778+38.2)
TO FITCHBURG, MASSACHUSETTS
(Val. Sec. 36.1, Map 49, Sta. 2619+12.44)

Provided further, the Trustees' right and easement to continue to use the perimeter lines shall last as long as Trustees have either current use, or any then reasonably foreseeable use, for the perimeter lines and the Authority shall not have the right to terminate the Trustees' use therein either by providing substitute facilities or the payment of economic damages or for any other reason.

Provided, further, that when the Trustees have no current, nor then reasonably foreseeable use, the said Trustees shall execute a release of their rights in said perimeter lines, which release shall run to the Authority. In the event that the Trustees and the Authority disagree as to what constitutes foreseeable use, as set forth aforesaid, then such dispute shall be resolved in accordance with the Section of this Instrument entitled: "Arbitration".

Provided, further, that, since there is no rail passenger service conducted on the perimeter lines, with the exception of the New Hampshire Main Line between Lowell and Bleachery, Massachusetts, and, as long as the Authority does not conduct passenger rail service on or over a perimeter line, then all aspects of operation, maintenance and repair of said perimeter lines shall be in the exclusive control and at the expense of the Trustees.

Provided, further, the Authority shall have the right to use said perimeter lines at any time, but upon the terms and conditions as set forth under the clause entitled: "Jointly Used Lines" hereinafter set forth, provided that such use by the Authority shall not interfere with the ability of freight trains operated by the Trustees to enter, pass through or work upon said perimeter lines without material delay.

(C) OTHER LINES

All of the rail lines contained in the above described parcels, other than those described as "Perimeter Lines", shall be hereinafter referred to as "Other Lines." This term shall include all related trackage, freight service buildings and signal facilities, and the Trustees hereby reserve the continuing right and easement to use the "Other Lines" in the conduct of their freight service, subject, however, to the following provisions:

1. The following lines, comprising a portion of "Other Lines" shall be used exclusively by the Trustees and which "Other Lines" the Trustees specifically reserve unto themselves the right and easement to use in the conduct of their railroad freight service:

EASTERN ROUTE MAIN LINE
IPSWICH TO STATE LINE

SAUGUS BRANCH
EVERETT JCT. TO WEST LYNN

EAST BOSTON BRANCH
REVERE TO EAST BOSTON

SALEM AND DANVERS BRANCH
SALEM TO DANVERS
WEST PEABODY TO SO. MIDDLETON

WESTERN ROUTE MAIN LINE
WILMINGTON JCT. TO LOWELL JCT.

NEWBURYPORT BRANCH
WAKEFIELD JCT. TO TOPSFIELD

M AND L BRANCH
LAWRENCE TO STATE LINE

STONEHAM BRANCH
MONTVALE TO STONEHAM

BILLERICA BRANCH
NO. BILLERICA TO BILLERICA

FITCHBURG ROUTE MAIN LINE
SOUTH ACTON TO WILLOWS (AYER)

FREIGHT CUT OFF
SOMERVILLE JCT. TO HILL CROSSING

CENTRAL MASS. BRANCH
CLEMATIS BROOK TO MARLBORO

BERLIN BRANCH
GLEASON JCT. TO BERLIN

MAYNARD BRANCH
SOUTH ACTON TO MAYNARD

GREENVILLE BRANCH
AYER TO STATE LINE

WILMINGTON JUNCTION BRANCH
WILMINGTON TO WILMINGTON JUNCTION

These lines shall be referred to as "Freight Only Lines" unless said lines are converted to "Jointly Used Lines" by the Authority under its reserved right to determine from time to time, which of the line or lines used only for railroad freight purposes shall thenceforth, and until further notice from the Authority to the Trustees, be used for railroad freight purposes jointly with the railroad or transit passenger service of the Authority, as if said lines had been originally described and categorized as "Jointly Used Lines". This right of the Authority shall, in each instance, be exercised only upon at least thirty (30) days prior written notice, in writing, given by the Authority to the Trustees.

2. The following rail lines included in the Real Estate shall be used jointly for both railroad freight service conducted by the Trustees and railroad or transit passenger services conducted by the Authority or on the Authority's behalf:

EASTERN ROUTE MAIN LINE
BOSTON TO IPSWICH

GLOUCESTER BRANCH
BEVERLY JCT. TO ROCKPORT

NEW HAMPSHIRE ROUTE MAIN LINE
BOSTON TO LOWELL

WOBURN BRANCH
WINCHESTER TO WOBURN

FITCHBURG ROUTE MAIN LINE
BOSTON TO SO. ACTON

LEXINGTON BRANCH
W. CAMBRIDGE TO BEDFORD

(D) CONTROL AND MAINTENANCE OF ON-LINE EASEMENT PROPERTIES

1. Freight Only Lines

Trustees shall have sole operating and maintenance control over all "Freight Only" rights of way and related on-line facilities, including but not limited to tracks, track materials, appurtenances, buildings, structures and railroad equipment as long, in each instance, as such rights of way are not being used in Authority's passenger operations. The Trustees will, at their cost and expense, maintain the same in proper and safe condition for the freight use to which they are put, in each instance, and repair, replace and renew the same when and as it appears to be reasonably necessary and desirable to do so.

2. Jointly Used Lines

(a) Control.

Authority shall have the control over the use, scheduling of passenger trains and operation of "Jointly Used Lines" but may, from time to time, under agreement with the Trustees delegate the actual day to day operating control, dispatching and scheduling to Sellers. In the exercise of its control over

the Jointly Used Lines, Authority will make all reasonable efforts to expedite the movement of freight trains, including expediting repairs to lines and the removal of obstructions and scheduling regular maintenance and repair programs at hours which will not unreasonably interfere with such movement.

(b) Maintenance of Jointly Used Lines.

The party to whose standards a given line is being maintained, as hereinbelow provided, shall herein be referred to as the "Maintaining Party". The Authority shall be considered to be the "Maintaining Party" of any Jointly Used Line being maintained to Authority's standards notwithstanding the fact that actual maintenance may be performed by Trustees under contract with Authority.

The "Maintaining Party" shall perform the maintenance work necessary or desirable to maintain the Jointly Used Lines and related on-line facilities in a proper and safe condition and repair, replace and renew the same when and as it appears necessary and desirable to do so in order to maintain them in a proper and safe condition in accordance with applicable Federal and state standards and regulations. Such maintenance shall be in compliance with standards to be set from time to time by the Authority as evidenced by a written notice given by the Authority to the Trustees setting forth objective criteria including the applicable F.R.A. standard, except that if the Trustees desire to maintain a Jointly Used Line and related on-line facilities in compliance with standards that are higher than those so set by the Authority, they may do so upon giving similar written notice to the Authority and thereafter, until the giving of further

notice which may be given by either party reestablishing the Authority's standard as the governing standard of maintenance, such line and related on-line facilities shall be maintained to Trustees' standards. From the date hereof, and until further notice, the following lines shall be maintained to the Authority's standards: Eastern Route Main Line, Boston to Ipswich; Gloucester Branch, Beverly Junction to Rockport; New Hampshire Route Main Line, Boston to Lowell; Woburn Branch, Winchester to Woburn; Fitchburg Route Main Line, Boston to South Acton.

(c) Cost of Maintenance of Jointly Used Lines.

All maintenance costs and expenses relating to the Jointly Used Lines shall be borne in the first instance by the "Maintaining Party". The other party, hereinafter referred to as the "Contributing Party", shall pay to the Maintaining Party an amount determined according to the formula contained in subparagraph (d) below toward the maintenance costs and expenses borne by the Maintaining Party during such calendar year. Such payments shall be made, on account, quarterly, according to reasonable estimates and there shall be an adjustment annually, within 90 days following the close of each year.

The Maintaining Party shall expend, in each calendar year subsequent to the year 1976, in connection with the maintenance of all Jointly Used Lines, not less than the amount of the Contributing Party's contribution to the maintenance costs and expenses relating to Jointly Used Lines for the prior year.

(d) Calculation of Contribution to Maintenance Costs.

(i) Signals and Crossing Protection Devices.

To calculate the Contributing Party's obligation to contribute toward the costs of installing, maintaining,

repairing and operating signals and grade crossing protection devices on Jointly Used Lines, the Trustees' average systemwide signalling and grade crossing protection cost per train mile on signalled Main Track Lines which are under the operating and maintenance control of the Trustees will be calculated for each calendar year, using relevant ICC Accounts, as shown on Exhibit D annexed hereto. The average cost per train mile thus obtained shall be multiplied by the number of train miles run by or for the account of the contributing party in such year over Jointly Used Lines.

(ii) Other Line Maintenance Expenses.

For all other line maintenance expenses (including, without limitation, the costs of installing, repairing and maintaining tracks, ties, ballast, embankments, abutments, bridges and other right-of-way structures) on Jointly Used Lines, the Trustees' average system-wide cost per gross ton mile on all Main Track lines which are under the operating and maintenance control of the Trustees will be calculated for each calendar year using relevant ICC Accounts maintained in accordance with the procedures existing at the date of this instrument, as shown on Exhibit E annexed hereto, and the share of such costs incurred with respect to Jointly Used Lines which shall be payable by the Contributing Party will be equal to the number of gross ton miles run by or for the account of such party in that year over such Jointly Used Lines multiplied by such average cost per gross ton mile.

(E) OTHER PROVISIONS RELATING TO FREIGHT EASEMENT.

1. Rights of Parties to Make Alterations

In the event that the Authority shall alter or increase (which terms shall not include termination or diminution of passenger service) its use of Freight Only Lines, Jointly Used Lines or Perimeter Lines and related facilities, to the extent that, or in such a manner that, Authority's use unduly interferes with the ability of the Trustees to provide freight service at present or reasonably foreseeable levels of volume and activity as presently conducted, Authority shall provide substitute or additional facilities (on the same right of way in the case of Perimeter Lines) adequate to permit such freight service or, with respect to lines other than Perimeter Lines, pay damages as appropriate under the circumstances. In implementation and not in limitation of the foregoing sentence, it is further agreed that:

(a) The Authority shall, at all times, make available to the Trustees rail access to all of their present freight service locations, so long as, in each instance, there are shippers or receivers actively using, or reasonably in prospect to use, such locations.

(b) Authority shall not move any of Trustees' public delivery tracks unless it moves them (in compliance with all applicable laws and regulations) to new locations nearby their present locations, with substantially equivalent work space and highway access, at no cost to Trustees. Any such new location shall be suitably connected with either the same line as the original connection or a line approved by the Trustees, whose approval shall not be unreasonably withheld.

(c) The Trustees, at their expense, may install switches and sidings including any associated signalling to serve new locations. Such expense may include grade separation from rapid transit lines, if such separation is deemed necessary by the Authority. All such installations shall be subject to the approval of the Authority, whose approval shall not be unreasonably withheld.

(d) In the event of an alteration in the existing trackage or yard facilities desired or required by Authority, Authority will provide, at no cost to Trustees, such substitute trackage or yard facilities as may be necessary to move freight trains between points now served by Trustees on alignments capable of elapsed times no greater than the average time in which Sellers can, as of the date hereof, move freight trains between such points at speeds authorized, as of the date hereof, using equivalent motive power. In the event that operations of the Authority require signalling on certain trackage or in certain yards more extensive than that presently existing, Authority shall equip such trackage, yard facilities and necessary freight rolling stock with all reasonably necessary signalling devices.

(e) Authority shall provide and maintain clearance and load carrying capacity on each Jointly Used Line or Perimeter Line under the control of the Authority at least equal to the physical minimum existing thereon as of the date of this Agreement. In the event of any new construction performed or permitted by the Authority, there will be erected no structure nor will any invasion of the air space over such line be permitted which will in any way obstruct the operation of trains thereon with equipment or cargoes extending to a height above the top of the

rail up to the minimum clearance on such line existing on the date of this Agreement; nor will Authority erect or permit to be erected any obstruction within 8 feet 6 inches of the centerline of straight track or within 8 feet 6 inches plus 1 inch for each degree of curvature of curved track. The Authority shall not install any new track nor relocate any existing track less than 13 feet (not less than 14 feet wherever reasonably feasible) centerline to centerline from any other track if either track is being used by the Trustees in their freight service. Where existing track is being reconstructed or former trackage is being reinstalled, Authority shall have the option of reconstructing or reinstalling such track to clearances and alignments no more restrictive than those existing as of March 18, 1976. For the purposes hereof the minimum clearance on any line other than a Perimeter Line existing as of March 18, 1976 shall be the actual minimum clearance, or 22 feet above the top of the rail, whichever is less, and on a Perimeter Line shall be 22 feet above the rail.

(f) Trustees may, at their own expense, alter or improve any part of the Real Estate other than the areas of Authority's exclusive use referred to in (A) 2., and provided for in (E) 2.; provided that such alteration does not detract from the value of the Real Estate or materially interfere with Authority's then current or then reasonably foreseeable use of the Real Estate. The plans and specifications for each such alteration or improvement involving an expenditure of more than \$100,000 shall be subject to Authority's written approval prior to the commencement of construction.

The preceding sentence shall not have the effect of limiting the Trustees' duties to obtain prior approval of

plans for switches and sidetracks pursuant to Section 1 (c) above.

2. Termination of Trustees' Right to Use

The Authority may give written notice to the Trustees of its desire to use exclusively a line or lines of railroad property other than Perimeter Lines. Upon receipt of such notice, the Trustees shall immediately prepare and file all such applications for governmental approval as may then be necessary as a prior condition to the Trustees' abandonment of service on such line, diligently prosecute the same and, when such approval becomes final, cease operation on such line or lines. Authority shall reimburse Trustees for all reasonable expenses including attorneys' fees incurred in connection with the obtaining of such approvals. In the event that compliance with the obligations contained in this subparagraph causes Trustees to discontinue service to a revenue-producing customer or customers, Authority shall pay to Trustees, no later than seven days prior to actual discontinuance of service over any line so abandoned economic damages determined as follows:

- (a) Determine Trustees' total railway operating revenue from traffic originated by or destined to such customer or customers to whom service has been or will be discontinued (including only Trustees' share of the total revenues derived from the movement) during the last full calendar year prior to the notice from the Authority with respect to the line serving such customer called for by the first sentence of this subsection
- 2.

(b) Determine the Trustees' avoidable costs of originating or terminating such movement by adding the following elements as they relate to the subject traffic;

i. Costs relating to Trustees' use of line or a portion of a line to be terminated:

Maintenance of way (Trustees' share);
Maintenance of equipment (Trustees' share);
Transportation (Trustees' share);
Car Hire or Car Cost (Trustees' share);
Other costs, if applicable (Trustees' share);

ii. Costs relating to use of Trustees' lines other than the line to be terminated:

Beyond line costs, according to "Fifty percent (50%) formula". (The formula multiplies the line's pro rata mileage (ratio of number of miles travelled on the line to total number of miles travelled on the system) by the gross revenue generated, subtracts the product (gross revenue credited to the line) from the total gross revenue, and takes 50 percent (50%) of the resulting sum as the beyond line cost).

(c) Subtract total of (b) from (a) and multiply the result by ten.

In the event freight service is eliminated over a through line by action of the Authority, in addition to the economic damages relating to the discontinuance of service to revenue-producing customers, the Authority will provide an alternate route with the clearances at least equal to those provided for in subparagraph (E) 1. (e) above, with load carrying capacity equal to those existing on the eliminated line, at no cost to Trustees and without interruption in Trustees' ability to render their through service efficiently.

Once freight service has been legally abandoned, pursuant to a final order or orders of the Interstate Commerce Commission and any other Federal or State regulatory bodies having, at the time, jurisdiction over the matter of continuance of rail freight service on such line, the easement hereby provided for shall terminate with respect to such line and the Trustees shall have no right to reinstate rail freight service thereon without prior written approval of the Authority, regardless of whether such abandonment was at the request of the Authority or whether it was upon the Trustees' own motion.

3. Access.

With respect to the properties retained by the Trustees lying between Somerville Avenue, Cambridge and the Real Estate as shown on Exhibit "B", the Trustees shall have the right to grant to parties to whom they may convey or lease any of said retained properties, the right, in common with the Authority and others, to use the existing Private Way defined on Exhibit "B" for egress and ingress on foot or in vehicles.

Trustees shall by their deed retain an easement to construct an access road up to four (4) lanes in width through the area lying between Washington Street, Somerville and the High Line, so-called, defined as the "Yard 8 Access" on Exhibit "B", for the purpose of providing vehicular and pedestrian ingress and egress between Yard 8 and said Washington Street. Said road shall be constructed so as to provide grade separation from the High Line until such time as Authority shall operate a rail connection between the New Hampshire Route Main Line and the Fitchburg Route Main Line or any other route alternative to the High Line. At any time thereafter Trustees shall have the option to

require the Authority to convey to the Trustees the whole or any part of that portion of the High Line, defined as the "High Line Segment: on Exhibit "B", without payment of additional consideration; and thereafter the said access road may be constructed at grade. The layout of the said access road shall not interfere with the functioning of Tower X or the New Hampshire Route Main Line, as then located or laid out, and shall be subject to the Authority's prior approval, which shall not be unreasonably withheld.

4. Right to Provide Freight Service to be Exclusive.

The Trustees' right to continue to provide freight service as hereinabove provided shall be exclusive in that no other carrier shall have the right to provide freight service over and upon any of the lines to be conveyed hereunder, except as follows:

(a) To the extent that the Trustees have entered into joint operating agreements granting rights to operate over said lines to other carriers, the operation or operations of such other carriers, pursuant to such arrangements shall be treated as operations of the Trustees for all purposes hereunder. No such joint operating agreements with other carriers shall be entered into after the date hereof without the prior written approval of the Authority (which shall not be unreasonably withheld) provided that no such approval of the Authority shall be necessary for runthrough agreements where trains are operated by the Trustees' crews.

(b) The Authority shall, after the date hereof, have the right to transport baggage and its own material over

and on such lines and such transportation shall not be considered freight service.

(F) GENERAL PRINCIPAL OF COST ALLOCATION

It is the general intention of the parties hereto that, except as more specifically provided hereinabove or in the separate agreement entitled "Operating Agreement", dated March 18, 1976, (Exhibit "C") or any extension or amendment thereof, all direct costs and expenses resulting solely from or attributable solely to freight operations will be borne solely by Trustees and all direct costs and expenses resulting from passenger operations will be borne solely by Authority. Overhead or joint expenses will be apportioned between the Trustees and Authority on the basis of relative use of the facility or department in question. The use of a facility or department by any person claiming by, through or under either party hereto shall, for the purposes of cost allocation, be deemed to be such party's use. In the event of a fundamental change in the underlying concepts upon which provisions hereof relating to allocation of costs and expenses are premised (such as might be caused by inclusion of Trustees in Conrail, a federal or state consolidated facilities program or other government ownership of facilities) by which any specific provisions for the allocation of costs and expenses are rendered inequitable, such provisions shall, at the request of either Authority or Trustees, be renegotiated in good faith so as to provide for an equitable allocation under the changed conditions.

ELECTRICAL AND WATER EASEMENTSA. ELECTRICAL EASEMENTS.

The Trustees hereby reserve to themselves, their successors and assigns, the right and easement for the location of electrical lines and equipment in that area of the Real Estate defined on Exhibit F annexed hereto entitled: Trustees' Electrical System - Boston Yards, December 31, 1975"; which reservation shall include the right to flow electricity through said electrical system to serve the Trustees' freight easement and for any other use, now or in the future. Said reserved easement shall also include right to install, inspect and maintain, repair, operate or remove electrical lines and equipment within the said freight easement area and the right to use said reserved area and electrical system in conjunction with the sale of electricity by the Trustees to other parties, including but not limited to the Authority and to new customers, insofar as the Trustees lawfully may, provided, however, the Trustees' exercise of such rights shall not substantially interfere with the operations or the electrical needs of the Authority. Such sale of electricity by the Trustees to other parties shall be with the right to profit therefrom without any obligation of the Trustees, either to account to or to pay to the Authority, any portion of the revenues arising therefrom or any other consideration. All of the electrical lines and equipment located within said area as of the date hereof, and all such lines and equipment hereafter installed therein by the Trustees, shall be and remain the sole property of the Trustees and the existence of this easement shall in no way be considered as establishing either a joint facility or a joint

enterprise with the Authority. The Trustees shall also have the right to assign their reserved rights herein to either the Cambridge Electric Company or any other comparable public utility at any time within ten (10) years from the date hereof.

Provided further, that with respect to the Boston Engine Terminal Area, defined on Exhibit "B", Trustees hereby reserve to themselves, their successors and assigns, the right and easement to use and maintain the electrical lines and facilities existing therein as of the date hereof, as long as such use and maintenance does not interfere with Authority's operations or use of the Real Estate, together with the right and easement to install and maintain electrical service to Yard 8 and those properties retained by Trustees lying between Somerville Avenue and the Real Estate all as defined on said Exhibit "B", provided, however, that any such installation and maintenance shall not substantially interfere with Authority's operations or use of the Real Estate and, provided further, that such installation and maintenance shall be subject to the prior approval of the Authority, which shall not be unreasonably withheld.

In the event that Authority alters the electrical lines or facilities existing as of the date hereof within said Boston Engine Terminal Area, the Trustees shall have the right to make an electrical connection at Trustees' cost to either a public utility or a source of the Authority, whichever shall be more economical for the Trustees, provided that such connection shall not substantially interfere with Authority's operations or use of the Real Estate.

B. ELECTRICAL COVENANT.

The Trustees further covenant and agree with the Authority that insofar as they lawfully may, Trustees shall supply electricity to Authority at the appropriate Cambridge Electric rate as long as Trustees retain the easement reserved in Paragraph A above.

C. WATER EASEMENT

The Trustees hereby reserve unto themselves, their successors and assigns, the right and easement to take water from the 12-inch main through an 8-inch connection at point "A" and through a 12-inch connection at point "B" as shown on Exhibit G annexed hereto entitled "Sellers' Water System - Boston Yards, December 31, 1975"; which reserved easement shall include the reserved right to flow water through said connections to serve the freight easement and for any other use, now or in the future, at not less than the rate currently maintained and without unreasonable interruption of flowage at any time. Included in the reserved easement is the right to inspect and maintain, repair, operate, renew or remove the said connections and said line between points "A" and "C" in a manner which shall not substantially interfere with Authority's operations or use of the Real Estate. The Trustees shall be solely responsible for the inspection, maintenance and repair of said line between points "A" and "C", and Authority shall not be obligated to contribute to the cost thereof. Subject to the terms in the final paragraph of this Section C, the Authority will be solely responsible for the inspection, maintenance and repair of the lines between point "C" and points "D" and "E", but subject to the Trustees' obligations to contribute to the cost thereof as provided hereafter.

The quantity of water taken at point "A" will be estimated and the quantity of water taken at point "B" will be and shall be metered, except for water used for fire protection, but if requested by the Authority, the Trustees shall install a water meter at point "A", at the expense of the Authority (or, if desired by the Trustees, they may install such meter at their own expense) to give an accurate measure of the usage of water through that connection.

The water line between points "D" and "F" as shown on Exhibit G shall continue to be owned by the Trustees, provided, however, the Trustees hereby reserve to themselves, their successors and assigns, the right to inspect, maintain and repair the said line on the Real Estate to the extent that it is located thereon. The Trustees shall be solely responsible for the inspection, maintenance and repair of said line but the Authority shall be obligated to contribute to the cost thereof as provided below. The Authority shall have the right, subject to the rights of the Trustees and all those parties who have the right (claiming by, through or under the Trustees or otherwise) to take water from the said line through the connections located between points "D" and "F", to receive water through the said line at point "D" for any use, at not less than the rate currently maintained and without unreasonable interruption of flowage at any time.

In each calendar year the Trustees shall be responsible for so much of the cost of inspecting, maintaining and repairing of all those portions of the water line shown on Exhibit G lying between points "C" and "F" and "C" and "E" as shall be proportional

to the fraction of which the denominator is the total volume of water passing through points "E" and "F" in said year and the numerator is the sum of the volumes of water passing through the connections at points "A" and "B", and through all connections lying between points "D" and "F", during said year. The Authority shall be responsible for the remainder of such cost, subject to Trustees' duty to contribute thereto in accordance with Provision contained in Paragraph (A)2(d) of the Reserved Freight Easement.

Provided further, the Authority shall have the right to discontinue the aforesaid reserved right of the Trustees to take water at points "A" and "B" at any time upon not less than ninety (90) days' prior written notice, provided that in such event the Authority shall grant to the Trustees, without further consideration, upon written request therefor made to the Authority by the Trustees, such easement or other reasonable rights as may be necessary to enable the Trustees to install and maintain, at their expense, a water main and connections adequate to supply the Trustees' needs for water for its freight service as well as the needs of any customers of the Trustees who are then receiving water from the connections at points "A" and/or "B", which easement and connection shall be so located as to connect points "A" and "B" with either a public water line or a water line of the Authority, whichever shall be the most economical for the Trustees, provided that such connection shall not substantially interfere with the Authority's operations or use of the Real Estate.

D. WATER COVENANTS

The Authority covenants and agrees, for itself, its successors and assigns, to pay the public supplier for all of the water taken at points "E" and "F" as determined by the meters located at said points. The Trustees covenant and agree to pay Authority for the estimated water taken at point "A" and for the metered water taken at point "B" and at all connections lying between points "D" and "F" at the prevailing water rates of the City of Somerville in existence from time to time.

LABOR PROTECTION.

The Authority covenants and agrees, for itself, its successors and assigns, to indemnify and exonerate the Trustees to the extent provided hereinbelow, against the cost of (and be responsible for) obligations, liability, or claims due to provisions of Trustees' labor agreements, including labor protective conditions of such agreements, or of labor protective conditions imposed by regulatory agencies or applicable laws. The Authority's obligation to indemnify and exonerate shall arise when employees or positions are adversely affected as a result of changes in the passenger service (including termination thereof), passenger facilities, or both, or by reason of the future contracting out or other removal or termination of work previously, now, or hereafter performed by the Trustees' employees to the extent that such change, termination or contracting out is the result of an action taken by, or with the consent of, the Authority.

It is further understood and agreed that an action taken by the Authority may have effects remote from the initial

position or positions affected by such action as a result of successive seniority displacements, and it is the intention of the parties hereto that the indemnification and exoneration herein provided shall extend to such more remote effects.

If the initiating action affects a position or positions solely engaged in the "Service", (as "service" is defined in the Operating Agreement dated March 18, 1976, Exhibit "C", as amended and extended) the Authority will pay all such costs. If the initiating action affects a position or positions engaged in both passenger service and freight service, the Authority will pay the cost to the extent that it is solely traceable to the action taken by, or with the consent of, the Authority. In the event that in any instance the applicability of the immediately preceding sentence produces a result which is manifestly unfair to either party, the sharing of such termination cost will be renegotiated in good faith so as to provide for an equitable allocation thereof.

It is further understood and agreed that the Trustees shall use their best efforts to mitigate liability to such employees and that the Authority shall be permitted to participate, within reason, in such efforts.

The Authority will pay to the Trustees such funds as may be required to satisfy Authority's obligation to indemnify and exonerate the Trustees hereunder, concurrently with the delivery of evidence of payment by the Trustees. Trustees agree to keep Authority currently informed, to the extent that the Trustees can reasonably do so, of all aspects of local and national labor negotiations which might reasonably be expected to expand or broaden the scope of the protective provisions (i.e., provisions relating to termination rights) of labor agreements.

ACCIDENT RESPONSIBILITY

In the event that the Trustees shall cease to conduct passenger service for the account of the Authority, pursuant to the Operating Agreement or a successor operating agreement, the following terms and conditions shall immediately become effective with respect to events occurring after such cessation:

A. In the event that harm, damage or injury (including death) is caused by the negligence or other act for which one of the parties hereto is legally responsible without any contributory negligence or legal responsibility on the part of the other party hereto (except in circumstances described in C below) and said harm, damage or injury (including death) occurs to the property of, or in the custody of, one of the parties hereto, to property used jointly by the parties, to the employees, passengers or licensees of either party, to common agents or employees or to third parties, the party which caused such harm, damage or injury (including death) shall bear all of the cost, expense and liability arising therefrom and shall save harmless the other party from and against any loss, cost or expense connected therewith. (This Section is not intended to confer any rights upon third parties.)

B. In the event that harm, damage or injury (including death) is caused solely by an act or omission for which a third party is legally responsible, to the property of, or in the custody of, one of the parties hereto, or to the employees, passengers or licensees of one of the parties hereto, that party shall assume all loss, cost and expense arising therefrom, without contribution from the other party. (This Section is not intended to relieve any third party from any liability.)

C. In the event that harm, damage or injury (including death) is caused by the condition of jointly used lines, facilities or equipment to the property of, or in the custody of, one of the parties hereto, or to the employees, passengers or licensees of one of the parties hereto, that party shall assume all loss, cost and expense arising therefrom, without contribution from the other party, except that damage to such jointly used lines, facilities or equipment shall be repaired by the Maintaining Party subject to contribution from the other party as provided in Paragraph F (General Principles of Cost Allocation) SUPRA.

D. In the event that harm, damage or injury (including death) is caused by an act or omission for which both of the parties hereto are legally responsible and such harm, damage or injury (including death) occurs to the property of, or in the custody of, one or both of the parties hereto, or to the employees, passengers or licensees of one or both of the parties, each party shall bear all of the costs, expenses and liability arising from such harm caused to its own property, to property in its custody or to its employees, passengers or licensees. Any other loss, cost or expense so caused, including expense of repairing jointly used lines, facilities or equipment shall be divided equally between the parties.

E. In the event that harm, damage or injury (including death) is caused by an act or omission for which at least one of the parties hereto is legally responsible but in circumstances

where legal responsibility cannot be attributed to one party or the other, nor to both parties jointly, because of lack of evidence or a conflict in evidence which cannot be resolved, by litigation or otherwise, and said harm, damage or injury (including death) occurs to the property of, or in the custody of, one or both of the parties hereto, or to the employees, passengers or licensees of one or both of the parties, each party shall bear all of the costs, expenses and liability arising from such harm caused to its own property, to property in its custody or to its employees, passengers or licensees. Any other loss, cost or expense so caused, including expense of repairing jointly used lines, facilities or equipment, shall be divided equally between the parties.

F. In the event of any derailment or other accident occurring upon the Real Estate wherein cars, motive power or other equipment of either party shall fall or encroach upon tracks, bridges or other property being used by the other party so that said property is blocked or normal operation thereover is impeded, the party whose property has so fallen or encroached shall expeditiously remove the same and cause all necessary repairs to be made and all tracks and appurtenances restored, at its expense, as may be required for the continued operation of the other party's railroad activities.

Both parties agree to cooperate with each other to expedite the repair and removal of such cars, motive power and other equipment and will make all reasonable efforts to restore the affected line or facility to service.

ARBITRATIONA. Selection of Arbitrators.

If, at any time, a controversy shall arise which is referable to arbitration according to subsection C of this Arbitration Section, the parties hereto agree to engage forthwith in good faith discussions attempting to resolve such controversy. If the parties so agree, they may involve a disinterested person experienced in railroad operations to render his objective advice and opinions, which shall be advisory only and not binding unless the parties agree in writing to be bound by his judgment in a particular instance. In the event such good faith discussions do not resolve such controversy within thirty (30) calendar days, or such other time as the parties may agree in writing, the parties shall submit such difference or dispute to disinterested arbitrators, one of whom shall be appointed by the Trustees and the other of whom shall be appointed by the Authority; and if the two arbitrators so chosen cannot agree, they shall select a third arbitrator, and their decision, or that of a majority of them, shall be final and conclusive between the parties hereto, except that if either party claims that the arbitrator's decision is based upon an error of law, it may, within thirty (30) days after receipt of such decision, institute an action at law to determine such legal issue. In any such action at law, the parties shall stipulate the facts to be as set forth by the arbitrators. In case either of said parties shall fail or refuse to appoint an arbitrator as aforesaid, for the period of thirty (30) calendar days after written notice given by the other party to make such appointment,

then and in that event the arbitrator appointed by the party not in default shall appoint a like competent and disinterested arbitrator for the defaulting party, and the said two arbitrators, so appointed, shall select a third arbitrator, and the three so chosen shall hear and decide such difference or dispute, and their decision, or that of a majority of them, shall be final and conclusive upon the parties hereto, except as above provided with respect to an error of law. In the event that the said arbitrators shall be unable to agree upon a third arbitrator within thirty (30) days after the appointment of the second arbitrator, such third arbitrator shall be appointed, upon the application of either party hereto, upon reasonable notice to the other party, by a Judge of the Superior Court for the Commonwealth of Massachusetts. Any application to such Judge as aforesaid shall be made and heard in the manner provided by law for the making and hearing of motions in said Court. If said Court declines to make such appointment, it shall be made by the President of the Association of American Railroads. If any arbitrator shall decline or fail to act, the party or person by whom he was chosen or appointed, as the case may be, shall appoint another to act in his place.

B. Resolution.

During the pendency of such arbitration proceedings, the business, operations to be conducted, and physical plant to be used under this Agreement, to the extent that they are the subject matter of such controversy, shall continue to be transacted and used in the manner and form existing prior to

the arising of such controversy, unless the arbitrators make a preliminary ruling to the contrary.

C. Matters Referable to Arbitration.

All controversies as to the construction of terms of this Agreement which are to survive the Closing Date and any practical questions growing out of the application of the same to circumstances, except for claims for monetary damages in excess of \$100,000, are referable to arbitration as provided in this Arbitration section.

D. Cost of Arbitration.

Each party hereto shall bear the costs and expenses incurred by it in connection with such arbitration and both parties shall share equally the costs and expenses attributable to the services of the disinterested person or arbitrators.

The Trustees and the Authority hereby covenant and agree that neither Robert W. Meserve nor Benjamin H. Lacy, nor any of their successors as Trustees of the Property of the Boston and Maine Corporation, Debtor, in the Proceedings for the Reorganization of a Railroad, hereinabove referred to, shall be personally liable for the performance or non-performance of any of the Trustees' obligations hereunder, and that upon the transfer of the freight business and remaining assets of the Trustees to the Reorganized Debtor, or any other party, pursuant to a plan of reorganization confirmed in said proceedings, or otherwise transferred the Authority and its successors and assigns, will thereafter look solely to such transferee and its successors and assigns for the performance of all of the Trustees' obligations hereunder.

Upon the said transfer of freight business and remaining assets, whether to a successor Trustee or Trustees, to the Reorganized Debtor, or to any other party or parties, all of the rights and easements granted or reserved to the Trustees hereby will inure to the benefit of any and all such transferees, whether direct or remote, and their respective successors and assigns, subject, in each instance, to the assumption by the transferee of all obligations of the Trustees hereunder related to the particular rights and easements transferred to such transferee.

Any voluntary transfer by the Trustees of the rights and easements reserved or granted to the Trustees hereby to a successor Trustee or Trustees, to the Reorganized Debtor or to any other party that succeeds to substantially all of such rights and easements, shall require as a condition thereof that the transferee accept and assume all of the rights and obligations of the Trustees as Operator under any operating contract between the Trustees and the Authority then in effect.

This Indenture is executed in seven (7) counterparts for the purpose of recording in seven (7) separate Registries of Deeds where the real estate lies. Each counterpart contains all of the provisions and attachments contained in this counterpart. There is affixed to the counterpart to be recorded in Suffolk County Registry of Deeds Documentary Stamps in the amount of \$83,331.72, and is available for inspection at that Registry.

The covenants contained in this Indenture are to be binding upon the parties hereto and their successors and assigns forever.

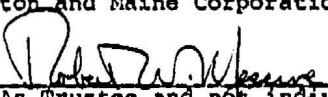
WHEREAS, on November 30, 1976, the said U. S. District Court for the District of Massachusetts, by Order No. 347-C (in

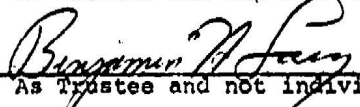
Docket No. 70-250-M) authorized the said Trustees to convey this real estate to the Massachusetts Bay Transportation Authority, this conveyance is hereby made free from liens pursuant to said Order.

TO HAVE AND TO HOLD the above described premises, with all the privileges and appurtenances thereto belonging to the said MASSACHUSETTS BAY TRANSPORTATION AUTHORITY, its successors and assigns, to their own use and behoof forever.

IN WITNESS WHEREOF the said ROBERT W. MESERVE and BENJAMIN H. LACY, as Trustees of the Property of Boston and Maine Corporation, Debtor, and not individually, have hereunto set their hands and seals, this 24th day of December, 1976.

ROBERT W. MESERVE and BENJAMIN H. LACY, as Trustees of the Property of Boston and Maine Corporation, Debtor


As Trustee and not individually

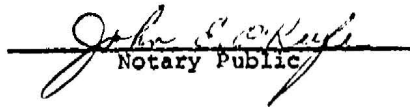

As Trustee and not individually

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

Boston, December 24, 1976

Then personally appeared the above-named Robert W. Meserve, as Trustee of the Boston and Maine Corporation, Debtor, and acknowledged the foregoing instrument to be the free act and deed of said Trustee, before me


Notary Public

My Commission expires: April 26, 1983

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

Boston,

December 24, 1976

Then personally appeared the above-named Benjamin H. Lacy, as Trustee of the Boston and Maine Corporation, Debtor, and acknowledged the foregoing instrument to be the free act and deed of said Trustee, before me

John S. O'Keefe
Notary Public

My Commission expires: April 21, 1983

IN WITNESS WHEREOF the said MASSACHUSETTS BAY TRANSPORTATION AUTHORITY, by Robert R. Kiley, Chairman, has set its hand and seal, this day of December, 1976.

APPROVED AS TO FORM:

MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY

General Counsel

WJA
JJC

Robert R. Kiley
Chairman

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

Boston,

December 24, 1976

Then personally appeared the above named Robert R. Kiley, as Chairman of the Massachusetts Bay Transportation Authority, and acknowledged the foregoing instrument to be the free act and deed of said Chairman, before me

John S. O'Keefe
Notary Public

My Commission expires: April 21, 1983

LIST OF EXHIBITS

- Exhibit A(1-5) Plans of five (5) bridges excluded from conveyance.
- Exhibit B Plan of Boston Engine Terminal Area
- Exhibit C Operating Agreement dated March 18, 1976
- Exhibit D Signalling and Grade Crossing Expense Formula
- Exhibit E Line Maintenance Expense Formula
- Exhibit F Seller's Map of Electric System
- Exhibit G Seller's Map of Water System

HALE STREET
M.D.P.W. DR. 9L-15-5
R. & M. DR. #2519

EXHIBIT A-1

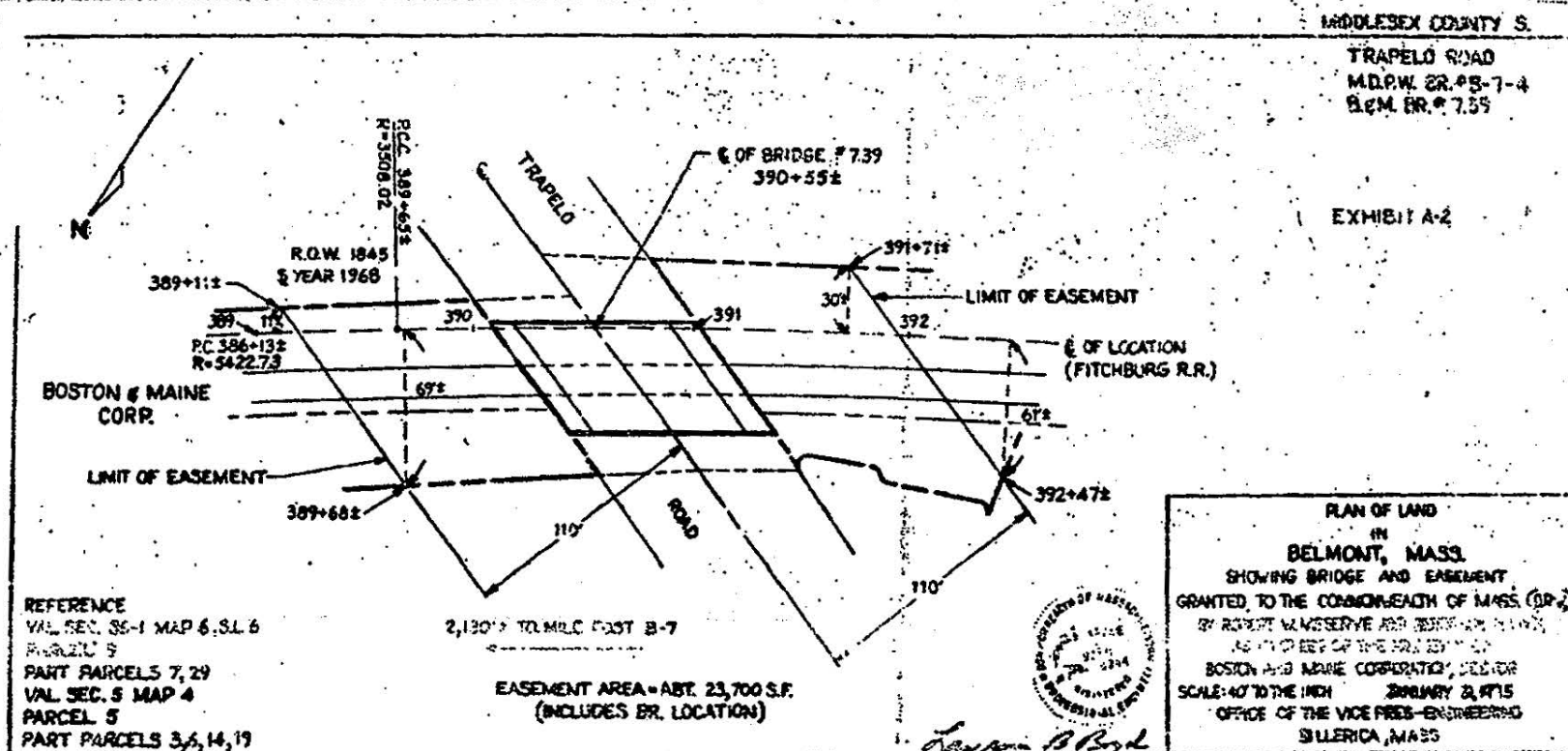


James B. B. & Co.
PLAN OF LAND

114
LOWELL, MASS.

SHOWING BRIDGE AND EASEMENT
GRANTED TO THE COMMONWEALTH OF MASS. (REV.)
BY ROBERT W. MESERVE AND BENJAMIN H. LACY,
AS TRUSTEES OF THE PROPERTY OF
BOSTON AND MAINE CORPORATION, DEBTOR
SCALE 40' TO THE INCH JANUARY 31, 1975
OFFICE OF THE VICE PRES.-ENGINEERING
BELLERIE, MASS.

BK13117 PG158J



BK13117 PG159

MIDDLESEX COUNTY S.

MASS. AVE.
M.D.P.W. BR. C-1-12
B & M BR. 3.43

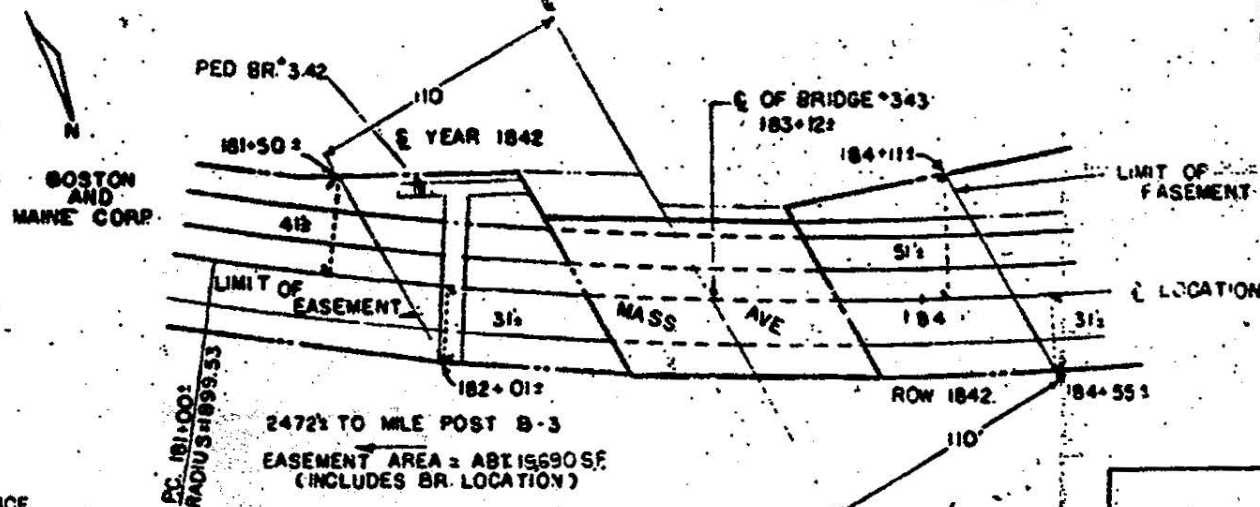


EXHIBIT A-3

REFERENCE
VAL SEC 36.1 MAP 2
VAL SEC 36.1 MAP SL. 2
PARCEL 31
PAR. PARCELS 19, 27, 28, 32
33, 34, 69

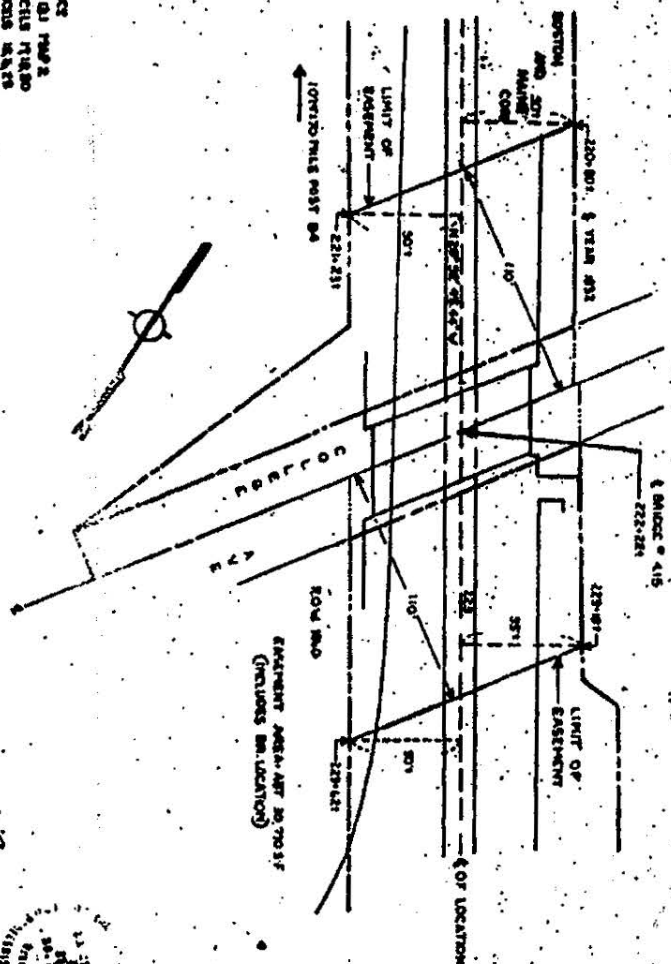
EASEMENT AREA $\approx$ ABT 15690 SF
(INCLUDES BR. LOCATION)



Lawrence B. B. Jr.

PLAN OF LAND
IN
CAMBRIDGE, MASS.
SHOWING BRIDGE AND EASEMENT
GRANTED TO THE COMMONWEALTH OF MASS. (D.R.)
BY ROBERT W. MESERVE AND BENJAMIN H. LACY,
AS TRUSTEES OF THE PROPERTY OF
BOSTON AND MAINE CORPORATION, DEBTOR
SCALE: 40' TO THE HIGH JANUARY 31, 1915
OFFICE OF THE VICE PRES.-ENGINEERING
BILERICA, MASS

REFERENCE
VOL. 100, 101, 102
ALL MATTERS 17, 18, 20
1967 1968, 1969 1970



James 03/18/12

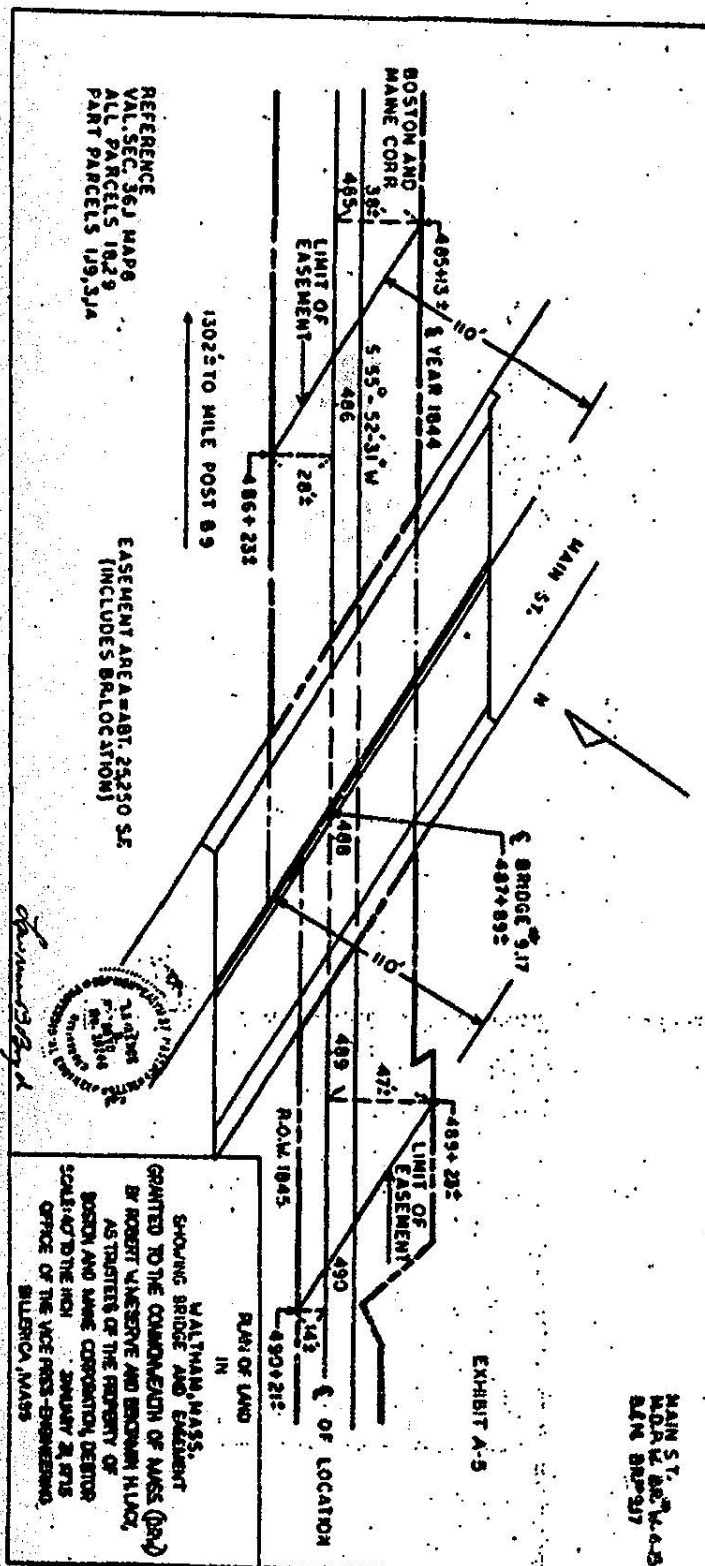
SHOWING BROKER AND BROKERAGE
ON THE PROPOSED SALE OF LANDS
BY ROBERT WILSON AND GEORGE H. WILSON
AS TRUSTEES OF THE PROPERTY OF
WILSON AND WILSON COMPANY, DESIGN
SCALE AND TO THE HON. JUSTICE OF THE
OFFICE OF THE VICE PRESIDENT OF THE

NAME OF USER

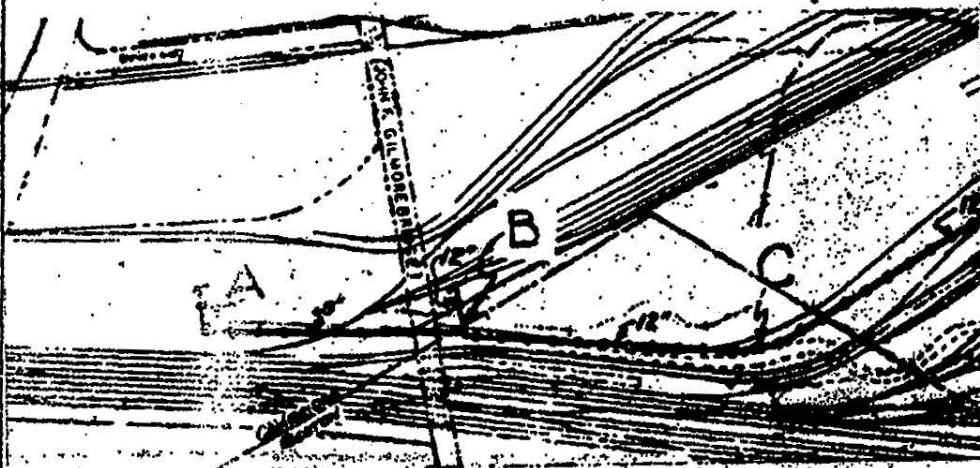
EXHIBIT A-6

COLLEGE. AVE
MIDWAY BR* 1-12-13
1241 BR* 4.15

MANUFACTURER COMPANY



- POINT A:** Point on eight (8) inch water line four hundred and thirty (430) feet west of the centerline of J. F. Gilmore Bridge. Said distance is measured perpendicular to the centerline of said bridge.
- POINT B:** Point on twelve (12) inch water line carrying the water from the City of Somerville west of and parallel to the centerline of J. F. Gilmore Bridge. Said distance is measured perpendicular to the centerline of said bridge. Said water line also crosses the Boyer property line easterly of the J. F. Gilmore Bridge.
- POINT C:** A valve located on the twelve (12) inch water line in a trench six (6) feet and forty (40) feet west of the centerline of J. F. Gilmore Bridge. Said distance is measured perpendicular to the centerline of said bridge. Said valve is a twelve (12) inch gate valve five (5) feet six (6) inches below the ground cover.
- POINT D:** Point where sixteen (16) inch water line from Washington St., Somerville crosses the Boyer property line.
- POINT E:** Twelve (12) inch gate valve where City of Somerville supplies water from Somerville Avenue service main to the twelve (12) inch water line near Tower B.
- POINT F:** Twelve (12) inch gate valve at meter pit where City of Somerville supplies water from its Washington Street service main to the meter pit.

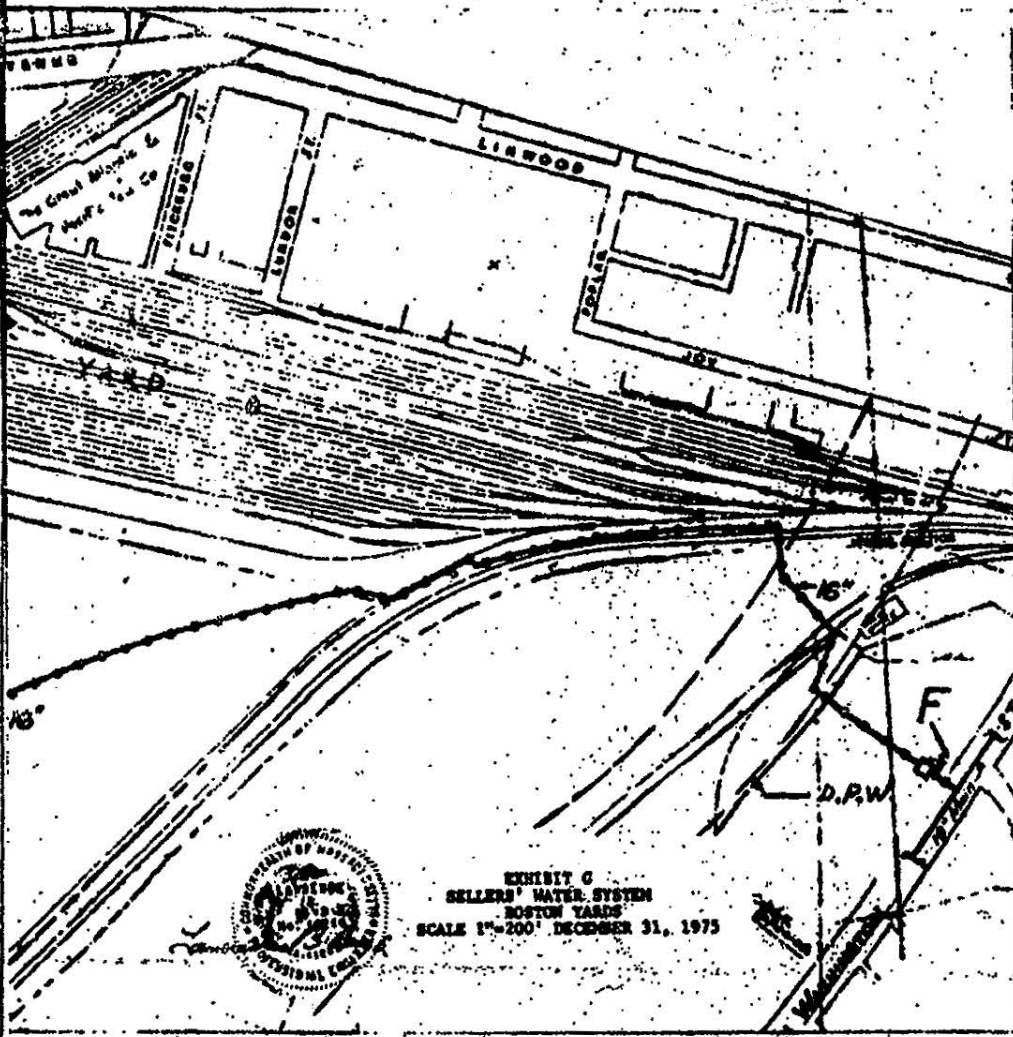


BK13117 PG163✓

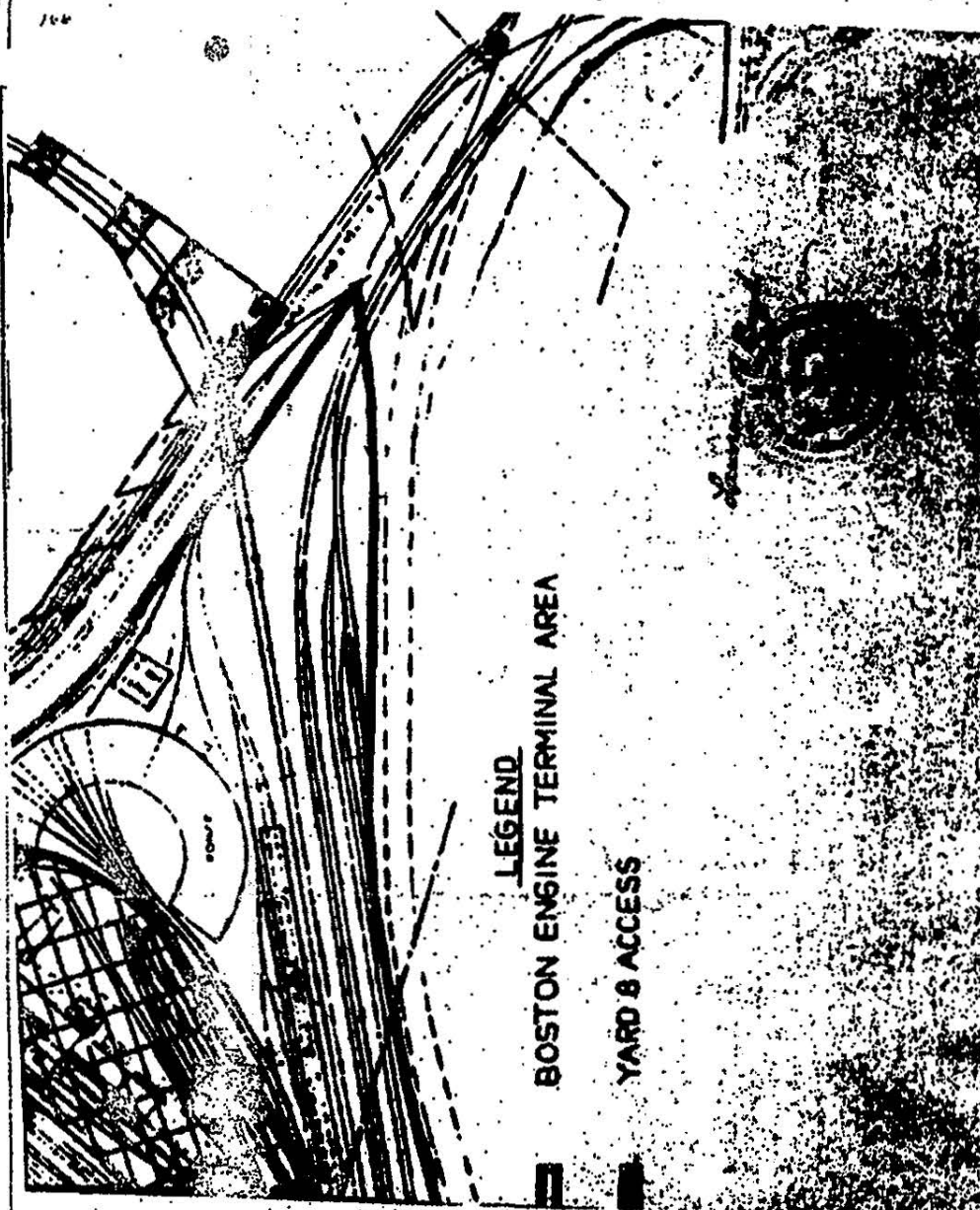


BK13117 PG.164,

104

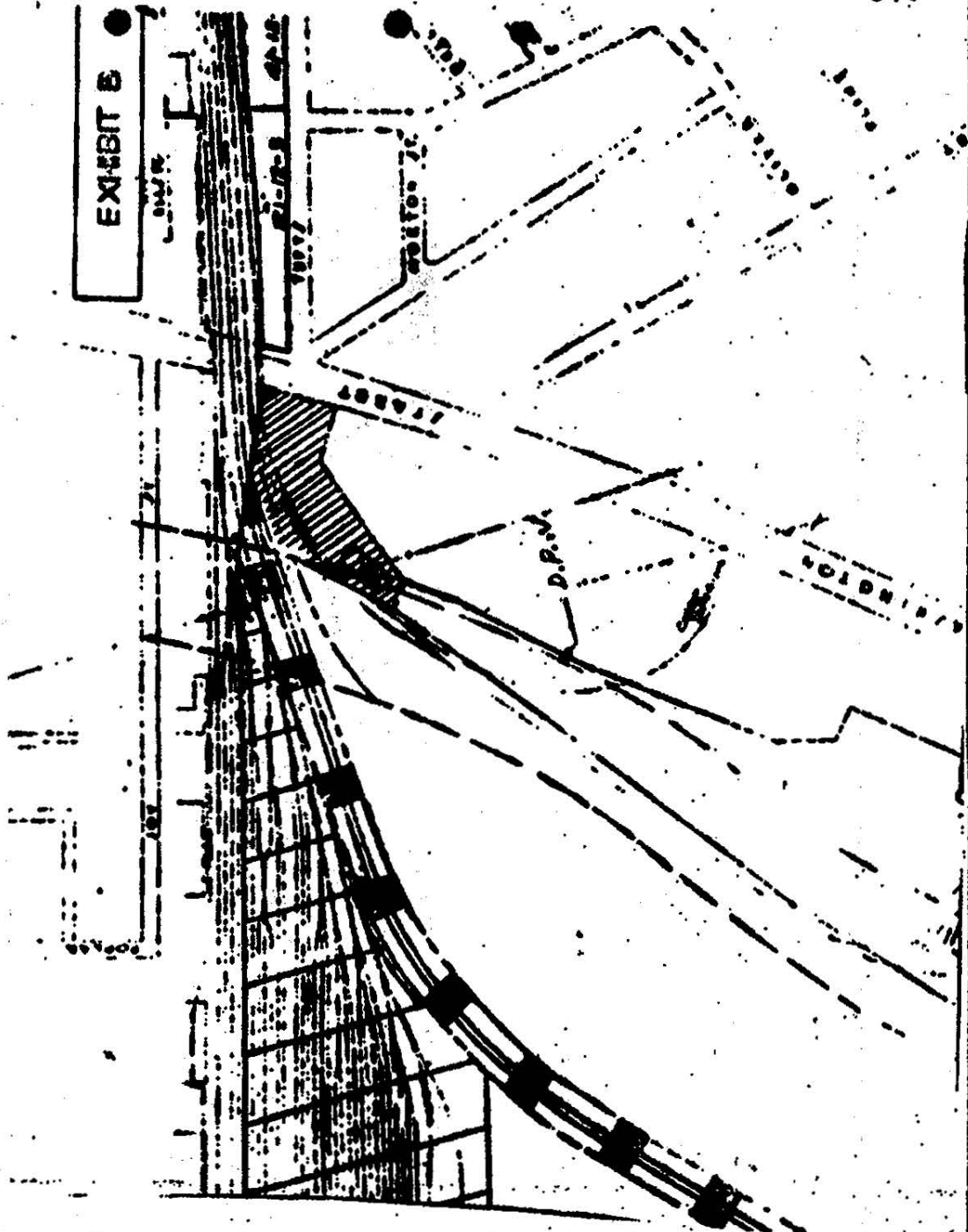






BK 13117 PG 167✓

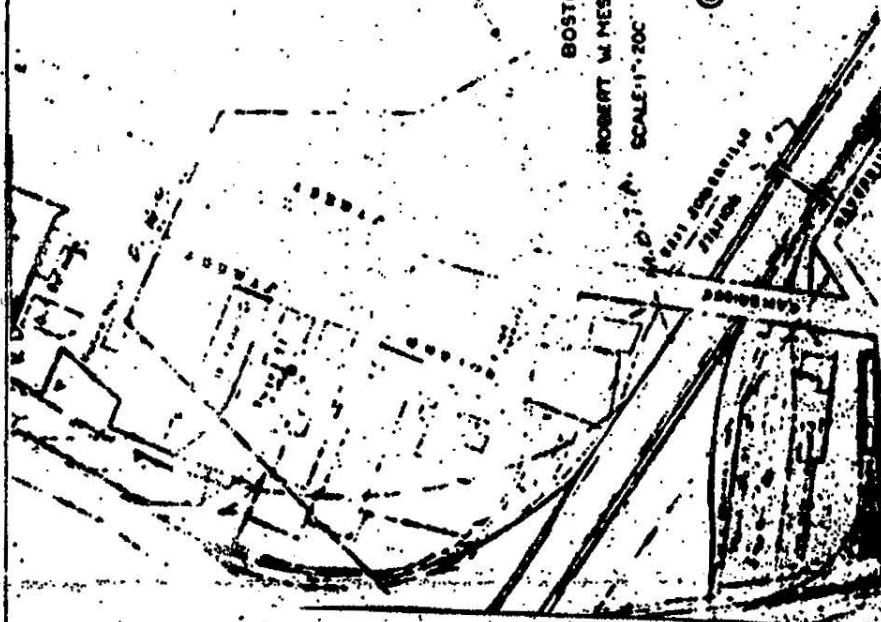
EXHIBIT 3



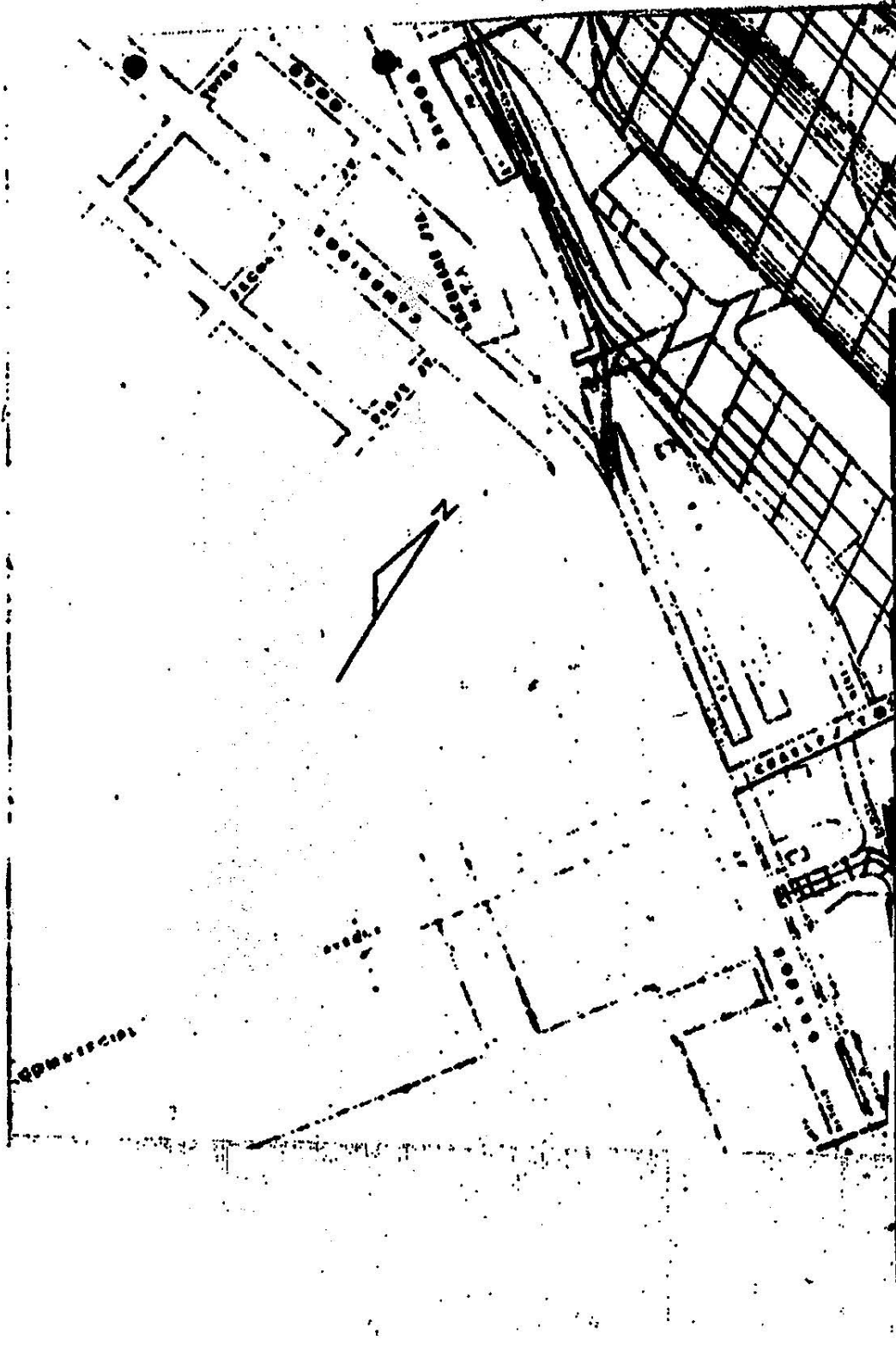
BR 13117 PG 168✓

BOSTON AND MAINE CORPORATION
ROBERT W. MESERVE AND BENJAMIN M. LACY, TRUSTEES
DATED DECEMBER 31, 1975
SCALE 1" = 200'

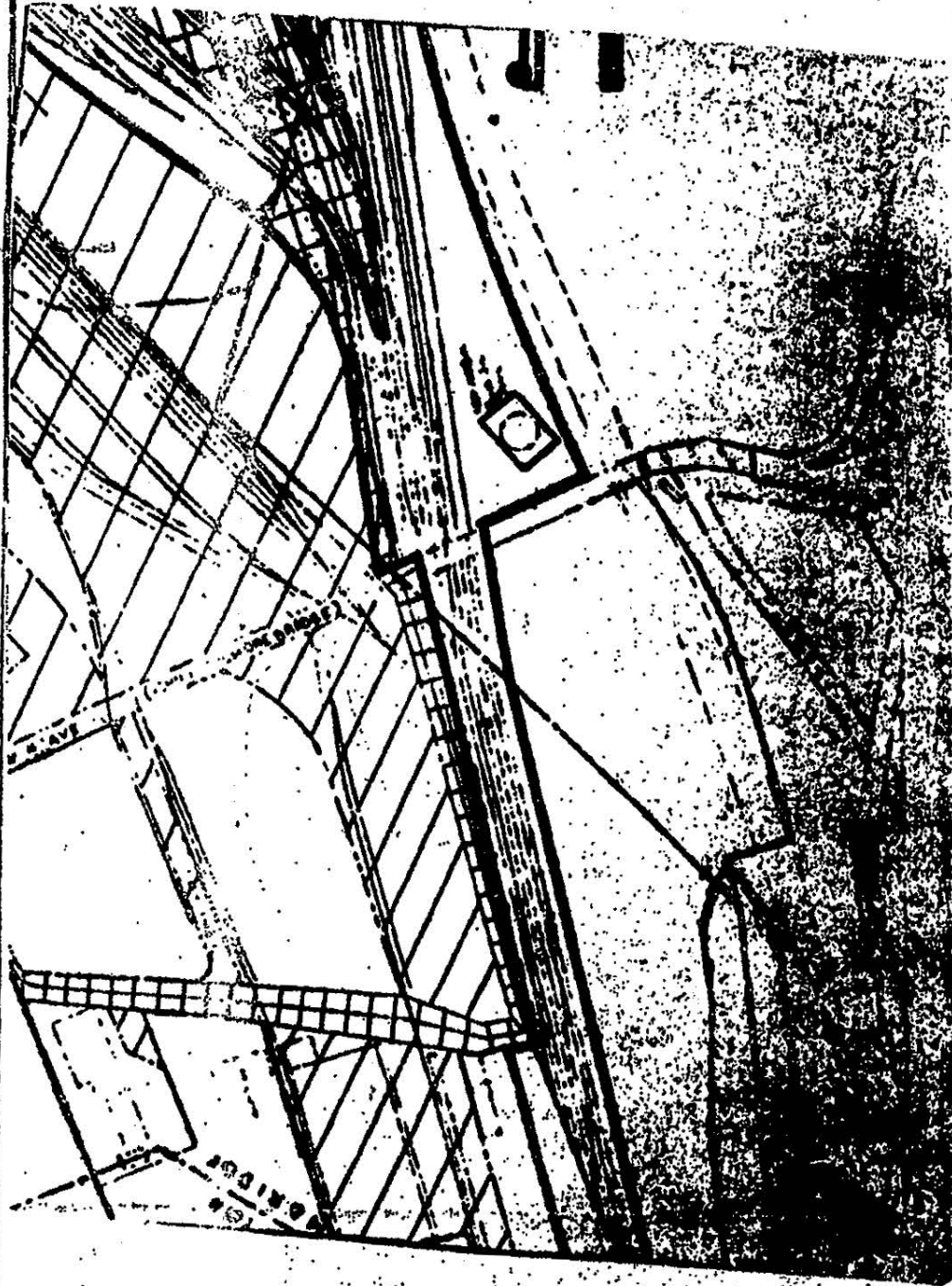
(Compiled From Existing Plans)



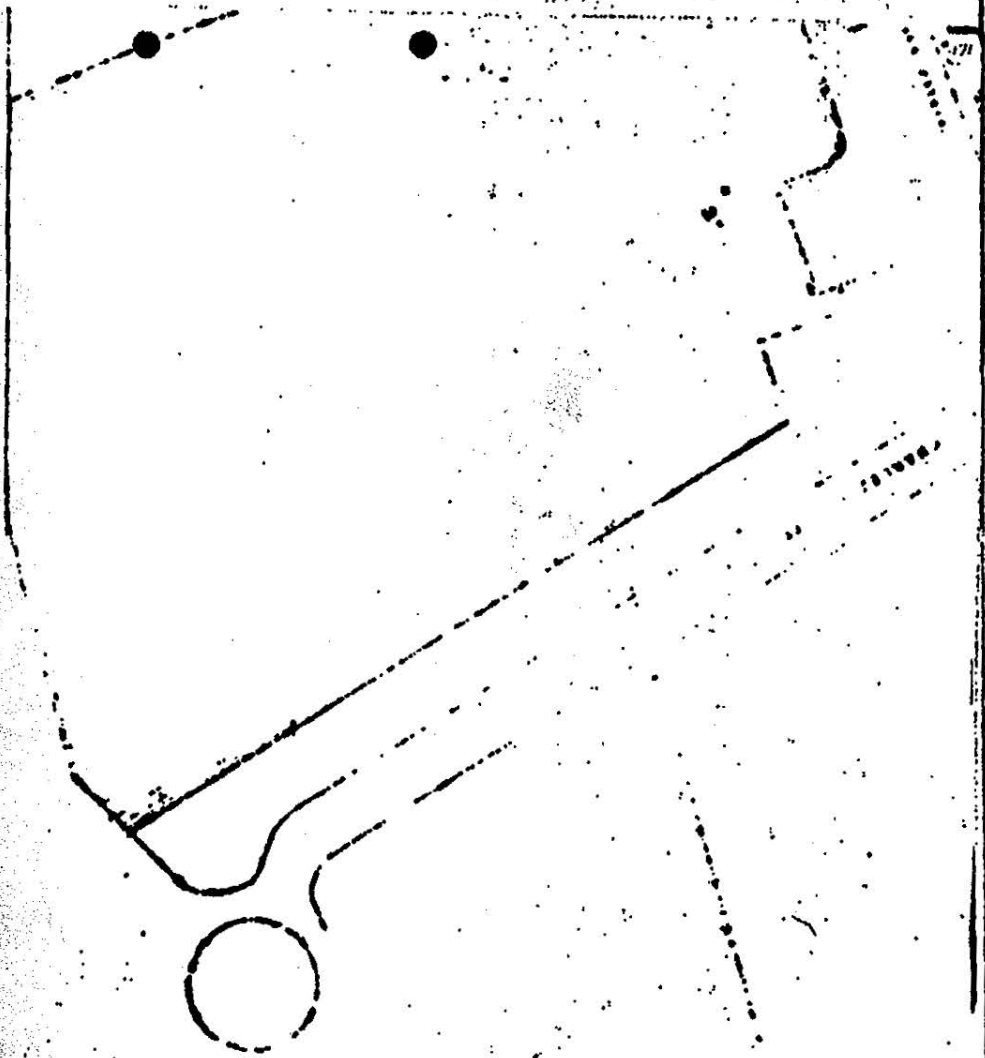
BK13117 PG169✓



BK13117 PG170A



BK13117 PG171/



BK13117 PG172✓

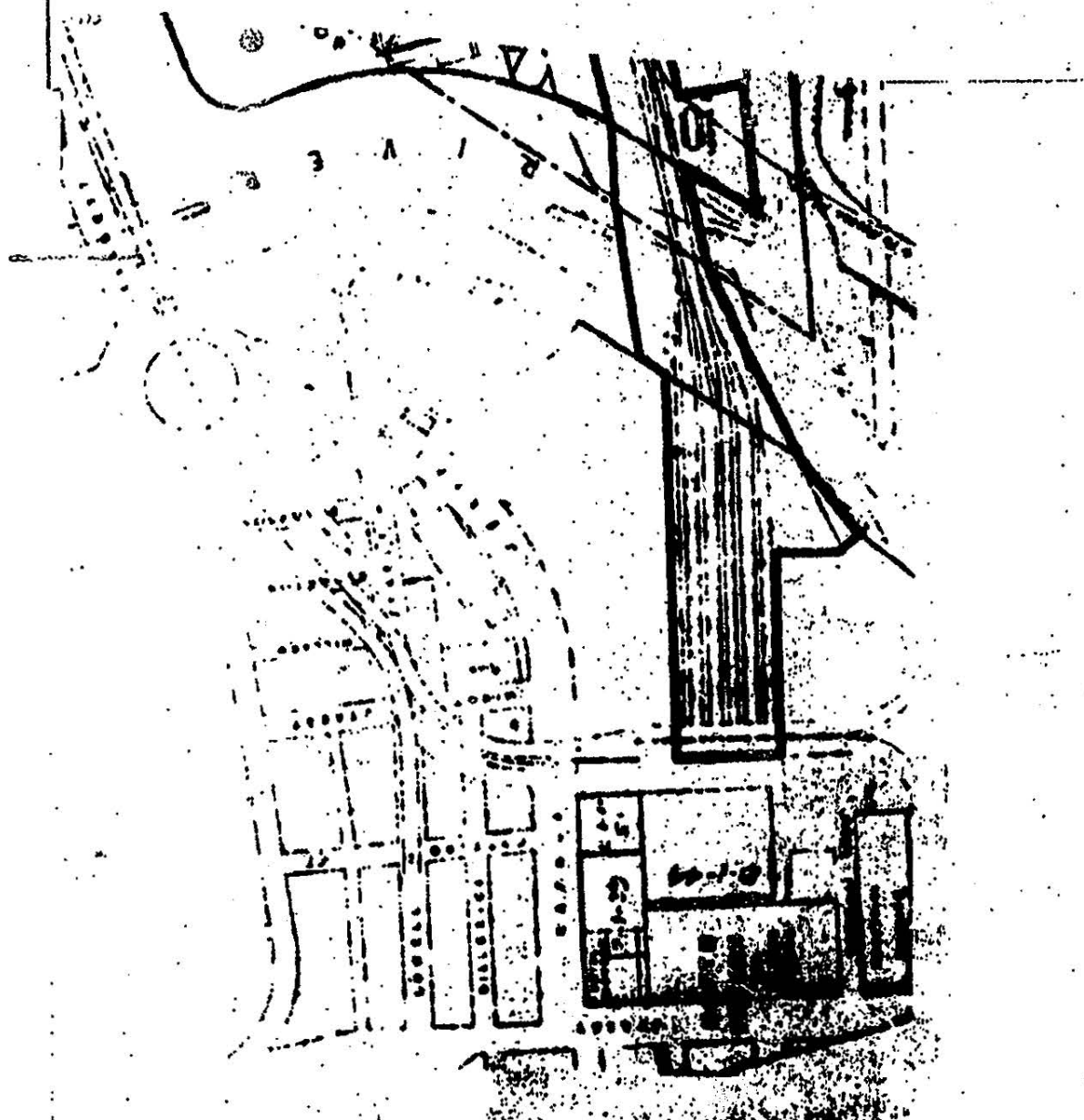


EXHIBIT C

OPERATING AGREEMENT

* * *

March 18, 1976

INDEX

(The titles ascribed to the following Articles are intended for the purposes of general description and are not intended to limit the subject matter thereof)

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OPERATING AGREEMENT

AGREEMENT made this 18th day of March 1976, by and between ROBERT W. RESERVE and BENJAMIN H. LACY, TRUSTEES OF THE PROPERTY OF BOSTON AND MAINE CORPORATION, (see in the Matter of Boston and Maine Corporation, Debtor, United States District Court for the District of Massachusetts, Docket No. 70-250-M) with an usual place of business at 150 Causeway Street, Boston, Suffolk County, Massachusetts 02114, and not individually, hereinafter referred to as the "Operator", which expression shall include the Trustees' successors and assigns where the context so requires or so admits, and the MASSACHUSETTS BAY TRANSPORTATION AUTHORITY, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts established under the provisions of General Laws, Chapter 161A as amended, and having an usual place of business at 45 High Street, Boston, Massachusetts 02110, hereinafter referred to as the "Authority", which expression shall include the said Authority's successors and assigns where the context so requires or so admits.

WHEREAS, the parties have entered into a Memorandum Agreement, dated July 2, 1975, providing, among other things, for the execution of an Operating Agreement between them relating to the operation of commuter rail service by the Operator for the account of the Authority.

NOW, THEREFORE, in compliance with said Memorandum Agreement and with the intention of entering into the Operating Agreement therein contemplated, the Operator and the Authority, in consideration each that the other joins herein, hereby covenant and agree as follows:

1. THE SERVICE. The Authority hereby retains the Operator to operate, and the Operator hereby agrees with the Authority to operate, during the term of this Operating Agreement, a commuter rail service (the "Service") over the lines comprised within the real estate which is to be conveyed by the Operator to the Authority pursuant to the Purchase and Sale Agreement between them of even date herewith, and over the so-called Reading Branch from Boston to Wilmington Junction, Massachusetts, in accordance with the provisions, and subject to the terms and conditions, herein set forth. All of the said real estate so conveyed plus the said Reading Branch line are herein collectively referred to as the "Real Estate".

1.1 Independent Contractor Status. The Service shall be operated by the Operator as an independent contractor, but for the account and at the expense of the Authority, with rolling stock and all other necessary equipment owned by the Authority in accordance with the Passenger Train Schedule set forth in Appendix A and the Fares set forth in Appendix B, and with the rolling stock and other equipment owned by the Authority set forth in the Schedule of Equipment (Appendix C) - all of which Appendices are attached hereto and made a part hereof by reference - and subject, in

the case of each, to such reasonable deletions, additions, changes or modifications as may from time to time be determined upon by the Authority and notified in writing to the Operator by notice given a reasonable time prior to the taking effect thereof.

1.2 Repairs and Maintenance. The Service shall include performing repairs to and servicing rolling stock owned by the Authority, and maintenance of rights-of-way and structures of the Authority located within the Real Estate to the extent provided in 1.2.2 below. The Service shall also include the management and administration of the Service and the Real Estate, including, but not limited to, accounting functions, labor relations and personnel functions, legal matters, real estate management and other services as may be necessary for the efficient operation of the Service within the Real Estate.

1.2.1 Rolling Stock. As regards the Budd Rail Diesel Cars or other rolling stock which the Authority may acquire and assign to the Service from time to time, the Service shall include heavy repairs and engine overhauls necessary to maintain the rolling stock in good condition.

The Service shall not include major modernization or modifications carried out on a campaign basis, nor shall the Service include the replacement of major components with components of improved design on a campaign basis, intended to extend the normal life of the vehicles.

The Authority shall have the right to select by

competitive bid or other means, the special contractor, whether the Operator or another party, to perform all such modernizations, modifications, or replacement of major components.

1.2.2 Maintenance of Rights-of-Way and Structures

Within the Scope of the Service. Maintenance and repair of rights-of-way and structures shall be included within the Service as follows:

- a. All Routine maintenance, including but not limited to spot tamping, signal repair, rail end welding, replacement of insulated joints.
- b. Over the five year term of this Agreement, the Authority may require, as part of the Service, the replacement of one-eighth of the ties on those lines maintained by the Authority, one-twelfth of the rail on such lines and the resurfacing, once, of all of the lines maintained by the Authority. In the event a line or lines shall change from a line or lines maintained by the Operator to a line or lines maintained by the Authority, or vice versa, the work to be included in the

Service with respect to such line or lines shall reflect the number of years such line is maintained by Authority during the term of this Agreement, and the agreed life of each category, i.e., ties - 40 years, rails - 60 years, surfacing - 5 years. The programming of the work to be included in the Service (for example, how many of such ties shall be installed within any given period) shall be determined by the Authority subject to the ability of the Operator to make available the necessary machinery, material and equipment to do the work without interfering with the Operator's own projects. At a minimum, however, the Operator will make available such machinery, material and equipment sufficient to do such work for the Authority in proportion to doing work on Operator's own projects as the miles of track maintained by the Authority

relate to the miles of track (not limited to the Real Estate) maintained by the Operator bearing at least 1,000,000 gross ton miles per year. For the purposes hereof, a line of track is considered to be maintained by the Authority if the Authority is bound to pay for the cost of maintenance (subject to a right of contribution) pursuant to the Purchase and Sale Agreement between the parties of even date herewith.

1.2.3 Extra Maintenance and Construction Projects.

Maintenance of rights-of-way and structures at a level in excess of the limitations of Section 1.2.2 hereof and other construction projects may be performed by a special contractor determined by competitive bid or otherwise by the Authority. In the event the determination is made by competitive bidding, the Operator may be a bidder and, if the Operator's bid is accepted, the resulting contract will govern the work. In the event the Authority determines not to invite competitive bids, nor to contract with a third party but to require the Operator to perform such work as special contractor, it may do so upon reasonable notice and upon the terms set forth in

Section 1.2.4 subject to the ability of the Operator to make available machinery, material and equipment necessary to do the work without interfering with Operator's own work projects.

1.2.4 Special Provisions Governing Special Contract Work. If and when the Operator performs work for the Authority as a special contractor with respect either to Rolling Stock or Rights-of-Way and Structures, Operator's total costs including overhead shall be divided among costs chargeable to the Service, costs chargeable to such special contract work, and costs chargeable to all of Operator's other activities in accordance with subsection 3.1(d) below and Appendix D referred to therein.

The Operator, when acting as such special contractor under any contract which is not the subject of competitive bidding, shall be entitled to charge an amount in addition to the direct costs and overhead costs attributable thereto which shall be a fixed amount, calculated as a percentage of the amount of estimated direct costs and relevant overhead not to exceed ten (10%) percent thereof.

The provisions of any such contract, if federal aid is involved, shall be subject to the approval of the federal agency through which such funds are obtained.

In a competitive bidding situation, where the Operator is the successful bidder, the labor protection provisions of Article 6 below shall not apply to any employee

of the Operator who is hired or called back to perform such special contract work, or to any employee whom he displaces, if such employee is laid off, or exercises seniority displacement rights which result in the payment of protective payments to him or to other employees of the Operator at the conclusion of such special contract work.

1.2.4 Consultations With Third Party Special Contractor. In the event the Authority contracts with a third party to perform extra maintenance, construction or special project work, which requires planning, supervision or consultation on the part of the Operator, the Operator will be compensated for its direct costs and overhead costs attributable thereto, plus a fixed amount, calculated as a percentage of the amount of Operator's estimated direct costs and relevant overhead not to exceed ten (10%) percent thereof.

1.3 Control of Work and Labor Relations. Nothing in this Agreement shall be construed as providing for, or permitting, any direct control by the Authority over the manner in which the Operator shall perform its duties, under this Agreement or otherwise, during the term of this Agreement. The Operator shall retain exclusively the rights inherent in the employment relationship between it as the employer and its employees, including but not limited to the right to "hire and fire", control the disposition of work forces, handle and settle grievances, claims and disputes,

and carry on all negotiations with its employees, whether with the individual employee or through his collective bargaining agent under a labor contract and in accordance with the federal Railway Labor Act, as amended.

Operator agrees, however, that it will use its best efforts to render the services provided for under this Agreement as efficiently as possible, from the standpoint of both operations and costs, and that it will use its best efforts to keep down the costs of any and all items of expense.

Each party shall maintain an effective liaison with the other by advising it promptly of any contemplated action which might affect employees of the Operator, in order to ensure efficient and effective handling by the Operator's labor relations department, to minimize potential claims and grievances and to ensure the continuance of sound relations between the Operator, its employees and the unions representing them. In the event that the Operator notifies the Authority that a proposed action by the Authority hereunder would result in a breach of any labor agreement now or hereafter binding upon the Operator, the parties shall resolve the problem according to the procedures set forth in Article 9 hereof.

In the event that, as the result of local negotiations, the provisions (except for wages and fringe benefits) of the existing Labor Agreements are changed or new agreements are reached, and such change or any new agreement imposes substantially more onerous

burdens upon the Authority than at present, the Authority shall have the right, to be exercised in writing within thirty (30) days after notification by the Operator of such change, to terminate said Operating Agreement and all terms and provisions then remaining to be performed thereunder including any further incentive payments but not including obligations for services theretofore performed or the obligations of the Authority to the Operator under Article 6 below. Such termination shall take effect forty-five (45) days after the exercise of such right.

2. TERM OF AGREEMENT. The term of this Agreement shall commence upon the date of the conveyance of the Real Estate (other than the said Reading Branch line which the Authority already owns) by the Operator to the Authority, and shall continue thereafter for a term of five years, unless amended or extended by written agreement of the parties, except that in the event the Authority's Advisory Board shall fail to approve the annual budgetary provision for the Service as required in paragraph 13.1 hereof, with the result that the Service is totally discontinued, this Agreement shall terminate. Upon such termination all obligations hereunder of both parties shall cease, except obligations for services theretofore performed, labor protection obligations as set forth in paragraph 6 hereof and liquidated damages, in lieu of incentive payments to be calculated as provided in paragraph 3.5 hereof for the remainder of said five year term.

3. CONSIDERATION FOR THE SERVICE AND MANNER OF PAYMENT. The Authority agrees to pay to the Operator, in consideration of the performance of the Service, all of the Direct Costs incurred by the Operator in the performance thereof plus a share of the Operator's Indirect Costs (including Joint Costs and Relevant Overhead) apportioned on a fair and equitable basis as set forth below.

3.1 Definitions. For the purposes of this Agreement:

(a) "Direct Costs" means any operational or capital expenditure incurred or accrued by the Operator during the term of this Agreement which is directly attributable to the Service, whether performed on or off the Real Estate. Within the category of Direct Costs there shall be included (but without hereby excluding any other costs which may properly be included in such category) all wages, pension costs, health and accident insurance costs, retirement and unemployment taxes, and all other direct and indirect compensation and labor costs incurred with respect to train and engine crews, maintenance employees, police, ticket sellers, accounting department employees, clerks, and other employees of the Operator whose time (or an identifiable portion of whose time) working for the Operator is attributable to the Service and the cost of all services, fuel, materials, supplies and stationery used in the Service. Where any employee, or equipment of the Operator is employed partly in work attributable to the Service and partly in

work not so attributable, only the part so attributable shall be treated as a Direct Cost.

(b) "Indirect Costs" means Joint Costs and Relevant Overhead as defined in (c) and (d) below.

(c) A "Joint Cost" means any cost incurred or accrued by the Operator during the term of this Agreement in the maintenance or operation of the Real Estate (other than rail lines or other facilities which are devoted exclusively to freight service) or the personal property being conveyed to the Buyer pursuant to said Purchase and Sale Agreement, and all other operating or capital expenditures attributable to the Service or the Real Estate, which are reasonably incapable of segregation as Direct Costs, and the benefit from which is received both by the Service and by the Operator's freight service.

(d) "Relevant Overhead" shall mean the Operator's general overhead costs of all of its departments (including the Executive Department) which have roles or duties relating to the provision of the Service or the performance of special contract work for the Authority. The following principles shall apply regarding such departmental overhead:

- (i) If the Authority assumes a fair share of the total cost of the Department, then none of the expenses of that department shall be treated as Direct Costs, unless otherwise mutually agreed

to by the parties. For example, if the Authority assumes a share of the total expenses of the Operator's Labor Relations and Personnel Department, none of the services rendered by that Department in connection with the Service or such special contract work shall be charged to the Authority as Direct Costs, but the Department shall render labor relations and personnel services, as required, for the Service and in connection with such special contract work.

- (ii) The Authority will have the option of reducing or eliminating its contribution to the cost of Relevant Overhead attributable to any department of the Operator and incurring instead Direct Costs measured by the time and expenses of the personnel and facilities of that department devoted to the Service or any such special contract work which would otherwise have been handled as Relevant Overhead expense.

(c) The foregoing definitions shall apply to all items of cost of significant amount unless in any instance the Operator and the Authority shall in writing agree to some different practice which achieves substantially the same results. Direct Cost items not significant in amount may be allocated by the Operator as indirect costs, by mutual agreement.

3.2 Allocation of Indirect Costs. All of the Operator's Indirect Costs shall be allocated among the Operator's various

operating and service departments and within said departments shall, where appropriate, be accumulated in logical cost groupings. The number and composition of these groupings will be governed by practical considerations of materiality and homogeneity and will not be such as to complicate unduly the fair allocation of expenses to and among the Service and the Operator's other activities. Where such fair allocation is achievable without such accumulation into groupings, other simpler methods may be used. Each such costs grouping will be partially allocated to the Service, as provided below, if and to the extent that it is partially necessitated by the Service or supports a portion of the Operator's overall capability that is necessary for the provision of the Service.

The portion of each indirect Cost grouping to be allocated to the Service will be in proportion to the beneficial and/or causal relationship between the grouping and the Service. To define this relationship, an allocation base will be assumed which, to the extent reasonably possible:

(a) reflects changes in productive activity (such as set forth in Appendix D) that cause cost changes within the grouping;

(b) is simple and easily understood; and

(c) is available from existing statistics, without additional reporting requirements.

The base period for allocating indirect costs may be

different among the several groupings, and the length of the period shall be chosen with due consideration for the balance between accounting precision and accounting cost and not be such as to complicate unduly the allocation where similar results are achievable using less precise methods.

For example, heat and utility costs at a given location might be allocated between the Service and Operator's other activities, on the basis of the square footage occupied by activities carried on as a part of the Service as opposed to the square footage occupied by such other activities, on a weekly, monthly or bi-monthly basis -- depending upon the quantity of heating fuel and utilities used and the stability of the operating conditions of the two classes of activities. In this example, heat and utility costs are the "cost grouping", square footage is the "allocation base" and the weekly, monthly, bi-monthly period decided upon will be the "base period".

Allocation of all maintenance costs of "Non-Line Areas and Facilities", "Perimeter Lines" and "Jointly Used Lines" (as those terms are defined in Article IV of the aforesaid Purchase and Sale Agreement) shall be made in a manner consistent with the provisions of said Article IV.

3.3 Prices and Rental Charges. When the Operator procures new materials or supplies for the Service or for special Authority contracts, such materials or supplies shall be charged to the Authority at Operator's actual cost. Such new materials or supplies shall be procured only upon the Authority's written authorization or under procedures agreed to in writing.

When track or signal materials (other than ties and ballast) are needed for maintenance or emergency repairs on lines or tracks maintained by the Authority (e.g., rail, spikes, tie plates, switch and crossing parts, switch machines, signal interlocking parts, etc.), such materials if suitable shall be furnished from the Operator's inventory of used materials, unless the Authority shall have such used materials available in its own inventory. Used materials from the Operator's inventory shall be charged to the Authority at the Operator's inventory value.

Salvaged materials removed from lines maintained by the Authority shall be repaired at the Authority's option and expense, and shall be placed in the Authority's inventory.

New materials taken out of the Operator's inventory for the Service on lines maintained by the Authority, or for special contracts, shall be charged to the Authority at the Operator's most recent purchase price.

The Authority agrees that during the term hereof as maintenance and improvements are performed, it will create its own inventory of used materials removed from the Real Estate and that it will reserve such used materials removed from the Real Estate for maintenance and improvement work to be done on the Real Estate and the Authority agrees that it will use materials from its own inventory of used materials before it requires the Operator to furnish used materials from the Operator's inventory.

If the Authority shall, in the future, furnish locomotives for use in the Service, the same costing principles for the furnishing of used or new parts for such locomotives, as described above for track or signal materials, shall apply.

Except as provided in the second paragraph of this Section 3.3 neither party shall use new material or supplies from the other's inventory without the owning party's consent.

When either party furnishes its own equipment for use by the other, including but not limited to trucks, automobiles, work equipment, but excluding all passenger equipment sold to the Authority as set forth in Exhibit B of the Purchase and Sale Agreement of even date herewith, rolling stock and miscellaneous power tools and equipment, the owning party will charge the other party a rental rate for the use of such equipment which fully compensates the owner for depreciation, taxes, interest at prevailing rates, repair and maintenance, fuel, lubricants, supplies and an allowance for the fair allocation of idle time.

For equipment listed in the latest edition of Rental Compilation--National Average Rental Rates and Model Reference

Data for Construction Equipment, as compiled by the Associated Equipment Distributors, the rental rate shown in the then current issue will be adopted as the furnishing party's rental rate and comparable rates will be charged for similar equipment.

When either party furnishes equipment not owned by it, but rented or leased from others, it will charge to the other party its full cost of supplying such equipment, including but not limited to a fair share of transportation expenses and lease for rental expense incurred for idle time.

3.4 Application of Principles. Interpretation and application of the above principles, as from time to time appropriate, shall initially be made by the Operator, subject to approval by the Authority. Appendix D attached hereto and hereby made a part hereof, sets forth the agreed interpretation of the above principles for purposes of rendering initial billings under this Agreement. To the extent formulae set forth in Appendix D shall at any time not be consistent with the above principles, or as the nature or extent of the Service varies, the formulae shall be amended to bring them into greater conformance with the principles above.

The parties recognize that the accounts of the Operator as presently maintained may not provide in every instance for cost allocation fully in conformance with the above principles. Neverthe-

less, all costs incurred by the Operator which in accordance with such principles should be charged to the Service, shall be so charged. Such charges shall be made as appropriate, regardless of whether they are treated in the Operator's accounts as operating expenses or capital costs. To the extent feasible, accounting methods of the Operator shall be changed as necessary to conform to said principles. Upon request by the Authority, the Operator will segregate from other costs of the Service, the costs related to repairs and maintenance projects and will bill separately therefor.

3.5 Incentive Payments. As an incentive to maintain and increase ridership, the Authority shall pay to the Operator incentive payments annually at the rate of ten cents per revenue passenger carried by the passenger trains and cars operated in the Service during the term hereof. In the event a rail line upon which passenger service is being provided under this Agreement is converted to a rapid transit line or otherwise taken out of commuter rail service, the number of revenue passengers carried on the line in the last calendar year prior to such conversion or discontinuance or the commencement of construction in connection therewith, whichever is the earlier, shall be determined and incentive payments with respect to that line shall be made hereunder with respect to the portion of the five year term of this Agreement after such last calendar year, on the basis of the number of passengers per annum

so determined, provided that in the event of termination of commuter rail service on the Lexington Branch, no such calculation or payment shall be made to compensate the Operator for incentive payments lost by reason of such termination.

3.6 Time of Payments. The Authority shall pay to the Operator weekly in advance, the amount that the Operator estimates will become due in payment to the Operator as compensation for its services in furnishing the Service and in payment for all Direct and Indirect Costs to be incurred in connection therewith during said week. Within thirty (30) days after the close of each month the Operator shall furnish to the Authority a statement in reasonable detail of the actual Direct and Indirect Costs incurred by the Operator in furnishing the Service during said month and the incentive payment earned with respect thereto, and the Authority shall pay to the Operator or the Operator shall refund or credit to the Authority, within twenty (20) days after the delivery of such statement, the amount necessary to adjust the said estimated prepayment to such actual amount. Within six (6) months following the close of each calendar year ending during the term hereof, and within six (6) months following the end of said term, the Operator shall furnish to the Authority a statement of such Direct and Indirect Costs incurred and the incentive payments earned by the Operator during

said year, which statement shall reflect all appropriate annual adjustments (for example, inventory adjustments made on the basis of a year-end inventory of materials charged to the Service, taken by the Operator) in accordance with procedures approved by the Operator's regularly employed independent certified public accountants. The Authority shall pay to the Operator or the Operator shall refund or credit to the Authority within thirty (30) days after the delivery of such annual statement the amount necessary to reflect the net effect of all such adjustments. The making of such payment or the granting of such credit shall not foreclose the making of any further payment or the reversal of any credit as a result of the procedures contemplated by the following paragraph.

The Authority and its accountants shall have the right to verify any of said monthly or annual statements by examination of the Operator's books of account at the offices of the Operator. If as a result of such verification the Authority shall question any of such monthly or annual statements rendered by the Operator and shall so notify the Operator in writing, which notice shall set forth the details of the questioned items, then within thirty (30) days after receipt from the Authority of such notification the Operator shall either accept the Authority's position as to the correct charges for the month or year in question or shall notify the Authority in writing that it continues to differ with the Autho-

ity as to the amount due and provide in such notification the details of the items as to which differences continue to exist. The items of difference continuing to exist between the parties shall forthwith be referred for resolution and decision to arbitration as provided in Section 9 below if referable to arbitration thereunder.

4. CHANGES IN THE SERVICE: PROTECTION OF OPERATOR'S FREIGHT SERVICE. During the term of this Agreement, the Authority shall have exclusive right from time to time, on reasonable notice to the Operator in each instance, to alter, amend or otherwise change, the Passenger Train Schedule (Appendix A), the Fares (Appendix B) or the Schedule of Equipment (Appendix C) at the expense of the Authority, and provided that the character or extent of the service to be rendered thereafter by the Operator under this Agreement shall not unreasonably interfere with the freight operations of the Operator.

5. ACCOUNTING RECORDS FOR SERVICE: AVAILABILITY TO AUTHORITY. During the term of this Agreement the Operator agrees to keep full and accurate accounting books and records of the items of revenue and expense of the Service substantially in the form maintained by the Operator on the date of this Agreement, or as the Operator may from time to time elect or as may be required to comply with the last two sentences of Section 3.4 above, but subject to change at the Authority's direction (and at the Authority's sole expense in each

such instance).

The Operator agrees to make any and all of said books and records available for inspection by the Authority at any reasonable time during regular business hours at Operator's place or places of business where such books and records are regularly kept, and to cause its officers or employees to cooperate fully with the Authority in explanation of any and all items therein. However, in order not to unduly burden the Operator, the Authority shall perform such audit procedures, and submit any claims, with respect to any matters occurring or items accruing during any calendar year ending during the term hereof, only within one (1) year after receipt of the Operator's annual statement with respect thereto, provided, that nothing herein shall bar any claim resulting from an audit of the Authority by or on behalf of any governmental authority other than the Authority or its Advisory Board.

6. LABOR PROTECTION. The Authority will indemnify and exonerate the Operator, to the extent provided hereinbelow, against the cost of (and be responsible for) obligations, liability, or claims due to provisions of Operator's labor agreements, including labor protective conditions of such agreements, or of labor protective conditions imposed by regulatory agencies or applicable laws. The obligation to indemnify and exonerate shall arise when employees or positions are adversely affected as a result of changes in the

passenger service (including termination thereof), passenger facilities, or both, or by reason of the future contracting out or other removal or termination of work previously, now, or hereafter performed by the Operator's employees to the extent that such change, termination or contracting out is the result of an action taken by, or with the consent of, the Authority.

It is understood and agreed that an action taken by the Authority may have effects remote from the initial position or positions affected by such action as a result of successive seniority displacements, and it is the intention of the parties that the indemnification and exoneration herein provided shall extend to such more remote effects.

If the initiating action affects a position or positions solely engaged in the Service, the Authority will pay all such costs. If the initiating action affects a position or positions engaged in both passenger service and freight service, the Authority will pay the cost to the extent that it is solely traceable to the action taken by, or with the consent of, the Authority.

In the event that in any instance the applicability of the immediately preceding sentence produces a result which is manifestly unfair to either party the sharing of such termination cost will be renegotiated in good faith so as to provide for an equitable allocation thereof.

It is further understood and agreed that the Operator shall use its best efforts to mitigate liability to such employees and that the Authority shall be permitted to participate, within reason, in such efforts.

The Authority will pay to the the Operator such funds as may be required to satisfy Authority's obligation to indemnify and exonerate the Operator hereunder concurrently with the delivery of evidence of payment by the Operator.

The Operator agrees to keep the Authority currently informed, to the extent that the Operator can reasonably do so, of all aspects of local and national labor negotiations which might reasonably be expected to expand or broaden the scope of the protective provisions (i.e., provisions relating to termination rights) of labor agreements. In the event that local or national labor agreements expand or broaden the scope of the protective provisions of such labor agreements (other than as a result of a bargained increase in wage rates) to an extent more onerous than such protective pro-

visions then imposed on the Authority by state or federal law, the Authority shall have the right, to be exercised in writing within 30 days after notification of such increase, to terminate this Agreement and all terms and provisions then remaining to be performed hereunder including further incentive payments, but not including obligations for services theretofore performed or the obligation of the Authority to the Operator under this Article 6 with respect to all employees of the Operator to the extent of the protective provisions in effect with respect to each of them, respectively, as of the time of such termination, which obligations shall survive such termination. Such termination shall take effect 45 days after the exercise of such right.

7. PASS PRIVILEGES. The parties agree that the Operator, insofar as it may be lawful, may continue its present pass privilege practices, and passes so issued may continue to be honored.

8. ANTI-DISCRIMINATION PROVISION. There shall be no discrimination against any employee or applicant for employment in carrying out the terms of this Agreement because of race, color, religion, age, sex or national origin. This provision shall include but not be limited to the following: employment, up-grading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

9. ARBITRATION.

9.1 Selection of Arbitrators. If at any time a contro-

versy shall arise which is referable to arbitration according to subsection 9.3 of this Article 9, the parties hereto agree to engage forthwith in good faith discussions attempting to resolve such controversy. If the parties so agree, they may involve a disinterested person experienced in railroad operations, or an accountant if appropriate, to render his objective advice and opinions, which shall be advisory only and not binding unless the parties agree in writing to be bound by his judgment in a particular instance. In the event such good faith discussions do not resolve such controversy within 30 calendar days, or such other time as the parties may agree in writing, the parties shall submit such difference or dispute to disinterested arbitrators, one of whom shall be appointed by the Operator and the other of whom shall be appointed by the Authority; and if the two arbitrators so chosen cannot agree, they shall select a third arbitrator, and their decision, or that of a majority of them, shall be final and conclusive between the parties hereto, except that if either party claims that the arbitrators' decision is based upon an error of law, it may within 30 days after receipt of such decision, institute an action at law to determine such legal issue. In any such action at law, the parties shall stipulate the facts to be as set forth by the arbitrators. In case either of the said parties shall fail or refuse to appoint an arbitrator as aforesaid for the period of 30 calendar days after written

notice given by the other party to make such appointment, then and in that event the arbitrator appointed by the party not in default shall appoint a like competent and disinterested arbitrator for the defaulting party, and the said two arbitrators, so appointed, shall select a third arbitrator, and the three so chosen shall hear and decide such difference or dispute, and their decision, or that of a majority of them, shall be final and conclusive upon the parties hereto, except as above provided with respect to an error of law. In the event that the said arbitrators shall be unable to agree upon a third arbitrator within thirty (30) days after the appointment of the second arbitrator, such third arbitrator shall be appointed, upon the application of either party hereto, upon reasonable notice to the other party, by a Judge of the Superior Court for the Commonwealth of Massachusetts. Any application to such Judge as aforesaid shall be made and heard in the manner provided by law for the making and hearing of motions in said Court. If said Court declines to make such appointment, it shall be made by the President of the Association of American Railroads. If any arbitrator shall decline or fail to act, the party or person by whom he was chosen or appointed, as the case may be, shall appoint another to act in his place.

9.2 Resolution. During the pendency of such arbitration proceedings, the business, operations to be conducted, and physical

plant to be used under this Agreement, to the extent that they are the subject of such controversy, shall continue to be transacted and used in the manner and form existing prior to the arising of such controversy, unless the arbitrators shall make a preliminary ruling to the contrary.

9.3 Matters Referable to Arbitration. All controversies as to the construction of terms of this Agreement and any practical questions growing out of the application of the same to circumstances, except for claims for monetary damages in excess of \$100,000, are referable to arbitration as provided in this Article 9.

9.4 Cost of Arbitration. Each party hereto shall bear the costs and expenses incurred by it in connection with such arbitration and both parties shall share equally the costs and expenses attributable to the services of the disinterested person or arbitrators.

10. INSURANCE. The parties agree to cooperate in a study to be conducted as soon as reasonably possible after the date of this agreement, employing such consultants as they may desire, to determine available insurance coverage against personal injury and property damage liability of the respective parties with a view to obtaining adequate and economical coverage and an equitable allocation of the cost thereof between the parties.

11. ACCIDENT RESPONSIBILITY. The Authority agrees to indemnify and hold the Operator harmless from any losses not fully insured against, arising from injury (including death) to persons or damage to property which shall arise out of or be in any way connected with the Service, and from any such losses which remain unsettled as of the date hereof and which occurred during the term of the Agreement between Boston and Maine Corporation and the Massachusetts Bay Transportation Authority, dated December 14, 1964, as amended and extended. The Authority reserves its rights to dispute any unsettled claims. Payments due from the Authority to the Operator in accordance with this indemnification provision may be included in any of the statements of costs referred to in Section 3 hereof or otherwise presented to the Authority for payment, and shall thereupon be promptly paid by the Authority. It is understood that the Operator may employ outside counsel and expert witnesses for the purpose of defending any claims that may be brought against it and the indemnity set forth herein is intended to cover such cost and all other costs involved in the trial or settlement of such claims. The provisions of this paragraph shall survive the term of this Agreement with respect to all causes of action which arise prior to the termination of this Agreement.

It is agreed that the primary responsibility for the investigation and disposition of all claims against the Operator for personal

injuries (including death) and property damage arising out of accidents occurring during the term of this Agreement and arising out of or in any way connected with the operation of the Service hereunder remains with the Operator. However, the Authority shall, upon written request made to the Operator, be permitted to assist in the investigation and join in the defense of any court litigation concerning such claims.

It is further agreed that the Operator, as soon as practicable after receipt of a claim arising out of or in any way connected with the Service, will notify the Authority in writing of receipt of such claim.

If the Authority desires the Operator to bring any legal action in the name of or on behalf of the Authority, the Authority hereby agrees that it will reimburse the Operator for all costs and expenses that the Operator incurs, including but not limited to costs of counsel and expert witnesses.

Notwithstanding anything to the contrary contained in this Article 11, the Authority shall not be required to indemnify the Operator or hold it harmless from or against any losses not fully insured arising out of any act or omission occurring during the term of this Agreement for which the Operator in its capacity as the Operator of its freight service or as a special contractor (see section 1.2.3 above), is legally responsible and for which neither the Authority nor the Operator qua Operator of the Service is legally responsible.

In the event of any derailment or other accident occurring upon the Real Estate wherein cars, motive power or other equipment or either party shall fall or encroach upon tracks, bridges or other property being used by or for the account of the other party so that said property is blocked or normal operation thereover is

impeded, the party whose property has so fallen or encroached shall expeditiously remove the same, or cause it to be removed, and cause all necessary repairs to be made and all tracks and appurtenances restored, at its expense, as may be required for the continued operation of the other party's railroad activities.

Both parties will cooperate with each other to expedite the repair and removal of such cars, motive power and other equipment and will make all reasonable efforts to restore the affected line or facility to service.

12. NOTICES. Any notice or other communication required or permitted to be given hereunder shall be deemed duly given when mailed by registered or certified mail addressed, in the case of notice to the Authority, to it at 45 High Street, Boston, Massachusetts 02110, Attention of the Chairman of the Board of Directors, and in the case of notice to the Operator, to it at 150 Causeway Street, Boston, Massachusetts 02114, Attention of the President, or in the case of either party, to such other address as it shall have established as its address for receiving notices hereunder by a notice given in the manner above set forth.

13. APPROVALS AND CONDITIONS

13.1 This Agreement is subject, on the part of the Authority, to subsequent approval by the Authority's Board of Directors, by the Authority's Advisory Board and by the Executive Department of Transportation and Construction of the Commonwealth of Massachusetts, and to such other approvals as may be required by law. It is further subject to the consummation of the aforesaid Purchase and Sale Agreement, and to the annual approval by the Authority's Advisory Board of the Authority's budgetary provision for the Service.

13.2 On the part of the Operator, this Agreement is subject to subsequent approval of the Interstate Commerce Commission and of the United States District Court for the District of Massachusetts, and the consummation of the aforesaid Purchase and Sale Agreement.

14. SUCCESSORS AND ASSIGNS. The Authority hereby agrees that neither Robert W. Meserve nor Benjamin H. Lacy, nor any of their successors as Trustees of the Property of Boston and Maine Corporation in the Proceedings for the Reorganization of a Railroad referred to above, shall be personally liable for the performance or non-performance of any of the Operator's obligations hereunder and that upon the transfer of the freight business of the Operator over all or substantially all of the rail lines then being used in the Service to the Reorganized Debtor, or any other party, pursuant to a plan of reorganization confirmed in said proceedings, or otherwise transferred, the Authority and its successors and assigns will thereafter look solely to such transferee and its successors and assigns as the operator of such freight business for the performance of all of the Operator's obligations hereunder.

Upon the said transfer of said freight business, whether to a successor Trustee or Trustees, to the Reorganized Debtor, or, with the assent of the Authority, to any other party or parties, this Agreement will inure to the benefit of any and all such transferees, whether direct or remote, and their respective successors and assigns, subject, in each instance, to the assumption by the transferee of all obligations of the Operator hereunder.

15. DEFAULT. Either party may terminate this Agreement at any time during the term thereof upon material breach by the other

of any of its obligations hereunder (including, in the case of the Operator's obligations, any and all substantial variances from the schedules set forth in Appendix A, as the same may be amended from time to time, except variances caused by fires, storm conditions, floods, hurricanes, strikes, slow-downs, acts of God or failures or conditions beyond the Operator's reasonable control). Whenever in this Agreement either party is required to perform, fulfill or observe any agreement set forth herein, delays caused by or resulting from fires, storm conditions, floods, hurricanes, strikes, slow-downs, acts of God or failures or conditions beyond such party's reasonable control shall not be counted in determining the time when such performance, fulfillment or observance must be completed and no such delay shall be deemed to constitute a breach of any such agreement hereunder.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals by their duly authorized representatives on the day and year first above mentioned.

ROBERT W. MESERVE and
BENJAMIN H. LACY, as Trustees
of the Property of BOSTON AND
MAINE CORPORATION, Debtor

Robert W. Meserve
Robert W. Meserve, as Trustee
and not individually

Benjamin H. Lacy
Benjamin H. Lacy, as Trustee
and not individually

MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY

Robert R. Kiley, Chairman

Approved as to form.
General Counsel, MBTA

Joseph B. Decker
J.B.D. JDC

APPENDIX A

BOSTON AND MAINE CORPORATION

PASSENGER TRAIN SCHEDULES

BOSTON - WOBURN - LOWELL -----	PAGES	1-2
BOSTON - IPSWICH - ROCKPORT-----	PAGES	3-4
BOSTON - SO. ACTON -----	PAGES	5-6
BOSTON - READING -----	PAGE	7
BOSTON - BEDFORD -----	PAGE	8
BOSTON - HAVERHILL-----	PAGE	8
BOSTON - NEWBURYPORT-----	PAGE	8

REFERENCES

HOLIDAYS: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. Regular Monday-Friday service will be operated on Patriots' Day, and Bunker Hill Day.

* Change to connecting train required; consult conductor.
 * Stop to discharge passengers.
 / Stop on signal to discharge or receive passengers.
 * Stop to receive passengers.
 Light Face A.M. Bold Face P.M.

Boston-Winchester-Woburn-Lowell

Monday Thru Friday—Except Holidays

TRAIN NO.	ARRIVE:					LEAVE:					TRAIN NO.
	Lowell	Woburn	Winchester	Worcester	Boston	Lowell	Woburn	Winchester	Worcester	Boston	
901	6:55	7:00	7:05	7:10	7:15	6:55	7:00	7:05	7:10	7:15	900
902	7:10	7:15	7:20	7:25	7:30	7:10	7:15	7:20	7:25	7:30	901
903	7:25	7:30	7:35	7:40	7:45	7:25	7:30	7:35	7:40	7:45	902
904	7:40	7:45	7:50	7:55	8:00	7:40	7:45	7:50	7:55	8:00	903
905	7:55	8:00	8:05	8:10	8:15	7:55	8:00	8:05	8:10	8:15	904
906	8:10	8:15	8:20	8:25	8:30	8:10	8:15	8:20	8:25	8:30	905
907	8:25	8:30	8:35	8:40	8:45	8:25	8:30	8:35	8:40	8:45	906
908	8:40	8:45	8:50	8:55	9:00	8:40	8:45	8:50	8:55	9:00	907
909	8:55	9:00	9:05	9:10	9:15	8:55	9:00	9:05	9:10	9:15	908
910	9:10	9:15	9:20	9:25	9:30	9:10	9:15	9:20	9:25	9:30	909
911	9:25	9:30	9:35	9:40	9:45	9:25	9:30	9:35	9:40	9:45	910
912	9:40	9:45	9:50	9:55	10:00	9:40	9:45	9:50	9:55	10:00	911
913	9:55	10:00	10:05	10:10	10:15	9:55	10:00	10:05	10:10	10:15	912
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989	4:55	5:00	5:05	5:10	5:15	4:55	5:00	5:05	5:10	5:15	988
990	5:10	5:15	5:20	5:25	5:30	5:10	5:15	5:20	5:25	5:30	989
991	5:25	5:30	5:35	5:40	5:45	5:25	5:30	5:35	5:40	5:45	990
992	5:40	5:45	5:50	5:55	6:00	5:40	5:45	5:50	5:55	6:00	991
993	5:55	6:00	6:05	6:10	6:15	5:55	6:00	6:05	6:10	6:15	992
994	6:10	6:15	6:20	6:25	6:30	6:10	6:15	6:20	6:25	6:30	993
995	6:25	6:30	6:35	6:40	6:45	6:25	6:30	6:35	6:40	6:45	994
996	6:40	6:45	6:50	6:55	7:00	6:40	6:45	6:50	6:55	7:00	995
997	6:55	7:00	7:05	7:10	7:15	6:55	7:00	7:05	7:10	7:15	996
998	7:10	7:15	7:20	7:25	7:30	7:10	7:15	7:20	7:25	7:30	997
999	7:25	7:30	7:35	7:40	7:45	7:25	7:30	7:35	7:40	7:45	998
1000	7:40	7:45	7:50	7:55	8:00	7:40	7:45	7:50	7:55	8:00	999

4:55 P.M. Train stops at West Medford at 4:45 P.M.
 5:10 P.M. Train stops at West Medford at 5:00 P.M.
 5:30 P.M. Train stops at West Medford at 5:20 P.M.
 5:50 P.M. Train stops at Winchester Highlands at 5:40 P.M.
 6:10 P.M. Train stops at Winchester Highlands at 6:00 P.M.

Train Leaves West Medford 7:15 A.M. Arrives Boston 7:31 A.M.
 Train Leaves West Medford 8:15 A.M. Arrives Boston 8:30 A.M.
 Train Leaves West Medford 9:15 A.M. Arrives Boston 9:34 A.M.
 Train Leaves Winchester Highlands 7:30 A.M. Arrives Boston 7:48 A.M.

Saturdays Only

TRAIN NO.	ARRIVE:						LEAVE:						TRAIN NO.
	Lowell	Wedge	Win-	Cross	Wa-	North	Lowell	North	Wili-	Wa-	Cross	Win-	
	Station	more	chester	Street	burn	minge	Lowell	Lowell	ton	burn	Street	chester	Station
1301	8 00	8 15	8 18	8 41	8 45	8 57	8 50	7 00	7 07	7 15	7 45	7 57	1300
1303	8 20	8 35	8 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1302
1305	8 30	8 45	8 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1304
1307	8 40	8 55	8 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1306
1309	8 50	9 05	9 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1308
1311	9 00	9 15	9 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1310
1313	9 10	9 25	9 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1312
1315	9 20	9 35	9 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1314
1317	9 30	9 45	9 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1316
1319	9 40	9 55	9 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1318
1321	9 50	10 05	10 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1320
1323	10 00	10 15	10 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1322
1325	10 10	10 25	10 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1324
1327	10 20	10 35	10 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1326
1329	10 30	10 45	10 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1328
1331	10 40	10 55	10 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1330
1333	10 50	11 05	11 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1332
1335	11 00	11 15	11 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1334
1337	11 10	11 25	11 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1336
1339	11 20	11 35	11 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1338
1341	11 30	11 45	11 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1340
1343	11 40	11 55	11 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1342
1345	11 50	12 05	12 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1344
1347	12 00	12 15	12 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1346
1349	12 10	12 25	12 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1348
1351	12 20	12 35	12 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1350
1353	12 30	12 45	12 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1352
1355	12 40	12 55	12 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1354
1357	12 50	1 00	1 03	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1356
1359	1 00	1 15	1 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1358
1361	1 10	1 25	1 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1360
1363	1 20	1 35	1 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1362
1365	1 30	1 45	1 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1364
1367	1 40	1 55	1 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1366
1369	1 50	2 05	2 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1368
1371	2 00	2 15	2 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1370
1373	2 10	2 25	2 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1372
1375	2 20	2 35	2 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1374
1377	2 30	2 45	2 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1376
1379	2 40	2 55	2 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1378
1381	2 50	3 05	3 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1380
1383	3 00	3 15	3 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1382
1385	3 10	3 25	3 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1384
1387	3 20	3 35	3 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1386
1389	3 30	3 45	3 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1388
1391	3 40	3 55	3 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1390
1393	3 50	4 05	4 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1392
1395	4 00	4 15	4 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1394
1397	4 10	4 25	4 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1396
1399	4 20	4 35	4 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1398
1401	4 30	4 45	4 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1400
1403	4 40	4 55	4 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1402
1405	4 50	5 05	5 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1404
1407	5 00	5 15	5 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1406
1409	5 10	5 25	5 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1408
1411	5 20	5 35	5 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1410
1413	5 30	5 45	5 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1412
1415	5 40	5 55	5 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1414
1417	5 50	6 05	6 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1416
1419	6 00	6 15	6 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1418
1421	6 10	6 25	6 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1420
1423	6 20	6 35	6 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1422
1425	6 30	6 45	6 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1424
1427	6 40	6 55	6 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1426
1429	6 50	7 05	7 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1428
1431	7 00	7 15	7 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1430
1433	7 10	7 25	7 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1432
1435	7 20	7 35	7 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1434
1437	7 30	7 45	7 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1436
1439	7 40	7 55	7 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1438
1441	7 50	8 05	8 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1440
1443	8 00	8 15	8 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1442
1445	8 10	8 25	8 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1444
1447	8 20	8 35	8 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1446
1449	8 30	8 45	8 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1448
1451	8 40	8 55	8 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1450
1453	8 50	9 05	9 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1452
1455	9 00	9 15	9 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1454
1457	9 10	9 25	9 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1456
1459	9 20	9 35	9 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1458
1461	9 30	9 45	9 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1460
1463	9 40	9 55	9 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1462
1465	9 50	10 05	10 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1464
1467	10 00	10 15	10 18	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1466
1469	10 10	10 25	10 28	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1468
1471	10 20	10 35	10 38	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1470
1473	10 30	10 45	10 48	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1472
1475	10 40	10 55	10 58	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1474
1477	10 50	11 05	11 08	8 41	8 45	8 57	8 50	8 00	8 07	8 15	7 45	7 57	1476
1479	11 00	11 15	11 18	8 41	8 45	8							

Boston Lynn Swampscott Salem Beverly
Hamilton-Wenham Ipswich Manchester Gloucester Rockport

Monday Thru Friday — Except Holidays

TRAIN NO.	ARRIVE:											
	Leave Boston	Lynn	Swampscott	Salem	Beverly	North Andover	Hamilton-Wenham	Ipswich	Manchester	Prides	Beverly Farms	Mass Gloucester
293	6 40							7 35				
293	7 05	7 37	7 50	7 59	7 44							
295	7 49				8 30		8 39	8 51				
297	8 35	8 48	8 51	9 00	9 08				9 00	9 18	9 17	9 39
311	9 45	10 08	10 11	10 20	10 29				10 25	10 37	10 42	10 59
213	10 45	11 08	11 11	11 20	11 29	11 31	11 35	11 47	11 32	11 38	11 40	11 45
213	11 45	12 08	12 11	12 20	12 29				12 29	12 35	12 37	12 42
217	12 45	1 08	1 11	1 20	1 29	1 31	1 35	1 47				
217	1 45	2 08	2 11	2 20	2 29				2 29	2 35	2 37	2 42
221	2 45	3 14	3 17	3 26	3 35				3 35	3 44	3 46	3 51
227	3 45	4 08	4 11	4 20	4 29				4 48	4 54	4 56	5 01
227	4 18				4 48							
227	4 29	4 43	4 46	4 55	5 01	5 06	5 10	5 22				
223	4 40	5 03	5 06	5 15								
223	4 55			5 25	5 30				5 33	5 39	5 41	5 46
237	5 05	5 28	5 31	5 40	5 46	5 51	5 55	6 07				
237	5 15	5 38	5 41	5 50	5 56				5 59	6 05	6 07	6 12
241	5 32	5 55	5 58	6 07	6 13	6 18	6 22	6 34				
241	6 09	6 23	6 26	6 35	6 41				6 44	6 50	6 52	6 57
241	6 32	6 55	6 58	7 07	7 13	7 18	7 22	7 34				
247	7 09	7 23	7 26	7 35	7 41				7 44	7 50	7 52	7 57
247	7 39	7 53	7 56	8 05	8 11	8 16	8 20	8 32				
251	8 09	8 23	8 26	8 35	8 41				8 44	8 50	8 52	8 57
251	8 39	8 53	8 56	9 05	9 11	9 16	9 20	9 32				
257	10 09	10 23	10 26	10 35	10 41	10 46	10 50	11 02				
257	11 09	11 23	11 26	11 35	11 41				11 44	11 50	11 52	11 57
263	12 10	12 23	12 26	12 35	12 41	12 46	12 50	13 02				

Saturdays Only

1501	7 25	7 48	7 51	8 00	8 06				8 00	8 15	8 17	8 22
1503	8 25	8 48	8 51	9 00	9 06				9 15	9 30	9 32	9 37
1505	9 25	9 48	9 51	10 00	10 06				10 15	10 30	10 32	10 37
1507	10 25	10 48	10 51	11 00	11 06				11 15	11 30	11 32	11 37
1509	12 25	12 48	12 51	1 00	1 06				1 15	1 30	1 32	1 37
1211	1 25	1 48	1 51	2 00	2 06	2 11	2 15	2 27				
1213	2 25	2 48	2 51	3 00	3 06	3 11	3 15	3 27				
1215	3 25	3 48	3 51	4 00	4 06	4 11	4 15	4 27				
1217	4 25	4 48	4 51	5 00	5 06	5 11	5 15	5 27				
1219	5 25	5 48	5 51	6 00	6 06	6 11	6 15	6 27				
1221	6 25	6 48	6 51	7 00	7 06	7 11	7 15	7 27				
1223	7 25	7 48	7 51	8 00	8 06	8 11	8 15	8 27				
1225	8 25	8 48	8 51	9 00	9 06	9 11	9 15	9 27				
1227	9 25	9 48	9 51	10 00	10 06	10 11	10 15	10 27				
1229	10 25	10 48	10 51	11 00	11 06	11 11	11 15	11 27				
1231	12 25	12 48	12 51	1 00	1 06	1 11	1 15	1 27				
1247	12 10	12 23	12 26	12 35	12 41	12 46	12 50	13 02				

Sundays and Holidays Only

1549	9 00	9 23	9 26	9 35	9 41				9 44	9 50	9 52	9 57
1551	10 00	10 23	10 26	10 35	10 41				10 44	10 50	10 52	10 57
1553	1 00	1 23	1 26	1 35	1 41				1 44	1 50	1 52	1 57
1555	2 00	2 23	2 26	2 35	2 41				2 44	2 50	2 52	2 57
1557	3 19	3 32	3 35	3 44	3 50				3 54	4 00	4 02	4 07
2211	4 20	4 43	4 46	4 55	5 01				5 10	5 25	5 27	5 32
2213	5 20	5 43	5 46	5 55	6 01				6 10	6 25	6 27	6 32
2215	6 20	6 43	6 46	6 55	7 01				7 10	7 25	7 27	7 32
2217	7 20	7 43	7 46	7 55	8 01				8 10	8 25	8 27	8 32
2219	8 20	8 43	8 46	8 55	9 01				9 10	9 25	9 27	9 32
2221	9 20	9 43	9 46	9 55	10 01				10 10	10 25	10 27	10 32
2223	10 20	10 43	10 46	10 55	11 01				11 10	11 25	11 27	11 32
263	12 10	12 23	12 26	12 35	12 41	12 46	12 50	13 02				

Monday Thru Friday - Except Holidays

LEAVE:	West	Man-	Sev-	Mont-	Ham-	North	Dev-	Ham-	Swain-	Lynn	Arrive	TRAIN
Rock-	Glouc-	chester	erly	terrat	ilton-	Nov-	erly	Wen-	scott	Boston	No.	
8 11	8 31	7 59	8 38	8 48	8 51	8 18	8 30	8 34	8 39	8 44	8 47	180
8 11	8 36	8 34	8 43	8 48	8 50	8 58	8 10	8 14	8 14	8 19	8 24	182
8 50	7 00	7 14	7 33	7 28	7 30	7 40	7 52	7 56	7 59	8 04	8 07	184
7 39	7 39	7 47	7 56	8 01	8 08	8 00	7 40	7 52	7 56	8 01	8 07	186
8 30	8 38	8 44	8 55	8 56	9 00	9 01	8 51	10 01	10 06	10 11	10 16	188
10 34	10 33	10 33	10 33	10 33	10 33	10 33	10 33	10 33	10 33	10 33	10 33	190
10 39	10 38	10 38	10 38	10 38	10 38	10 38	10 38	10 38	10 38	10 38	10 38	192
12 29	12 38	12 33	12 33	12 33	12 33	12 33	12 33	12 33	12 33	12 33	12 33	194
11 34	11 33	11 33	11 33	11 33	11 33	11 33	11 33	11 33	11 33	11 33	11 33	196
2 29	2 28	2 28	2 28	2 28	2 28	2 28	2 28	2 28	2 28	2 28	2 28	198
4 48	4 48	4 48	4 48	4 48	4 48	4 48	4 48	4 48	4 48	4 48	4 48	200
6 46	6 46	6 46	6 46	6 46	6 46	6 46	6 46	6 46	6 46	6 46	6 46	202
8 46	8 46	8 46	8 46	8 46	8 46	8 46	8 46	8 46	8 46	8 46	8 46	204
10 32	10 43	10 39	11 04	11 04	11 12	9 18	9 27	9 31	11 18	11 21	11 24	206

Saturdays Only

8 37	8 07	8 34	7 59	7 51	7 57	7 11	7 28	7 27	8 40	8 45	8 55	7 00	1800
7 19	7 39	7 46	7 51	7 53	7 56	8 47	8 59	9 08	8 02	8 08	8 17	8 30	1802
8 55	9 05	9 39	7 57	7 59	7 55	9 08	9 14	9 23	9 08	9 14	9 23	9 30	1804
10 38	10 38	10 38	10 38	10 38	10 38	11 47	11 50	12 00	10 08	10 14	10 23	10 28	1806
12 28	12 28	12 28	12 28	12 28	12 28	1 47	1 50	2 00	12 08	12 14	12 23	12 28	1808
2 28	2 28	2 28	2 28	2 28	2 28	3 47	3 50	4 00	2 08	2 14	2 23	2 28	1810
4 04	4 14	4 31	4 36	4 38	4 44	5 43	5 54	6 04	4 47	4 53	5 02	5 08	1812
6 34	6 44	7 01	7 06	7 08	7 14	8 43	8 54	9 04	6 03	6 09	6 18	6 24	1814
10 06	10 16	10 28	10 38	10 40	10 46	9 43	9 54	10 04	9 13	9 19	9 28	9 34	1816

Sundays and Holidays Only

8 30	8 30	8 58	7 58	7 50	7 50	8 00	8 15	8 24	9 00	9 15	9 24	9 30	1800
11 30	11 40	11 57	12 03	12 04	12 10	12 52	1 04	1 13	12 13	12 19	12 28	12 34	1802
1 30	1 40	1 57	2 03	2 04	2 10	2 52	3 04	3 13	2 13	2 19	2 28	2 34	1804
4 00	4 10	4 27	4 32	4 34	4 40	5 42	5 54	6 04	3 13	3 19	3 28	3 34	1806
6 30	6 40	6 57	7 02	7 04	7 10	8 12	8 24	8 34	6 13	6 19	6 28	6 34	1808
8 00	8 10	8 27	8 32	8 34	8 40	9 42	9 54	10 04	8 13	8 19	8 28	8 34	1810
9 10	9 20	9 37	9 42	9 44	9 50	10 52	11 04	11 14	9 53	9 59	10 08	10 14	1812

Boston—Waltham—Concord—West Concord

SO. ACTON

Monday Thru Friday — Except Holidays

ARRIVE													
TRAIN NO.	Leave Boston	Leave Cambridge	Belmont	Waverley	Waltham	Riverside	Kennel Green	Hastings	Milver Hill	Lynn	Concord	West Concord	South Acton
643	6 41	.....	.....	.....	6 01	.....	.....	.....	.....	.....	6 10	.....	6 27
645	6 50	.....	.....	.....	6 10	.....	.....	.....	.....	.....	6 19	.....	6 36
647	7 00	6 59	7 13	7 15	7 20	7 23	7 27	.....	.....	7 30	7 44	7 49	7 57
649	7 10	7 09	.....	.....	7 30	7 33	7 37	.....	.....	7 40	7 54	7 59	8 07
651	7 20	7 19	.....	.....	7 40	7 43	7 47	.....	.....	7 50	8 04	8 09	8 17
653	7 30	7 29	.....	.....	7 50	7 53	7 57	.....	.....	8 00	8 14	8 19	8 27
655	7 40	7 39	.....	.....	8 00	8 03	8 07	.....	.....	8 10	8 24	8 29	8 37
657	7 50	7 49	.....	.....	8 10	8 13	8 17	.....	.....	8 20	8 34	8 39	8 47
659	8 00	7 59	.....	.....	8 20	8 23	8 27	.....	.....	8 30	8 44	8 49	8 57
661	8 10	8 09	.....	.....	8 30	8 33	8 37	.....	.....	8 40	8 54	8 59	9 07
663	8 20	8 19	.....	.....	8 40	8 43	8 47	.....	.....	8 50	9 04	9 09	9 17
665	8 30	8 29	.....	.....	8 50	8 53	8 57	.....	.....	9 00	9 14	9 19	9 27
667	8 40	8 39	.....	.....	9 00	9 03	9 07	.....	.....	9 10	9 24	9 29	9 37
669	8 50	8 49	.....	.....	9 10	9 13	9 17	.....	.....	9 20	9 34	9 39	9 47
671	9 00	8 59	.....	.....	9 20	9 23	9 27	.....	.....	9 30	9 44	9 49	9 57
673	9 10	9 09	.....	.....	9 30	9 33	9 37	.....	.....	9 40	9 54	9 59	10 07
675	9 20	9 19	.....	.....	9 40	9 43	9 47	.....	.....	9 50	10 04	10 09	10 17
677	9 30	9 29	.....	.....	9 50	9 53	9 57	.....	.....	10 00	10 14	10 19	10 27
679	9 40	9 39	.....	.....	10 00	10 03	10 07	.....	.....	10 10	10 24	10 29	10 37
681	9 50	9 49	.....	.....	10 10	10 13	10 17	.....	.....	10 20	10 34	10 39	10 47
683	10 00	9 59	.....	.....	10 20	10 23	10 27	.....	.....	10 30	10 44	10 49	10 57
685	10 10	10 09	.....	.....	10 30	10 33	10 37	.....	.....	10 40	10 54	10 59	11 07
687	10 20	10 19	.....	.....	10 40	10 43	10 47	.....	.....	10 50	11 04	11 09	11 17
689	10 30	10 29	.....	.....	10 50	10 53	10 57	.....	.....	11 00	11 14	11 19	11 27
691	10 40	10 39	.....	.....	11 00	11 03	11 07	.....	.....	11 10	11 24	11 29	11 37
693	10 50	10 49	.....	.....	11 10	11 13	11 17	.....	.....	11 20	11 34	11 39	11 47
695	11 00	10 59	.....	.....	11 20	11 23	11 27	.....	.....	11 30	11 44	11 49	11 57
697	11 10	11 09	.....	.....	11 30	11 33	11 37	.....	.....	11 40	11 54	11 59	12 07
699	11 20	11 19	.....	.....	11 40	11 43	11 47	.....	.....	11 50	12 04	12 09	12 17
701	11 30	11 29	.....	.....	11 50	11 53	11 57	.....	.....	12 00	12 14	12 19	12 27
703	11 40	11 39	.....	.....	12 00	12 03	12 07	.....	.....	12 10	12 24	12 29	12 37
705	11 50	11 49	.....	.....	12 10	12 13	12 17	.....	.....	12 20	12 34	12 39	12 47
707	12 00	11 59	.....	.....	12 20	12 23	12 27	.....	.....	12 30	12 44	12 49	12 57
709	12 10	12 09	.....	.....	12 30	12 33	12 37	.....	.....	12 40	12 54	12 59	1 07

LEAVE													
TRAIN NO.	West Concord	Concord	Lynn	Milver Hill	Hastings	Kennel Green	Riverside	Waltham	Waverley	Belmont	Arrive Cambridge	Arrive Boston	TRAIN NO.
682	6 04	6 09	6 13	6 19	.....	6 20	6 29	6 33	7 07	7 39	6 45	6 55	682
684	6 14	6 19	6 23	6 29	6 37	6 46	6 55	7 00	7 10	7 12	6 55	7 05	684
686	6 24	6 29	6 33	6 39	6 47	6 56	7 05	7 10	7 20	7 22	7 05	7 15	686
688	6 34	6 39	6 43	6 49	6 57	7 06	7 15	7 20	7 30	7 32	7 15	7 25	688
690	6 44	6 49	6 53	6 59	7 07	7 16	7 25	7 30	7 40	7 42	7 25	7 35	690
692	6 54	6 59	7 03	7 09	7 17	7 26	7 35	7 40	7 50	7 52	7 35	7 45	692
694	7 04	7 09	7 13	7 19	7 27	7 36	7 45	7 50	8 00	8 02	7 45	7 55	694
696	7 14	7 19	7 23	7 29	7 37	7 46	7 55	8 00	8 10	8 12	7 55	8 05	696
698	7 24	7 29	7 33	7 39	7 47	7 56	8 05	8 10	8 20	8 22	8 05	8 15	698
700	7 34	7 39	7 43	7 49	7 57	8 06	8 15	8 20	8 30	8 32	8 15	8 25	700
702	7 44	7 49	7 53	7 59	8 07	8 16	8 25	8 30	8 40	8 42	8 25	8 35	702
704	7 54	7 59	8 03	8 09	8 17	8 26	8 35	8 40	8 50	8 52	8 35	8 45	704
706	8 04	8 09	8 13	8 19	8 27	8 36	8 45	8 50	9 00	9 02	8 45	8 55	706
708	8 14	8 19	8 23	8 29	8 37	8 46	8 55	9 00	9 10	9 12	8 55	9 05	708
710	8 24	8 29	8 33	8 39	8 47	8 56	9 05	9 10	9 20	9 22	9 05	9 15	710
712	8 34	8 39	8 43	8 49	8 57	9 06	9 15	9 20	9 30	9 32	9 15	9 25	712
714	8 44	8 49	8 53	8 59	9 07	9 16	9 25	9 30	9 40	9 42	9 25	9 35	714
716	8 54	8 59	9 03	9 09	9 17	9 26	9 35	9 40	9 50	9 52	9 35	9 45	716
718	9 04	9 09	9 13	9 19	9 27	9 36	9 45	9 50	10 00	10 02	9 45	9 55	718
720	9 14	9 19	9 23	9 29	9 37	9 46	9 55	10 00	10 10	10 12	9 55	10 05	720
722	9 24	9 29	9 33	9 39	9 47	9 56	10 05	10 10	10 20	10 22	10 05	10 15	722
724	9 34	9 39	9 43	9 49	9 57	10 06	10 15	10 20	10 30	10 32	10 15	10 25	724
726	9 44	9 49	9 53	9 59	10 07	10 16	10 25	10 30	10 40	10 42	10 25	10 35	726
728	9 54	9 59	10 03	10 09	10 17	10 26	10 35	10 40	10 50	10 52	10 35	10 45	728
730	10 04	10 09	10 13	10 19	10 27	10 36	10 45	10 50	11 00	11 02	10 45	10 55	730
732	10 14	10 19	10 23	10 29	10 37	10 46	10 55	11 00	11 10	11 12	10 55	11 05	732
734	10 24	10 29	10 33	10 39	10 47	10 56	11 05	11 10	11 20	11 22	11 05	11 15	734
736	10 34	10 39	10 43	10 49	10 57	11 06	11 15	11 20	11 30	11 32	11 15	11 25	736
738	10 44	10 49	10 53	10 59	11 07	11 16	11 25	11 30	11 40	11 42	11 25	11 35	738
740	10 54	10 59	11 03	11 09	11 17	11 26	11 35	11 40	11 50	11 52	11 35	11 45	740
742	11 04	11 09	11 13	11 19	11 27	11 36	11 45	11 50	12 00	12 02	11 45	11 55	742
744	11 14	11 19	11 23	11 29	11 37	11 46	11 55	12 00	12 10	12 12	11 55	12 05	744
746	11 24	11 29	11 33	11 39	11 47	11 56	12 05	12 10	12 20	12 22	12 05	12 15	746
748	11 34	11 39	11 43	11 49	11 57	12 06	12 15	12 20	12 30	12 32	12 15	12 25	748
750	11 44	11 49	11 53	11 59	12 07	12 16	12 25	12 30	12 40	12 42	12 25	12 35	750
752	11 54	11 59	12 03	12 09	12 17	12 26	12 35	12 40	12 50	12 52	12 35	12 45	752
754	12 04	12 09	12 13	12 19	12 27	12 36	12 45	12 50	1 00	1 02	12 45	12 55	754
756	12 14	12 19	12 23	12 29	12 37	12 46	12 55	1 00	1 10	1 12	12 55	1 05	756
758	12 24	12 29	12 33	12 39	12 47	12 56	1 05	1 10	1 20	1 22	1 05	1 15	758
760	12 34	12 39	12 43	12 49	12 57	1 06	1 15	1 20	1 30	1 32	1 15	1 25	760
762	12 44	12 49	12 53	12 59	1 07	1 16	1 25	1 30	1 40	1 42	1 25	1 35	762

Saturdays Only

ARRIVE:												
TRAIN NO.	Leave Boston	Leave Comm-bridge	Belmont	Waverley	Waltham	Roberts	Kens- dal Green	Lin- coln	Con- cord	West Con- cord	South Acton	
1601	8:30	8:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1603	8:30	8:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1605	8:30	8:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1607	10:30	10:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1609	11:30	11:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1611	1:30	1:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1613	3:30	3:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1615	4:30	4:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1617	5:30	5:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1619	7:30	7:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1621	10:10	10:10	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
1623	12:10	12:10	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
LEAVE:												
South Acton	West Con- cord	Con- cord	Lin- coln	Kens- dal Green	Roberts	Waltham	Waverley	Belmont	Arrive Comm-bridge	Arrive Boston	TRAIN NO.	
7:31	7:36	7:40	7:46	7:53	7:56	8:00	7:04	7:00	8:12	8:22	1602	
8:31	8:36	8:40	8:46	8:53	8:56	9:00	8:04	8:00	9:12	9:22	1604	
9:31	9:36	9:40	9:46	9:53	9:56	10:00	9:04	9:00	10:12	10:22	1606	
10:31	10:36	10:40	10:46	10:53	10:56	11:00	10:04	10:00	11:12	11:22	1608	
11:31	11:36	11:40	11:46	11:53	11:56	12:00	11:04	11:00	12:12	12:22	1610	
12:31	12:36	12:40	12:46	12:53	12:56	1:00	1:04	1:00	1:12	1:22	1612	
2:31	2:36	2:40	2:46	2:53	2:56	3:00	2:04	2:00	3:12	3:22	1614	
4:31	4:36	4:40	4:46	4:53	4:56	5:00	4:04	4:00	5:12	5:22	1616	
6:31	6:36	6:40	6:46	6:53	6:56	7:00	6:04	6:00	7:12	7:22	1618	
8:31	8:36	8:40	8:46	8:53	8:56	9:00	8:04	8:00	9:12	9:22	1620	
11:10	11:15	11:19	11:25	11:32	11:35	11:40	11:45	11:51	12:01	12:12	1622	
1:07	1:12	1:16	1:22	1:29	1:32	1:37	1:42	1:48	1:58	2:09	1624	

Sundays and Holidays Only

ARRIVE:												
TRAIN NO.	Leave Boston	Leave Comm-bridge	Belmont	Waverley	Waltham	Roberts	Kens- dal Green	Lin- coln	Con- cord	West Con- cord	South Acton	
2601	8:30	8:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
2603	10:30	10:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
2605	12:30	12:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
2607	2:30	2:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
2609	4:30	4:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
2611	7:30	7:30	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
2613	10:10	10:10	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
2615	12:10	12:10	7:43	7:46	8:50	7:53	7:57	7:05	7:13	7:19	7:25	
LEAVE:												
South Acton	West Con- cord	Con- cord	Lin- coln	Kens- dal Green	Roberts	Waltham	Waverley	Belmont	Arrive Comm-bridge	Arrive Boston	TRAIN NO.	
8:31	8:36	8:40	8:46	8:53	8:56	9:00	8:04	8:00	9:12	9:22	2602	
11:31	11:36	11:40	11:46	11:53	11:56	12:00	11:04	11:00	12:12	12:22	2604	
1:31	1:36	1:40	1:46	1:53	1:56	2:00	1:04	1:00	2:12	2:22	2606	
4:31	4:36	4:40	4:46	4:53	4:56	5:00	4:04	4:00	5:12	5:22	2608	
6:31	6:36	6:40	6:46	6:53	6:56	7:00	6:04	6:00	7:12	7:22	2610	
8:31	8:36	8:40	8:46	8:53	8:56	9:00	8:04	8:00	9:12	9:22	2612	
11:10	11:15	11:19	11:25	11:32	11:35	11:40	11:45	11:51	12:01	12:12	2614	
1:07	1:12	1:16	1:22	1:29	1:32	1:37	1:42	1:48	1:58	2:09	2616	

Boston — Reading

Monday Thru Friday — Except Holidays

TRAIN NO.	ARRIVE:							LEAVE:							TRAIN NO.
	Leave Boston	Wye-ming	Mel-rose	High-lands	Green-wood	Wake-field	Reading	Reading	Wake-field	Green-wood	High-lands	Mel-rose	Wye-ming	Arrive Boston	
801	6:01	6:17	6:30	6:41	6:53	7:07	7:11	6:20	6:24	6:28	6:30	6:32	6:34	6:50	802
803	6:41	6:57	7:10	7:21	7:33	7:47	7:51	6:40	6:44	6:48	6:50	6:52	6:54	7:10	804
805	7:01	7:17	7:30	7:41	7:53	8:07	8:11	7:00	7:04	7:08	7:10	7:12	7:14	7:30	806
807	7:21	7:37	7:50	8:01	8:13	8:27	8:31	7:20	7:24	7:28	7:30	7:32	7:34	7:50	808
809	7:41	7:57	8:10	8:21	8:33	8:47	8:51	7:40	7:44	7:48	7:50	7:52	7:54	8:10	810
811	8:01	8:17	8:30	8:41	8:53	9:07	9:11	8:00	8:04	8:08	8:10	8:12	8:14	8:30	812
813	8:21	8:37	8:50	9:01	9:13	9:27	9:31	8:20	8:24	8:28	8:30	8:32	8:34	8:50	814
815	8:41	8:57	9:10	9:21	9:33	9:47	9:51	8:40	8:44	8:48	8:50	8:52	8:54	9:10	816
817	9:01	9:17	9:30	9:41	9:53	10:07	10:11	9:00	9:04	9:08	9:10	9:12	9:14	9:30	818
819	9:21	9:37	9:50	10:01	10:13	10:27	10:31	9:20	9:24	9:28	9:30	9:32	9:34	9:50	820
821	12:21	12:37	12:50	13:01	13:13	13:27	13:31	10:20	10:24	10:28	10:30	10:32	10:34	10:50	822
823	12:41	12:57	1:10	1:21	1:33	1:47	1:51	10:40	10:44	10:48	10:50	10:52	10:54	11:10	824
825	1:01	1:17	1:30	1:41	1:53	2:07	2:11	11:00	11:04	11:08	11:10	11:12	11:14	11:30	826
827	1:21	1:37	1:50	2:01	2:13	2:27	2:31	11:20	11:24	11:28	11:30	11:32	11:34	11:50	828
829	1:41	1:57	2:10	2:21	2:33	2:47	2:51	11:40	11:44	11:48	11:50	11:52	11:54	12:10	830
831	4:30	4:46	4:59	5:10	5:22	5:36	5:40	2:40	2:44	2:48	2:50	2:52	2:54	3:10	832
833	4:50	5:06	5:19	5:30	5:42	5:56	6:00	4:00	4:04	4:08	4:10	4:12	4:14	4:30	834
835	5:10	5:26	5:39	5:50	6:02	6:16	6:20	4:20	4:24	4:28	4:30	4:32	4:34	4:50	836
837	5:30	5:46	5:59	6:10	6:22	6:36	6:40	4:40	4:44	4:48	4:50	4:52	4:54	5:10	838
839	5:50	6:06	6:19	6:30	6:42	6:56	7:00	5:00	5:04	5:08	5:10	5:12	5:14	5:30	840
841	6:10	6:26	6:39	6:50	7:02	7:16	7:20	5:20	5:24	5:28	5:30	5:32	5:34	5:50	842
843	6:30	6:46	6:59	7:10	7:22	7:36	7:40	5:40	5:44	5:48	5:50	5:52	5:54	6:10	844
845	6:50	7:06	7:19	7:30	7:42	7:56	8:00	6:00	6:04	6:08	6:10	6:12	6:14	6:30	846
847	7:10	7:26	7:39	7:50	8:02	8:16	8:20	6:20	6:24	6:28	6:30	6:32	6:34	6:50	848
849	7:30	7:46	7:59	8:10	8:22	8:36	8:40	6:40	6:44	6:48	6:50	6:52	6:54	7:10	850
851	7:50	8:06	8:19	8:30	8:42	8:56	9:00	7:00	7:04	7:08	7:10	7:12	7:14	7:30	852
853	8:10	8:26	8:39	8:50	9:02	9:16	9:20	7:20	7:24	7:28	7:30	7:32	7:34	7:50	854
855	8:30	8:46	8:59	9:10	9:22	9:36	9:40	7:40	7:44	7:48	7:50	7:52	7:54	8:10	856
857	8:50	9:06	9:19	9:30	9:42	9:56	10:00	8:00	8:04	8:08	8:10	8:12	8:14	8:30	858
859	9:10	9:26	9:39	9:50	10:02	10:16	10:20	8:20	8:24	8:28	8:30	8:32	8:34	8:50	860
861	9:30	9:46	9:59	10:10	10:22	10:36	10:40	8:40	8:44	8:48	8:50	8:52	8:54	9:10	862
863	9:50	10:06	10:19	10:30	10:42	10:56	11:00	9:00	9:04	9:08	9:10	9:12	9:14	9:30	864
865	10:10	10:26	10:39	10:50	11:02	11:16	11:20	9:20	9:24	9:28	9:30	9:32	9:34	9:50	866
867	10:30	10:46	10:59	11:10	11:22	11:36	11:40	9:40	9:44	9:48	9:50	9:52	9:54	10:10	868
869	10:50	11:06	11:19	11:30	11:42	11:56	12:00	10:00	10:04	10:08	10:10	10:12	10:14	10:30	870
871	11:10	11:26	11:39	11:50	12:02	12:16	12:20	10:20	10:24	10:28	10:30	10:32	10:34	10:50	872
873	11:30	11:46	11:59	12:10	12:22	12:36	12:40	10:40	10:44	10:48	10:50	10:52	10:54	11:10	874

Saturdays Only

TRAIN NO.	ARRIVE:							LEAVE:							TRAIN NO.
	Leave Boston	Wye-ming	Mel-rose	High-lands	Green-wood	Wake-field	Reading	Reading	Wake-field	Green-wood	High-lands	Mel-rose	Wye-ming	Arrive Boston	
1801	7:45	8:01	8:14	8:25	8:37	8:51	8:55	7:00	7:04	7:08	7:10	7:12	7:14	7:30	1802
1803	8:45	9:01	9:14	9:25	9:37	9:51	9:55	8:00	8:04	8:08	8:10	8:12	8:14	8:30	1804
1805	9:45	10:01	10:14	10:25	10:37	10:51	10:55	9:00	9:04	9:08	9:10	9:12	9:14	9:30	1806
1807	10:45	11:01	11:14	11:25	11:37	11:51	11:55	10:00	10:04	10:08	10:10	10:12	10:14	10:30	1808
1809	11:45	12:01	12:14	12:25	12:37	12:51	12:55	11:00	11:04	11:08	11:10	11:12	11:14	11:30	1810
1811	12:45	1:01	1:14	1:25	1:37	1:51	1:55	12:20	12:24	12:28	12:30	12:32	12:34	12:50	1812
1813	1:45	2:01	2:14	2:25	2:37	2:51	2:55	1:20	1:24	1:28	1:30	1:32	1:34	1:50	1814
1815	2:45	3:01	3:14	3:25	3:37	3:51	3:55	2:20	2:24	2:28	2:30	2:32	2:34	2:50	1816
1817	3:45	4:01	4:14	4:25	4:37	4:51	4:55	3:20	3:24	3:28	3:30	3:32	3:34	3:50	1818
1819	4:45	5:01	5:14	5:25	5:37	5:51	5:55	4:20	4:24	4:28	4:30	4:32	4:34	4:50	1820
1821	5:45	6:01	6:14	6:25	6:37	6:51	6:55	5:20	5:24	5:28	5:30	5:32	5:34	5:50	1822
1823	6:45	7:01	7:14	7:25	7:37	7:51	7:55	6:20	6:24	6:28	6:30	6:32	6:34	6:50	1824
1825	7:45	8:01	8:14	8:25	8:37	8:51	8:55	7:20	7:24	7:28	7:30	7:32	7:34	7:50	1826
1827	8:45	9:01	9:14	9:25	9:37	9:51	9:55	8:20	8:24	8:28	8:30	8:32	8:34	8:50	1828
1829	9:45	10:01	10:14	10:25	10:37	10:51	10:55	9:20	9:24	9:28	9:30	9:32	9:34	9:50	1830
1831	10:45	11:01	11:14	11:25	11:37	11:51	11:55	10:20	10:24	10:28	10:30	10:32	10:34	10:50	1832
1833	11:45	12:01	12:14	12:25	12:37	12:51	12:55	11:20	11:24	11:28	11:30	11:32	11:34	11:50	1834

Sundays and Holidays Only

ARRIVE:								LEAVE:								TRAIN NO.
TRAIN NO.	Leave Boston	Wye-ming	Mel-rose	High-lands	Green-wood	Wake-field	Reading	Reading	Wake-field	Green-wood	High-lands	Mel-rose	Wye-ming	Arrive Boston		
2801	6:45	7:01	7:14	7:25	7:37	7:51	7:55	8:20	8:24	8:28	8:30	8:32	8:34	8:50	2802	
2803	7:45	8:01	8:14	8:25	8:37	8:51	8:55	9:20	9:24	9:28	9:30	9:32	9:34	9:50	2804	
2805	8:45	9:01	9:14	9:25	9:37	9:51	9:55	10:20	10:24	10:28	10:30	10:32	10:34	10:50	2806	
2807	9:45	10:01	10:14	10:25	10:37	10:51	10:55	11:20	11:24	11:28	11:30	11:32	11:34	11:50	2808	
2809	10:45	11:01	11:14	11:25	11:37	11:51	11:55	12:20	12:24	12:28	12:30	12:32	12:34	12:50	2810	
2811	11:45	12:01	12:14	12:25	12:37	12:51	12:55	1:20	1:24	1:28	1:30	1:32	1:34	1:50	2812	
2813	12:45	1:01	1:14	1:25	1:37	1:51	1:55	2:20	2:24	2:28	2:30	2:32	2:34	2:50	2814	
2815	1:45	2:01	2:14	2:25	2:37	2:51	2:55	3:20	3:24	3:28	3:30	3:32	3:34	3:50	2816	
2817	2:45	3:01	3:14	3:25	3:37	3:51	3:55	4:20	4:24	4:28	4:30	4:32	4:34	4:50	2818	
2819	3:45	4:01	4:14	4:25	4:37	4:51	4:55	5:20	5:24	5:28	5:30	5:32	5:34	5:50	2820	
2821	4:45	5:01	5:14	5:25	5:37	5:51	5:55	6:20	6:24	6:28	6:30	6:32	6:34	6:50	2822	
2823	5:45	6:01	6:14	6:25	6:37	6:51	6:55	7:20	7:24	7:28	7:30	7:32	7:34	7:50	2824	
2825	6:45	7:01	7:14	7:25	7:37	7:51	7:55	8:20	8:24	8:28	8:30	8:32	8:34	8:50	2826	
2827	7:45	8:01	8:14	8:25	8:37	8:51	8:55	9:20	9:24	9:28	9:30	9:32	9:34	9:50	2828	
2829	8:45	9:01	9:14	9:25	9:37	9:51	9:55	10:20	10:24	10:28	10:30	10:32	10:34	10:50	2830	
2831	9:45	10:01	10:14	10:25	10:37	10:51	10:55	11:20	11:24	11:28	11:30	11:32	11:34	11:50	2832	
2833	10:45	11:01	11:14	11:25	11:37	11:51	11:55	12:20	12:24	12:28	12:30	12:32	12:34	12:50	2834	
2835	11:45	12:01	12:14	12:25	12:37	12:51	12:55	1:20	1:24	1:28	1:30	1:32	1:34	1:50	2836	
2837	12:45	1:01	1:14	1:25	1:37	1:51	1:55	2:20	2:24	2:28	2:30	2:32	2:34	2:50	2838	
2839	1:45	2:01	2:14	2:25	2:37	2:51	2:55	3:20	3:24	3:28	3:30	3:32	3:34	3:50	2840	

Boston — Bedford

EXCEPT SATURDAYS, SUNDAYS, HOLIDAYS				
729	READ DOWN		READ UP	728
P M				A M
5 47	Lv	Boston	Ar	7 59
5 50	"	Cambridge	"	7 50
6 02	"	Lake Street	"	7 40
6 05	"	Arlington	"	7 35
6 16	"	East Lexington	"	7 25
6 17	"	Marblehead	"	7 25
6 19	"	Munroe	"	7 25
6 21	"	Lexington	"	7 25
6 28	"	North Lexington	"	7 15
6 28	Ar	Bedford	Lv	7 08
P M				A M

Boston — Haverhill

EXCEPT SATURDAYS, SUNDAYS, HOLIDAYS				
123	READ DOWN		READ UP	108
P M				A M
5 27	Lv	Boston (North Sta.)	Ar	8 11
6 02	"	Danversville	"	7 37
6 07	"	Andover	"	7 38
6 10	"	Shawshoe	"	7 30
6 15	"	Lawrence	"	7 25
6 26	"	Haverhill	"	7 15
6 29	Ar	Haverhill	Lv	7 11
P M				A M

Boston — Clematis Brook — Beaverbrook

EXCEPT SATURDAYS, SUNDAYS, HOLIDAYS					
623	628	READ DOWN		READ UP	606
PM	PM				AM
5 33	6 05	Lv	Boston	Ar	8 53
5 42	6 14	"	Cambridge	"	8 50
5 49		Ar	Clematis Brook	Lv	7 43
5 51	6 23	"	Beaver Brook	"	7 41
PM	PM				AM

Boston — Newburyport

EXCEPT SATURDAYS, SUNDAYS, HOLIDAYS				
241	READ DOWN		READ UP	208
P M				A M
5 32	Lv	Boston	Ar	7 58
6 13	Lv	Haverly	Ar	7 17
6 24	Ar	Newburyport	Lv	6 50
P M				A M

BOSTON AND MAINE CORPORATION FARES**ZONE FARE SYSTEM**

Station	Zone	Station	Zone	Station	Zone	Station	Zone
Andover.....	4	Hamilton-Wenham...	4	Munroe.....	2	Wakefield.....	3
Arlington.....	1	Hastings.....	3	Newburyport.....	7	Waltham.....	2
Ballerivale.....	4	Haverhill.....	6	North Beverly.....	4	Waverly.....	1
Beverly Brook.....	2	Jewell.....	6	North Billerica.....	4	Woburn.....	1
Bolton.....	3	Kendall Green.....	3	North Lexington.....	2	West Concord.....	4
Bolton.....	1	Lake Street.....	1	Pierces Bridge.....	2	West Medford.....	1
Beverly.....	3	Lawrence.....	6	Prides.....	4	West Gloucester.....	5
Beverly Farms.....	4	Lexington.....	2	Reading.....	3	Wilmington.....	3
Bradford.....	0	Leeds.....	8	Robert.....	2	Winchester.....	1
Clematis Brook.....	1	Lowell.....	5	Rockport.....	6	Winchester Hills.....	2
Concord.....	4	Lynn.....	2	Salon.....	3	Woburn.....	2
Cross Street.....	2	Nashua.....	6	Swampscott.....	4	Wyoming.....	1
East Lexington.....	2	Nelson.....	1	South Acton.....	5		
Gloucester.....	0	Melrose Highlands.....	1	Swampscott.....	5		
Greenwood.....	2	Montserrat.....	4				

FARES

Zone	One Way	Off Peak	Children		12 Calendar Months
			Non-Handicapped	Handicapped	
1	\$1.10	\$.55	\$.55	\$11.00	\$20.00
2	1.35	.60	.60	12.00	23.00
3	1.60	1.15	.75	15.00	28.00
4	1.75	1.35	.90	17.00	40.00
5	2.00	1.50	1.00	20.00	52.00
6	2.25	1.70	1.15	22.00	56.00
7	2.40	1.85	1.35	24.50	64.00

INTERMEDIATE FARES

Between Any Two Stations (Other Than Boston or Via Boston):	
Within 1 Single Zone.....	\$.50
Within 2 Zones.....	.60
Within 3 Zones.....	.75
Within 4 Zones.....	.85
Within 5 Zones.....	.90
Within 6 Zones.....	1.00
Within 7 Zones.....	1.10

OFF PEAK FARES

Are not valid on trains scheduled to arrive Boston between 6:00 AM and 9:55 AM or on trains scheduled to depart Boston between 3:30 PM and 7:05 PM on weekdays. They are valid on all other trains, including all trains on Saturdays, Sundays, and Holidays.

Note: All other fares and tariff regulations required for this agreement will be subject to the approval of the Authority.

APPENDIX C
SCHEDULE OF
EQUIPMENT

SELF PROPELLED RAIL DIESEL MOTOR CARS

<u>NUMBER</u>	<u>TYPE</u>	<u>DATE BUILT</u>
6100	RDC-1	4-52
6101	"	"
6102	"	4-53
6103	"	"
6104	"	11-53
6105	"	"
6112	"	4-55
6113	"	"
6115	"	"
6117	"	"
6118	"	"
6120	"	5-55
6122	"	"
6123	"	"
6124	"	"
6125	"	"
6126	"	"
6127	"	"
6128	"	"
6129	"	"
6131	"	6-55
6132	"	"
6133	"	"
6134	"	"
6135	"	"
6136	"	"
6137	"	"
6138	"	"
6139	"	"
6141	"	"
6143	"	7-55
6144	"	"
6145	"	"
6146	"	"
6147	"	"
6148	"	"
6149	"	2-55
6151	"	"
6152	"	8-56
6153	"	"
6154	"	3-57
6155	"	"
6156	"	"
6201	RDC-2	1-55
6202	"	2-55
6203	"	"
6204	"	"

<u>NUMBER</u>	<u>TYPE</u>	<u>DATE BUILT</u>
6206	RDC-2	2-55
6207	"	"
6208	"	"
6209	"	"
6210	"	3-55
6211	"	8-55
6212	"	9-56
6213	"	"
6214	"	"
6300	RDC-3	5-52
6301	"	5-53
6302	"	9-53
6303	"	2-58
6304	"	"
6306	"	"
6903	RDC-9	8-56
6904	"	"
6905	"	"
6906	"	"
6907	"	9-56
6908	"	"
6909	"	"
6910	"	"
6911	"	"
6912	"	"
6913	"	"
6914	"	"
6916	"	"
6918	"	10-56
6921	"	"
6922	"	"
6923	"	"
6924	"	11-56
6926	"	12-56
6927	"	"
6928	"	"
6929	"	"

In addition, there are the following cars no longer in service and used for spare parts.

6114	RDC-1	4-55
6917	RDC-9	10-56
9081	RDC-X	N.A.

In addition, all used parts and components, and all parts and materials inventory for which Buyer has previously paid the Seller, for self propelled rail diesel motor cars in sellers possession excepting any Cummins engines and associated parts.

APPENDIX D

Method of Determining the
Cost of the Service

This Appendix describes and illustrates in general the method to be used in measuring the cost of the Service to the Authority. It indicates the various types of costs which should be charged as Direct Costs and Indirect Costs (Joint Costs or Relevant Overhead). It does not necessarily indicate all of the costs which should be charged. The principles set forth in Section 3 of this Operating Agreement shall govern, but bases and methods of allocation may be revised from time to time as the parties may agree.

As set forth in the Operating Agreement, all Direct Costs are to be charged to the Authority. (Examples of such Direct Costs are set forth on Page 2 of this Appendix)

A portion of the Operator's Indirect Costs of providing various resources or services (e.g. Accounting services) shall be charged to the Authority in proportion to the Authority's use of, or benefit therefrom. The portion of such Indirect Costs charged to the Authority shall be determined as follows:

- (1) The Operator's cost of providing each resource or service over a period of time known as the "base period" shall be accumulated into categories known as "cost groupings".
- (2) An index, called an "allocation base", for measuring the productive activity of a resource or service shall be assigned to each "cost grouping".
- (3) The Authority will be charged a proportion of the total costs accumulated in each "cost grouping" equal to the proportion of the "allocation base" attributable to the Service to the total "allocation base".

For example, if the cost of maintaining and operating the Billerica Shop Building (a cost grouping) is \$10,000 for a year (a base period) and the Service used 1/10th of the floor area (allocation base), then the allocation to the Service and charge to the Authority for that year would be:

$$1/10 \times \$10,000 = \$1,000$$

Direct Costs

All Costs[#] of maintaining and operating jointly used plant on each of the following lines:

North Station to South Acton	(Fitchburg Route Main Line)
North Station to Lowell, Woburn	(New Hampshire Route Main Line)
North Station to Reading	(Reading Branch)
North Station to Newburyport	(Eastern Route Main Line)
Beverly Junction to Rockport	(Gloucester Branch)

All Costs for maintaining and servicing passenger rolling stock at:

Billerica Shop
 Boston Engine Terminal
 North Station and other outside points

All Costs of operating passenger rolling stock on each of the following lines or areas:

North Station to South Acton
 North Station to Lowell, Woburn
 North Station to Reading
 North Station to Newburyport, Rockport
 North Station to Bedford
 North Station to Haverhill
 Boston Engine Terminal
 (Hostlers and Switchtenders)

All other Costs associated with the Service including:

Station operation and maintenance
 Passenger Revenue Accounting
 Special Accountants Office

[#] Subject to contribution by Operator as provided in Article IV. D. of the Purchase and Sale Agreement.

		<u>Indirect Costs</u>		
<u>Cost Grouping</u>	<u>Cost Type*</u>	<u>Allocation Base</u>	<u>Allocation to the Service</u>	<u>Base Period</u>
All costs incurred in Operator's Operations Office	J	Total number of trains monitored	A proportion of the total cost equal to the proportion of passenger trains monitored to total trains monitored	Month
All costs incurred to provide for field supervision of the Service	J	Total direct labor dollars expended under the supervision of each supervisor	A proportion of the total cost equal to the proportion of direct labor dollars charged to the Service under the supervision of each supervisor to total direct labor dollars expended under such supervision	Month
All relevant costs incurred in Operators Transportation Office	J	Total direct labor dollars paid to train and engine employees	A proportion of the total cost equal to the proportion of direct labor dollars paid to passenger train and engine employees to total direct labor dollars paid to train and engine employees	Month
All costs incurred for the maintenance and operation of the Billerica Office Building and related plant	RO	Total square feet of productive floor space in Building	Total cost shall first be allocated to each department in the building in proportion to that department's use of the total productive area. A portion	Annual

<u>Cost Grouping</u>	<u>Cost Type*</u>	<u>Indirect Costs</u>			<u>Base Period</u>
		<u>Allocation Base</u>	<u>Allocation to the Service</u>		
			of the cost so allocated to each department shall be reallocated to the Service in proportion to the other costs of such department assignable to the Service		
All costs incurred for maintenance and operation of the Boston Office Building	RO	Total square feet of productive floor space occupied	Same as Billerica Office		Annual
All expenses of Operators Executive Department	RO	Total expenditures of Operator	A proportion of the total cost equal to the proportion of total expenditures for the Service to total expenditures of Operator		Annual
All expenses of Operators Finance Department	RO	Total expenditures of Operator	A proportion of the total cost equal to the proportion of total expenditures for the Service to total expenditures of Operator		Annual
All expenses of Operator's Purchases and Stores Department	RO	Total purchase orders processed	A proportion of the total cost equal to the proportion of purchase orders processed for the Service to total purchase orders processed		Month

<u>Indirect Costs</u>				
<u>Cost Grouping</u>	<u>Cost Type*</u>	<u>Allocation Base</u>	<u>Allocation to the Service</u>	<u>Base Period</u>
All costs incurred at Billerica Shop for the maintenance and operation of the building and related plant	J	Total square feet of productive floor space in Shop	A proportion of the total cost equal to the proportion of productive floor space used in the Service to total productive floor space	Quarter
All costs incurred at Billerica Shop for general supervision, machinery maintenance, and other unassignable shop overheads	J	Total direct labor and material charged through the Shop	A proportion of the total cost equal to the proportion of direct labor and material charged to the Service to total direct labor and material charged through the shop	Month
All costs incurred at Boston Engine Terminal for maintenance and operation of the plant and for general supervision and unassignable overhead	J	Total direct labor dollars charged to maintaining and servicing freight and passenger rolling stock	A proportion of the total cost equal to the proportion of direct labor dollars charged to maintaining and servicing passenger rolling stock to total direct labor dollars charged to maintaining and servicing passenger and freight rolling stock	Quarter

*J - Joint

RO - Relevant Overhead

Indirect Costs

<u>Cost Grouping</u>	<u>Cost Type*</u>	<u>Allocation Base</u>	<u>Allocation to the Service</u>	<u>Base Period</u>
All expenses of Operators Labor Relations and Personnel Department	RO	Total direct labor dollars expended	A proportion of the total cost equal to the proportion of direct labor dollars expended for the Service to total direct labor dollars expended	Month
All expenses of Operator's Data Processing Department	RO	Total keystrokes by keypunch operators	A proportion of the total cost equal to the proportion of keystrokes directly attributable to the Service to total keystrokes	Month
All expenses of Operator's Disbursements Accounting Department	RO	Total Expenditures of Operator	A proportion of the total cost equal to the proportion of total expenditures for the Service to the total expenditures of Operator	Month
All expenses of Operator's Vice President & Comptroller's Office	RO	Total Expenditures of Operator	A proportion of the total cost equal to the proportion of total expenditures for the Service to total expenditures of the Operator	Month

<u>Cost Grouping</u>	<u>Cost Type*</u>	<u>Indirect Costs</u>		<u>Base Period</u>
		<u>Allocation Base</u>	<u>Allocation to the Service</u>	
All expenses of Operator's Office of Vice President-Engineering	RO	Total Expenditures of the Operator under supervision of the Operator's Vice-President Engineering	A proportion of the total cost equal to the proportion of the total expenditures for the Service under supervision of the Vice President-Engineering to total expenditures under such supervision	Annual
All expenses of Operator's Office of Chief Track Engineer	RO	Total Expenditures of the Operator under the supervision of the Operator's Chief Track Engineer	A proportion of the total cost equal to the proportion of total expenditures for the Service under supervision of the Chief Track Engineer to total expenditures under such supervision.	Quarter
All expenses of Operator's Office of Chief Bridge and Building Engineer	RO	Total Expenditures of the Operator under the supervision of the Operator's Chief Bridge and Building Engineer	A proportion of the total cost equal to the proportion of total expenditures for the Service under the supervision of the Chief Bridge and Building Engineer to total expenditures under such supervision.	Quarter

		<u>Indirect Costs</u>		
<u>Cost Grouping</u>	<u>Cost Type*</u>	<u>Allocation Base</u>	<u>Allocation to the Service</u>	<u>Base Period</u>
All expenses of Operator's Office of Chief Communications and Signal Engineer	R0	Total Expenditures of the Operator under the supervision of the Operator's Chief Communications and Signal Engineer	A proportion of the total cost equal to the proportion of total expenditures for the Service under supervision of the Chief Communications and Signal Engineer to total expenditures under such supervision.	Quarter
All expenses of Office of the Operator's Office of the Vice-President-Equipment	R0	Total Expenditures of the Operator under the Supervision of the Operator's Vice-President Equipment	A proportion of the total cost equal to the proportion of total expenditures for the Service under the supervision of the Vice-President Equipment to total expenditures under such supervision	Quarter
All expenses of the Office of Operator's Vice President-Transportation	R0	Total Expenditures of the Operator under the supervision of the Vice-President Transportation	A proportion of the total cost equal to the proportion of total expenditures for the Service under the supervision of the Vice-President Transportation to total expenditures under such supervision	Quarter

<u>Cost Grouping</u>	<u>Cost Type*</u>	<u>Indirect Costs</u> <u>Allocation Base</u>	<u>Allocation to the Service</u>	<u>Base Period</u>
All expenses of Operator's Office of Vice President and General Counsel	RO	Total Expenditures of Operator	A proportion of the total cost equal to the proportion of total expenditures for the Service to total expenditures of the Operator	Annual

EXHIBIT D

SIGNALLING AND GRADE CROSSING EXPENSE FORMULA

(1) Sellers system-wide signalling and grade crossing protection cost on signalled Main Track on lines under the operating and maintenance control of Sellers shall be the sum of all expenses properly chargeable to the following accounts as described in the Uniform System of Accounts for Railroad Companies prescribed by the Interstate Commerce Commission and in effect on July 2, 1975; to the extent such costs are incurred to maintain or operate such facilities on said Main Track:

Account 249 Signals and Interlocking
Account 404 Signal and Interlocking Operation
Account 405 Crossing Protection

(2) Sellers average system-wide cost per train mile on signalled Main Track on lines which are under operating and maintenance control of Sellers shall be the sum of the costs calculated in paragraph (1) above divided by the number of train miles operated by Sellers over said Main Tracks.

EXHIBIT E

LINE MAINTENANCE EXPENSE FORMULA

(1) Sellers system-wide cost for line maintenance expenses, other than Signals and Crossing Protection Devices, on all Main Track on lines under the operating and maintenance control of the Sellers shall be the sum of all expenses properly chargeable to the following accounts as described in the Uniform System of Accounts for Railroad Companies prescribed by the Interstate Commerce Commission and in effect on July 2, 1975, to the extent such costs are incurred to maintain or operate such facilities on said Main Track as shown below:

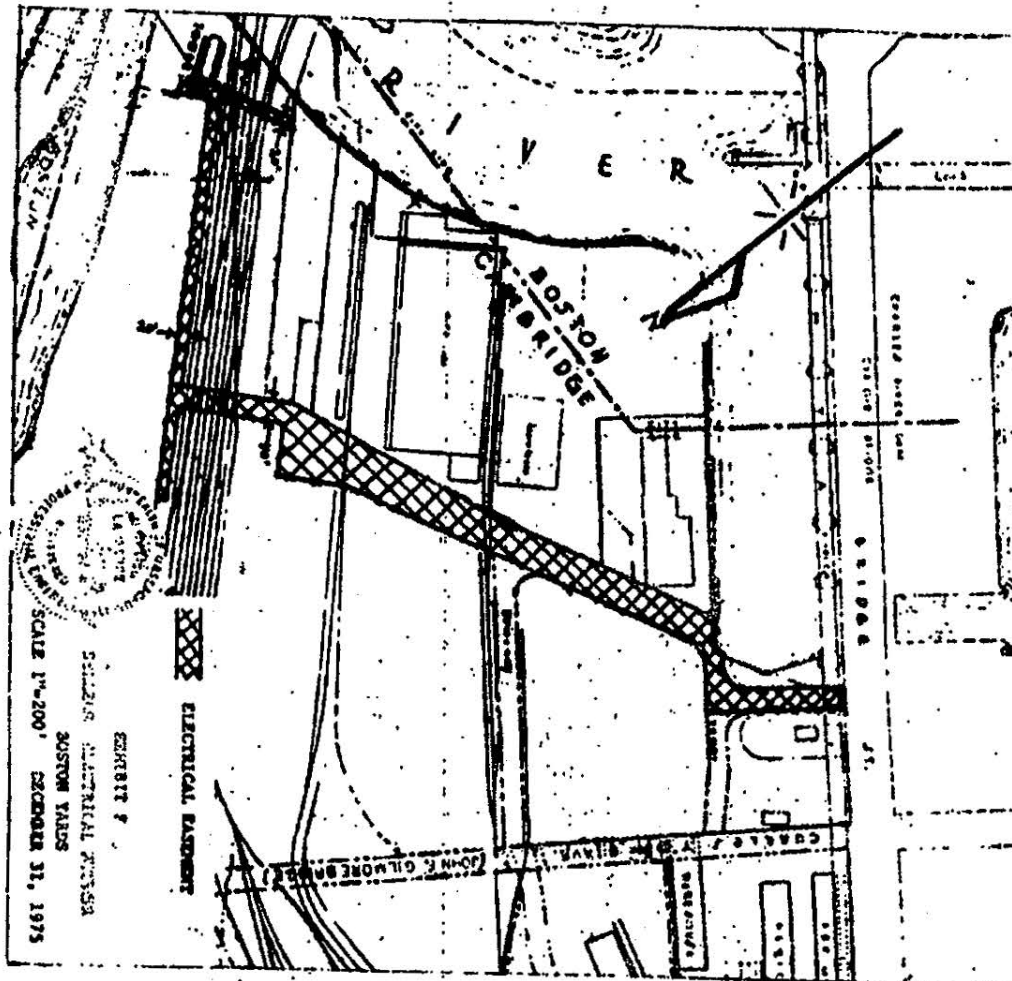
That portion of total expense incurred in maintenance of Running tracks properly chargeable to the accounts below:

Account 202	Roadway Maintenance
Account 206	Tunnels & Subways
Account 208	Bridges, Trestles & Culverts
Account 212	Ties
Account 214	Rails
Account 216	Other Track Material
Account 218	Ballast
Account 220	Track Laying and Surfacing
Account 221	Fences, Snowsheds & Signs
Account 269	Roadway Machines
Account 229	Roadway Buildings

That portion of the sum of the expenses below equal to the proportion of expenses chargeable to Accounts 201 through 282 (except those above and Accounts 266 and 267) related to maintenance of Running tracks to total expenses chargeable to said Accounts.

Account 201 Superintendence
Account 271 Small Tools & Supplies
Account 274 Injuries to Persons
Account 275 Insurance
Account 277 Health & Welfare
Account 272 Removing Snow & Ice & Sand
Account 273 Public Improvements - Maintenance
Account 282 Other Expenses

(2) Sellers average system-wide cost per gross ton mile on all Main Track on lines under the operating and maintenance control of Sellers shall be the sum of costs calculated in paragraph (1) above divided by the number of gross ton miles operated by Sellers over said Main Tracks.



AB-32 SUB 7F

SERVICE DATE

INTERSTATE COMMERCE COMMISSION

APR 1 1980

REPORT

Docket No. AB-32 (Sub-No. 7F)

ROBERT W. MESERVE AND BENJAMIN H. LACY, TRUSTEES OF THE
PROPERTY OF BOSTON AND MAINE CORPORATION, DEBTOR, ABANDONMENT
BETWEEN WALTHAM NORTH, BERLIN, HUDSON AND MARLBORO, MA

Decided: March 26, 1980

PRELIMINARY NOTES

Section 17(a) of the Public Law 96-101, 93 Stat. 736 (1979), the Milwaukee Railroad Restructuring Act (MRR), transferred jurisdiction over the Boston and Maine (B&M) abandonments and discontinuance of service applications from this Commission to the United States District Court for the District of Massachusetts (Court), which has jurisdiction over the B&M reorganization proceeding, No. 70-250-M.

In the instant application, the B&M states that it seeks to abandon two branch lines, the Central Massachusetts Branch and the Marlboro Branch. The B&M also states, on pages 17 and 25 of its application, that it does not own the right-of-way, the tracks, structures or other materials on the lines. They are in fact owned by the Massachusetts Bay Transportation Authority (M.B.T.A.), which acquired them by sale from the B&M. Therefore, the B&M cannot abandon the two branch lines, instead it must seek to discontinue its service. In view of this, the Commission will treat this application as one seeking a discontinuance of service.

It is also noted that on page 2 of the verified statement of Vincent R. Terrill, Chief Engineer of the B&M, it is stated that 8.72 miles of rail line is not being operated. Pursuant to 49 U.S.C. §10903, that constitutes an unlawful abandonment or discontinuance, depending upon when the B&M sold the two branches to the M.B.T.A. Since the Commission's jurisdiction over the B&M has been transferred to the Court, any further inquiry is left to the Court's discretion. The Commission, however, will develop this report and base its recommendations for the entire length of both branch lines.

This report includes the Commission's recommendation approving the discontinuance application.

BACKGROUND

On August 14, 1979, the Trustee of the B&M filed an application for a certificate of public convenience and necessity permitting the abandonment of a segment of a line of railroad known as the Central Massachusetts Branch extending from railroad milepost B10.50 near Waltham North to the end of the line near Berlin at railroad milepost B32.18, a distance of 21.68 miles in the counties of Middlesex and Worcester, MA, together with a branch line known as the Marlboro Branch extending from railroad milepost B32.75 near Hudson to the end of the branch near Marlboro, a distance of

4.74 miles in Middlesex County, MA. The two segments of the Central shall be referred to collectively as "The Line".

The stations on The Line include Weston (milepost B12.93), Wayland (milepost B16.50), Sudbury (milepost B19.70), Hudson (milepost B27.68), Marlboro (milepost B31.26) and Berlin (milepost B35.34).

The line has been listed in category 1 on the B&M system diagram map, as amended, since March 23, 1979. Public notice of the abandonment application was served, posted and published by the B&M in accordance with the notice requirements set forth in 49 CFR §1121.30. Subsequently, petitions to investigate were filed by Saxonville Wholesale Lumber Warehouse Co., Mullen Lumber Co., Inc., and the Koro Corporation. In response to these petitions, the Commission ordered that an investigation be instituted into the proposed abandonment by decision dated November 29, 1979.

Comments were also filed by the following concerns, associations and individuals: R.S. Lamson & Sons, Inc.; Hudson Combing Co., Inc.; Mr. Hugh D. Jones; and the Railway Labor Executives' Association (RLEA). The Commission also received five verified statements that did not contain a certificate of service as required by 49 CFR §1100.20(a). In view of this procedural defect, they will be treated as comments. They include the following: State Senator Chester G. Atkins, Middlesex-Worcester District, MA; State Representative Argeo P. Cellucci, 51st Middlesex District, MA; Town of Hudson, MA; Hudson Industrial and Development Commission; and the Kane Corporation.

On October 3, 1979, the Commission's Section of Energy and Environment issued an Environmental Threshold Assessment Survey relating to the proposed abandonment. It concluded that the proposed abandonment did not constitute a major Federal action which would significantly affect the quality of the human environment. A comment challenging those findings was filed by the Koro Corporation.

By decision dated November 29, 1979, the instant proceeding was designated for disposition pursuant to the rules of modified procedure. Subsequently, the B&M and the Koro Corporation filed verified initial statements and verified rebuttal statements. Saxonville Wholesale Lumber Warehouse Co. and the Mullen Lumber Co. filed a joint letter stating that they did not wish to enlarge the record. They will, therefore, rely upon the verified statements submitted in their petitions to investigate.

DISCUSSION AND CONCLUSIONS

The B&M supports its application for discontinuance of service by stating that the line does not generate a sufficient demand for service which would justify continued operation or warrant substantial rehabilitation.

The line is a single track line over which the B&M operates a single locomotive 5 days a week. The line

according to the B&M is below the Federal Railroad Administration's (FRA) minimum Class 1 standard.^{1/} Presently, it is restricted to a maximum speed of 5 miles per hour and a weight restriction of 190,000 pounds. The estimate on rehabilitating the line to meet the FRA Class 1 standard is said to be \$234,290.^{2/}

Revenue and cost figures provided by the B&M reveal that it incurred losses of \$82,671 in 1977, \$63,489 in 1978 and for the just 5 months of 1979, \$13,263. The B&M attributes a part of its losses to the alternate rail service available at South Sudbury, MA through ConRail. Specifically, they claim a 17 percent traffic decline since 1977 due to ConRail's competition. Other reasons include the lack of any overhead or bridge traffic and competition from trucking companies. The B&M supports its argument that traffic is declining through car movement figures which reveal that in 1977, the total number of cars received or forwarded on the line amounted to 375 cars in 1977, 301 cars in 1978 and for the first 5 months of 1979, 129 cars.

The B&M claims that its poor financial condition makes it impossible for it to expend the large sums needed to rehabilitate or maintain a non-profitable line. With discontinuance, the B&M states that it could save all costs associated with the maintenance and operation of the line. However, the B&M will not be able to realize any salvage value insofar as the underlying fee and all tracks, structures and other materials are owned by the M.B.T.A.

With regard to the customers on the line, it is the B&M's opinion that if discontinuance were approved, its customers would not be seriously affected. This opinion is based upon the fact that the majority of the B&M's traffic is generated at South Sudbury, MA. South Sudbury is also served by ConRail. Therefore, according to the B&M, many of its customers could utilize the ConRail service. The B&M states that it has no customers at Marlboro, MA and only one customer at Berlin, MA. That customer will continue to receive B&M service at Clinton, MA. No regular business is said to be received at Weston, MA or Wayland, MA. Finally, the railroad states that the customers at Weston, Wayland and Hudson, MA could utilize motor carriers to transport their freight to and from rail facilities located within a 10 mile radius.

The B&M states that it is presently negotiating with ConRail for the assumption of its service at South Sudbury,

^{1/}FRA Class 1 is restricted to a maximum speed of 10 miles per hour.

^{2/}The above estimate was obtained from the application; other conflicting estimates were noted in the B&M verified statements.

MA and has approached ConRail with regard to continuing its service at Hudson, MA.

This proceeding has three protestants, the Koro Corporation (Koro), Saxonville Wholesale Lumber Warehouse Co. (Saxonville) and the Mullen Lumber Co. (Mullen). Of the three, only Koro filed a verified statement in opposition as well as a rebuttal statement to the B&M verified statements. Saxonville and Mullen filed a joint letter on January 24, 1980, stating that they intended to rely upon the verified statements submitted with their petitions to investigate.

Koro takes the position that it relies upon rail service and that loss of rail service would cause it severe economic hardships. According to Koro, lack of rail service might even force it to close its Hudson facility.

Koro is a manufacturer of plastic sheeting. It states that the plastic sheeting industry is highly competitive and operates on a low profit margin. In view of this low profit margin and the bulk nature of the commodities they deal with, Koro states that increased transportation costs and other related costs would be difficult to absorb. On page 2 of its verified statement, Koro provides a table of estimated additional costs ^{3/} based on fiscal year 1979, for three transportation alternatives. Those costs are as follows; common carrier, \$317,429; bulk truck, \$391,980 and rail/truck combination, \$110,564.^{4/}

As a corollary to the above costs, Koro makes some generalized statements regarding the current energy shortages and the energy savings associated with rail transport as opposed to trucking.

Another argument made by Koro is that lack of adequate maintenance should not serve as the sole basis for discontinuance. It also questions the B&M's estimated rehabilitation costs insofar as portions of the line are not used. Instead, Koro claims that the rehabilitation costs should only reflect those portions of the line in current use.

Koro also states that its reliance upon the line was fostered in part by the B&M. Specifically, Koro and the Trustees of the B&M entered into a series of agreements whereby Koro partially paid for the construction of a railroad siding at its facility and entered into a lease and switching agreement regarding use of the siding.

Concerning the B&M's service to Hudson, Koro points out that the B&M has in essence already discontinued service. It is alleged to have accomplished this by means of a weight embargo (190,000 pound limit) and a surcharge of \$190 per car. Koro alleges that it was never informed of the weight embargo or the surcharge until they were in effect and that they are being used to suppress business.

^{3/}Freight, storage, employees and supplies.

^{4/}Computations are based upon a rate of 39 rail cars per year.

Lastly, Koro requests that this proceeding be stayed pending the outcome of discussions between it and ConRail regarding the continuation of service to Koro.

The B&M responded to Koro's verified statements by filing verified rebuttal statements on February 8, 1980. In general, the B&M states that no shipper, including Koro, disputes its losses. B&M also states that Koro has demonstrated that it can and will use trucking if necessary.

With regard to the weight embargo and surcharge, the weight embargo was requested and issued after an inspection by the FRA revealed numerous defects. The surcharge was instituted pursuant to Commission tariff rules and regulations.

The B&M states that while it does not in fact operate over the entire distance of the line, it is seeking permission to discontinue service over the entire distance of 26.42 miles. Hence, it estimated the rehabilitation costs accordingly. However, it has revised the estimate to reflect the rehabilitation costs from Waltham North to Hudson. Those costs are \$183,285.

Koro responded to the B&M verified statements by filing its own verified rebuttal statement on February 6, 1980. In it Koro disputes the alleged reasonable and economical transportation alternatives presented to it by the B&M. Koro also continues to question the rehabilitation costs provided by the B&M. It specifically notes that the B&M estimate is for the entire line when in reality only a portion of the line is being operated. Koro further notes a discrepancy in the verified statement of the B&M's witness, E.B. Rourke, who estimates that it would cost approximately \$30,000 to \$45,000 to rehabilitate an approximately eight mile stretch of track between South Sudbury and Hudson. Those costs alone would almost equal or exceed the entire B&M estimate for 26.42 miles.

A verified statement was also prepared by Gerald W. Fauth, Jr. on behalf of Koro and submitted as part of its rebuttal statement. Mr. Fauth according to his statement is a transportation consultant who specializes in economic and cost analysis. He stated that he is familiar with New England railroad conditions and that he has personally inspected the line.

Briefly, Mr. Fauth stated that it was his opinion, with regard to those portions of the line being operated by the B&M, that they currently met the requirements of F.R.A. Class 1 standards. Mr. Fauth also stated that the \$31,000 allocated by the B&M for normal maintenance was sufficient to maintain the line for FRA Class 1 operations. Therefore, it was his conclusion that the estimated rehabilitation costs projected by the B&M were a "gross overstatement". Furthermore, based upon the track conditions, Mr. Fauth feels that there is no need for the current weight embargo.

The verified statements of Sixonville and Mullen state very succinctly that they are substantial users of the B&M's services and that truck transport is not an economically viable alternative.

The numerous comments can be summarized as saying that discontinuance of the B&M's service will create unnecessary hardships. The comment filed by RLEA requests that appropriate labor protective conditions be imposed if the discontinuance is granted.

An analysis of the facts in this proceeding reveals that the protestant Koro will suffer substantial economic losses if it loses rail service to its plant. However, Koro is unable to dispute the fact that the B&M has experienced a steady decline of business and that the line is not profitable. In fact, no party disputes the B&M losses. The Commission does agree with Koro that the B&M's estimated rehabilitation costs are both conflicting and inconsistent.

However, those questionable rehabilitation costs do not negate the losses experienced by the B&M in operating the line. In addition, even if the B&M were to rehabilitate the line, the record does not indicate that it would result in renewed profitability.

The Commission does look with favor upon Koro's negotiation and the B&M's negotiations with ConRail. If Conrail decides to provide service to Hudson and take over the B&M's operations at South Sudbury, any adverse impacts upon the shippers in the area will be eliminated. The Commission will therefore recommend to the Court, that prior to its authorizing the discontinuance of service, it should allow the parties a reasonable period to conclude negotiations with ConRail.

FINDINGS

We find that the B&M's Central Massachusetts Branch and Marlboro Branch are non-profitable and that the burden of continued operations outweighs the harm to the shippers and communities on the lines. See Colorado v. United States, 271 U.S. 153 (1926).

In conclusion, we recommend the following to the Court:

1. The Trustees should be permitted to discontinue service over the Central Massachusetts Branch Line and the Marlboro Branch Line, as described in this report, between Waltham North and Berlin, MA and between Hudson and Marlboro, MA in Middlesex and Worcester Counties, MA.
2. The Court should postpone authorizing the discontinuance of service for a reasonable period to permit the parties to conclude negotiations with ConRail for the continuation of the B&M operations at Hudson and South Sudbury, MA, provided, however, that potential subsidizers are required to reimburse the B&M for any interim losses it may suffer pending the negotiation of a subsidy agreement.

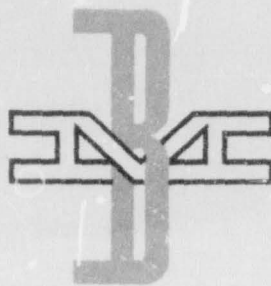
No. AB-32 (Sub-No. 7F)

By the Commission, Chariman Gaskins, Vice-Chariman
Gresham, Commissioners Stafford, Clapp, Trantum and Alexis.

(SEAL)

AGATHA L. MERGENOVICH,
Secretary

Please file
in Docket
AB 32 (sub 7)



LAW DEPARTMENT

AB 32 (sub 7)

ROBERT W. MESERVE
BENJAMIN H. LACY
TRUSTEES

JOHN E. O'KEEFE
SIDNEY WEINBERG
Attorneys

October 15, 1980

Interested Parties

Matter of Boston and Maine Corporation, Debtor
District Court for the District of
Massachusetts, No. 70-250-M - Petition for
No. 475, Abandonment and discontinuance
of freight service, Segment of Central
Massachusetts Branch and Marlboro Branch

Gentlemen:

Enclosed is a copy of the Memorandum and Order of the
Court, dated October 3, 1980, permitting the Reorganization
Trustees to discontinue freight service over the lines of
railroad described therein.

If you have any questions concerning this matter,
please call me.

Very truly yours,

Sidney Weinberg
Sidney Weinberg
Attorney for the
Reorganization Trustees

SW/mon
Enclosures

INTERSTATE
COMMERCE COMMISSION
RECEIVED

OCT 20 1980

ADMINISTRATIVE SERVICES
MAIL UNIT

BOSTON AND MAINE CORPORATION - DEBTOR
150 CAUSEWAY STREET
BOSTON, MASSACHUSETTS 02114
Telephone: 227-6000



LAW DEPARTMENT

JOHN J. NEF
Vice President and General Counsel

ROBERT W. MESERVE
BENJAMIN H. LACY
TRUSTEES

JOHN E. O'KEEFE
SIDNEY WEINBERG
Attorneys

October 15, 1980

To Intervenor and Interested Parties

Re: In the Matter of Boston and Maine Corporation, Debtor
U. S. District Court for the District of
Massachusetts, No. 70-250-M - Petition for
Order No. 475, Abandonment and discontinuance
of freight service, Segment of Central
Massachusetts Branch and Marlboro Branch

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Court, dated October 3, 1980, permitting the Reorganization
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Very truly yours,

Sidney Weinberg
Sidney Weinberg
Attorney for the
Reorganization Trustees

SW/mon
Enclosures

INTERSTATE
COMMERCE COMMISSION
RECEIVED

OCT 20 1980

ADMINISTRATIVE SERVICES
MAIL UNIT

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In the Matter of

BOSTON AND MAINE CORPORATION,

No. 70-250-M

Debtor

MEMORANDUM AND ORDER
on

Motion of Debtor's Trustees for Authority to
Abandon the Central Massachusetts Branch Line
and the Marlboro Branch Line of Railroad in
Massachusetts

MURRAY, Senior District Judge

The motion of Debtor's Trustees for an order authorizing the Trustees, pursuant to Rule 8-512(b) of the Bankruptcy Rules, to abandon the Central Massachusetts Branch and the Marlboro Branch (the Branches) came on to be heard on September 17, 1980, after notice given by order of the court in accordance with 11 U.S.C. § 1170(c) (Supp. III 1979) of the time and the place of the hearing. The Trustees presented evidence to the court which was uncontroverted.

By Order No. 475 entered June 21, 1979, this court authorized the Trustees to initiate proceedings before the Interstate Commerce Commission (ICC) for a certificate of public convenience and necessity permitting the abandonment of the Branches. 49 U.S.C. § 10903 (Supp. II 1978); 49 C.F.R. § 1121 (1979). With the subsequent transfer of jurisdiction to the court over abandonments and discontinuance of service, 45 U.S.C. § 915(a), Pub.L. No. 96-101 § 17(a), 93 Stat. 744-45, the ICC, after reviewing documentary evidence and comments submitted to it, issued a report dated March 26, 1980. Before the ICC, the Trustees' petition to abandon the Branches was vigorously opposed. Several freight receivers¹ along the Central Massachusetts

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1. The service provided by Debtor along the Branches is almost exclusively that of delivering goods to customers. During 1979, Debtor carried only two rail-car shipments outbound along this line.

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ADMINISTRATIVE SERVICES
MAIL UNIT

Branch, together with various public figures, submitted evidence or comments attempting to persuade the ICC to refuse the Trustees' request. The Trustees had not such opposition in the proceedings before the court; their petition was uncontested.

The Central Massachusetts Branch is a line of railroad in Middlesex and Worcester Counties, Massachusetts extending approximately 21.68 miles. It runs from milepost B 10.50 at Waltham North through Weston, Wayland, South Sudbury and Hudson into Berlin ending at milepost B 32.18. The Marlboro Branch is essentially a spur leaving the Central Massachusetts Branch at milepost B 32.75 in Gleasondale and running south to Marlboro terminating at B 37.49. Debtor does not own the right of way, the track, structures or other materials on the lines, having sold them and the right to transport passengers over the right of way to the Massachusetts Bay Transportation Authority (MBTA) in December of 1976. The Debtor reserved an easement to haul freight on the lines, and has the burden of maintaining the track. Because MBTA now owns the property on the line the Trustees may not abandon the Branches but only discontinue service. See In the Matter of Boston and Maine Corporation, 596 F.2d 2, 6 (1st Cir. 1979).

The Trustees considered taking formal steps to abandon the Branches at their meeting on May 11, 1979. For a period of years there had been no customers on the Marlboro Branch and the customers in Berlin took delivery of their occasional shipments at a public delivery facility in Clinton. Debtor ceased serving its customers in Hudson after February 1980 although it did not place an embargo on the line until August. Despite lack of authority from the court, Debtor had ceased operating over the Marlboro Branch and the western end of the Central Massachusetts Branch some time ago. In effect, Debtor had de facto discontinued service on the line prior to the hearing on the Trustees' petition in this court and prior to the report from the ICC.

Before it discontinued service on the line, Debtor served several customers in South Sudbury, primarily Saxonville Wholesale Lumber Warehouse Company (Saxonville) and Mullen Lumber Company,

and Saxonville accounted for more rail traffic than all of Debtor's other customers on this line combined in the last full year of accounting. In addition, Debtor served Koro Corporation of Hudson which had relied on Debtor for the transportation of plastic pellets necessary to its business. Debtor also had several other customers in Hudson, but these receivers only accounted for limited traffic on an occasional basis.

The Trustees presented evidence to the court that the Lumber companies in South Sudbury are currently receiving all their materials via Conrail. Conrail operates a line that intersects the Central Massachusetts Branch in South Sudbury. There was evidence before the court that Conrail will consider providing limited service along the Central Mass. Branch to the east of the junction in South Sudbury but will not serve customers to the west in Hudson. However, there was evidence that Koro Corporation is currently receiving its shipments of plastic pellets in Fitchburg and trucking the material from there to its plant in Hudson. The Trustees also presented evidence that while this method of transporting goods may be more expensive for Koro Corporation it is not an unreasonable cost increase.

The proposed discontinuance would seem to be in the best interests of the Debtor's estate. The number of customers and the amount of traffic on the line may be viewed, at best, as remaining stable. There is no indication that these gauges of economic viability will increase in the foreseeable future. On the other hand, there is considerable maintenance and rehabilitation needed on the line. Currently the line is deemed to be a Class I track under Federal Railroad Administration Track Safety Standards. See 49 C.F.R. § 213 (1979). However, there is evidence that the line has fallen below that level, the lowest category under these standards. The Trustees have deferred maintenance on the line in an attempt to limit expenses, and the burden to the estate of making the necessary improvements is not justified in light of the current and expected revenues.

There is little evidence that discontinuance of service over the lines would be inconsistent with the public interest. At the hearing

before the court no one appeared to oppose the Trustees' petition. The evidence that the Trustees presented showed that the adverse impact of discontinuance of service has dissipated over time. When the Trustees went before the ICC there was considerable agitation among the businesses and communities served by Debtor; however, most freight receivers seemed to have adjusted to the loss of service. Moreover, there was testimony that although the MBTA has ownership rights in the line it does not presently or within the near future intend to use the line for passenger transportation. There was nothing offered to show that the right of way would be suited for other public use purposes. The Executive Office of Transportation and Construction of the Commonwealth of Massachusetts would, in its role as consultant to MBTA, urge that the right of way of the Branches be preserved as a rail transportation corridor for the indefinite future.

Accordingly, it is hereby Ordered that:

In the best interests of Debtor's estate and consistent with the public interest the Trustees are permitted to discontinue freight service over the Central Massachusetts Branch Line and the Marlboro Branch Line, as described in this Memorandum, between Waltham North and Berlin, and between Hudson and Marlboro, in the counties of Middlesex and Worcester, Massachusetts.

Dated October 3, 1980

John H. Thomas
Senior District Judge

ALTERNATIVE TRANSPORTATION CORRIDOR LEASE AGREEMENT

BY AND BETWEEN THE

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

AND

**COMMONWEALTH OF MASSACHUSETTS BY AND THROUGH ITS
DEPARTMENT OF CONSERVATION AND RECREATION**

DECEMBER 30, 2010

[ONLY FOR RIGHTS-OF-WAY NOT IN ACTIVE USE]

**ALTERNATIVE TRANSPORTATION CORRIDOR
LEASE AGREEMENT BETWEEN
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
AND
COMMONWEALTH OF MASSACHUSETTS**

This Lease Agreement (hereinafter referred to as the "Lease" or the "Agreement") entered into as of the 30th day of December 2010 by and between the Massachusetts Bay Transportation Authority, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts, having its usual place of business at Ten Park Plaza, Boston, Massachusetts 02116 (hereinafter referred to as the "MBTA") and the Commonwealth of Massachusetts, acting by through its Department of Conservation and Recreation, having its usual place of business at 251 Causeway Street, Suite 600, Boston, Massachusetts 02114 (hereinafter referred to as the "DCR").

WITNESSETH THAT:

1. Agreement

In consideration of the mutual covenants and agreements herein contained, and subject to appropriation or availability of funds to DCR, the parties hereto agree as follows:

2. Premises

The Premises consist of the parcel or parcels of land described in Exhibit A attached hereto, consisting generally of that certain railroad right of way known as the portion of the Central Massachusetts Branch extending from Waltham to Berlin starting at or about the Belmont/Waltham/Weston town line (Right-of-Way Track Map, Boston and Maine R.R. V-5, 4/30 dated June 30, 1914) running approximately twenty-six miles ending at or about Station 1478+40 in Berlin (Right-of-Way Track Map, Boston and Maine R.R. V-5, 30/30 dated June 30, 1914).

MBTA acquired the portion of the Premises located in Worcester County on or about February 1977 pursuant to an Order of Taking recorded in the Worcester South District Registry of Deeds in Book 6145, Page 377; and the portion of the Premises located in Middlesex County on or about December 1979 pursuant to an Order of Taking recorded in the Middlesex South District Registry of Deeds in Book 13156, Page 34. Under both Orders of Taking, the Boston and Maine Corporation ("B&M") retained freight service rights pursuant to an agreement between the MBTA and Robert W. Meserve and Benjamin H. Lacey, Trustees of the B&M, dated December 27, 1976, and recorded in the Worcester South District Registry of Deeds in Book 6096, Page 140, and in the Middlesex South District Registry of Deeds in Book 13117, Page 113. B&M filed an application in August 1979 for a certificate of public necessity and convenience to permit the abandonment of the line. Following a report from the Interstate Commerce Commission, dated March 26, 1980, recommending approval of B&M's discontinuance application (I.C.C. Docket No. AB-32 (Sub-No. 7F)), approval of discontinuance was

granted by the United States District Court, as found in the Memorandum and Order of Senior District Judge Frank J. Murray, In the Matter of Boston and Maine Corporation, Debtor, No. 70-250-M (D. Mass., Oct. 3, 1980). (A copy attached hereto as Exhibit B). The parties agree that, with that action, B&M no longer retains any right or interest in this line.

Within the Premises there shall exist a contiguous corridor ("Corridor") to be designated by DCR, with the consent of the MBTA, said Corridor shall generally consist of a path that is 15' wide with 2' shoulders on either side. Said corridor shall not interfere in any way with the MBTA's ability to lease, license or otherwise encumber the Premises for revenue purposes consistent with the right of the MBTA's authority detailed in Section 9. *Infra*. The MBTA will notify with DCR of its revenue plans, but any portion of the Corridor so utilized in connection with any third party transactions will continue to provide for continuity of the Rail Trail Corridor and DCR shall work cooperatively with the MBTA and any third party grantees, lessees or licensees for this purpose. The MBTA shall be consulted on the construction of the Corridor and be provided with as-built plans of said Corridor.

3. Use of Premises

Subject to the terms and conditions herein, the MBTA hereby leases the Premises to the DCR for use as follows:

- (a) The Corridor is to be used for purposes of the installation, operation, maintenance and use of a rail-trail as defined M.G.L. C.82 §35A and in the definition of Owner or Operator in M.G.L.C. 21E§2, and as amended from time to time, and as further defined under M.G.L.C.21E§2(d)(1), as a property converted from a former use as a railroad right-of-way to a revitalized use as a publicly owned, improved and maintained corridor for bicycle, pedestrian and other non-motorized public transportation, recreation and associated purposes and
- (b) The remainder of the Premises may further be used by the DCR, subject to MBTA approval, to access, construct and maintain the Corridor and maintain, including landscaping, the Premises, for ancillary uses which provide no revenue or other tangible benefit, for such other uses as MBTA may permit by prior written consent provided however that the MBTA shall maintain the right to utilize the Premises for revenue purposes consistent with the right of the MBTA's authority detailed in Section 9. *infra*. DCR acknowledges the MBTA's right to generate revenue in and on the Premises, but any portion of the Corridor so utilized in connection with any third party transactions will continue to provide for continuity of the Rail Trail Corridor and DCR shall work cooperatively with the MBTA and any third party grantees, lessees or licensees for this purpose. MBTA will notify DCR of its revenue plans in advance as necessary.

Notwithstanding the preceding, this Lease is not intended to transfer land or

easements to create a perpetual right to any use, or a right to use longer than the term of the lease or lesser term if terminated sooner, that may be subject to protection by Article XCVII (97), as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts or by legislation enacted to pursuant thereto.

The Premises shall be open to the public, and no fee or other consideration shall be charged for use of the Premises.

The DCR will diligently act to secure funds necessary to fulfill its obligations under the Lease for the design, bidding and the construction of the rail-trail project.

DCR also agrees that it will provide its plans for the use of the site sixty (60) days prior to the bidding to the MBTA for its approval, said approval which shall not be unreasonably withheld provided that the use is consistent with paragraph 3(a) and 3(b), above. If the plans for the site are not consistent with paragraph 3(a) and 3(b), above, the MBTA reserves the right, subject to the notice and cure provisions of paragraph 11, to terminate the lease and demand return of the property. Said use shall also comply with the current (as of the commencement of construction) MA DEP Best Management Practices:

The DCR shall be responsible for all costs associated with any soil testing. The MBTA will allow DCR to enter upon the Premises's for testing purposes provided DCR receives a License from the MBTA in the normal course prior to entry on the Premises.

4. Term

The Term of this Lease shall be for a period of ninety-nine (99) years beginning on the date hereof; except that the MBTA may terminate this Lease upon two (2) years' written notice to DCR for the greater public good. DCR acknowledges that that the Premises or a major portion thereof may be necessary for active railroad or other transportation purposes in the future. The MBTA may terminate this Agreement for the greater public good within the meaning of Federal Highway Administration requirements other than the Transportation Enhancement (the defined ATC) and the MBTA will not be required to provide any reimbursement whatsoever for said termination. MBTA does not impose a fee for the lease of this property. Additionally, The MBTA may terminate this Lease with respect to any part of the non-Corridor portion of the Premises with ninety - (90) days written notice for any reason or the balance of the Premises, consistent with the right of the MBTA's authority detailed in Section 9. *infra* and for the uses stated above. The MBTA may continue to utilize the Premises for revenue purposes but any portion of the Corridor so utilized in connection with any third party transactions will continue to provide for continuity of the Rail Trail Corridor and DCR shall work cooperatively with the MBTA and any third party grantees, lessees or licensees for this purpose.

5. Condition of the Premises

The DCR has inspected the Premises, accepts the Premises "as is", and agrees the Premises are suitable for DCR's intended use. The MBTA makes no warranty of any kind, express or implied, as to the condition of the Premises or its suitability for the above uses. The DCR assumes all risk of entry on the Premises for the intended

development and use of the Premises as a Rail Trail, including, but not limited to the presence of oil or hazardous material on the Premises, if any, as defined in M.G.L.C. 21E, as amended from time to time, but in accordance with Best Management Practice of the Department of Environmental Protection. DCR acknowledges that it will avail itself of the M.G.L.c. 21E§5J defense if necessary and appropriate.

6. Terms and Conditions of Lease

This Lease is subject to the following terms and conditions:

6.1 Liability for Personal Injury, Death, and Property Damage

All issues regarding liability for personal injury, death or property damage shall be governed by the provisions of Chapter 258 of the General Laws, as amended. The Parties acknowledge the intention that this Lease, and the recreational activities planned for the general public, are at no charge and are to be subject to the limited liability protections of G.L. c. 21, s. 17C (the, so called, "Recreational Use Statute").

6.2 Remediation Obligation of the DCR

During the design, construction and operation of the rail trail, the DCR shall follow the provisions of BMP's for Controlling Exposure to Soil during the Development or Rail Trails promulgated by the Massachusetts Department of Environmental protection in March 2004.

Whenever the DCR is responsible for the remediation of Hazardous Materials on or below the Premises by law or pursuant to this Lease, the DCR, upon written demand of the MBTA, shall conduct at its sole cost and expense, all response actions required by Chapter 21E and the MCP with respect to the Hazardous Materials (including the hiring of a Licensed Site Professional).

Any such response action on the Premises, if performed by the DCR, shall be performed in accordance with Chapter 21E, the MCP, any other applicable statutes and regulations, and in accordance with plans and specifications approved by the MBTA, shall be completed in a timely manner to the reasonable satisfaction of the MBTA, and shall allow the MBTA to use the Premises, for its active railroad or other transportation purposes.

For purposes of this Section, the term "MBTA" shall include the MBTA, and its directors, officers, employees, agents and any legislatively approved entity that may succeed the MBTA. Additionally, for purposes of this Section the "MBTA" does not include easement holders, MBTA lessees, or licensees or successors to any real property of the MBTA through sale, assignment, pledge, mortgage, exchange or gift.

6.3 Insurance of Contractors

DCR shall cause its contractors and agents to maintain sufficient liability insurance, and general insurance, with coverage for bodily injury, wrongful death, and property damage, consistent with MBTA insurance requirements as enumerated below, naming the MBTA

as an additional insured, and indemnifying the Commonwealth of Massachusetts and the MBTA. DCR shall require its contractors and consultants to take out and maintain sufficient Commercial General Liability insurance (with coverage for bodily injury, wrongful death, and property damage to cover loss arising from all work whether above or below ground), Workers Compensation Insurance (with coverage in the amount required by DCR in such contract, but no less than the statutory minimum under G.L. c. 152, as amended), and Vehicle Liability Insurance under any Public Works contract under G.L. c. 30, vertical construction contract under G.L. c. 149, or Goods and Service contract under G.L. c.7, as applicable, for work performed by any consultant or contractor on the Premises. All insurance shall be provided at the contractor's expense and shall be in full force and effect for the full term of the contract or for such longer period as the contract would require. The MBTA insurance requirements are as follows:

(a) Commercial General Liability Insurance

For Public Works projects with a minimum liability coverage for personal injury, bodily injury and property damage with limits not less than One Million (\$1,000,000.00) Dollars per occurrence and Three Million (\$3,000,000.00) Dollars in aggregate. Umbrella liability coverage with limits of not less than Two Million (\$2,000,000.00) Dollars covering all work performed must also be provided; and minimum liability coverages for goods and services contracts in accordance with DCR requirements. Such insurance shall be written on an occurrence basis (as opposed to a claims-made basis) and name the Commonwealth of Massachusetts, MBTA and others hereinafter designated as additional insureds as their interests may appear. Such insurance may be subject to standard exclusions found in property and general liability insurance policies.

(b) Worker's Compensation Insurance

- (i) For all DCR contractors, insuring all persons employed by the DCR in connection with any work done on or about the Premises with respect to which claims for death or bodily injury could be asserted against the MBTA or the Premises with limits of liability of not less than those required by Massachusetts General Laws Chapter 152 as amended. The policy shall contain a clause waiving the company's right to subrogation against the MBTA if such a policy is commercial available, and
- (ii) For all DCR contractors and agents by providing evidence of an active workmen's compensation program for DCR contractors agent funded by DCR, a copy of which is attached.

(c) Automobile Liability Insurance

Automobile liability insurance with limits of not less than One Million (\$1,000,000.00) Dollars covering all owned, non-owned, hired, rented or leased vehicles of the contractors or agents of DCR.

The required insurance coverage's herein specified shall be placed with insurance companies licensed by the Massachusetts Division of Insurance to do business in the Commonwealth of Massachusetts and having a Best's rating of B+ or better;

The DCR shall be responsible for seeing that its contractors and consultants are properly covered by insurance. MBTA must be provided evidence of same.

Notwithstanding any other provision of this section 6.3, DCR reserves the right to propose to meet the requirement by adding such insurance coverage to existing policies subject to the terms and conditions of those existing policies or to obtain new policies containing terms and conditions generally included in policies provided to state agencies in Massachusetts.

6.4. Compliance with Laws

The DCR shall comply with, and shall cause all work performed to comply with, all applicable Federal and state governmental statutes, laws, rules, orders and regulations. The DCR shall also be responsible for obtaining any and all applicable permits and/or approvals under Federal or state law necessary to carry out the activities permitted hereunder.

7. Maintenance

During the Term hereof, the DCR shall keep, repair, manage, operate, and maintain the entire Premises in good and clean order, operation, condition and repair. Except for any claim of damage arising from the exercise by the MBTA of the rights reserved to it, the MBTA shall have no responsibility whatsoever for the maintenance, repair or the condition of the Premises.

8. Utilities

Except as reasonably necessary for the operation of the alternative transportation use of the Corridor, no utilities shall be installed on the Premises by the DCR without the written approval of the MBTA.

9. Reservation of Rights

9.1 Non-Exclusivity

- (a) The MBTA makes no representations or warranty, express or implied, that the DCR shall have sole or exclusive use of the Premises. In the event other licenses, leases or easements have been or are granted or exist by reservations in deeds, the DCR shall be responsible for coordinating its work and activities with that of other licensees, grantees and other parties with interests in the Premises. The MBTA shall not be liable for delays, obstructions, or like occurrences affecting the DCR, arising out of the work of the MBTA or other licensees, grantees or parties in interest; provided, however, that the MBTA shall make reasonable efforts to mitigate impacts on the Use of the Premises. The MBTA will make a list available to the DCR of any and all leases or licenses along the Corridor designated under this Lease.

- (b) The DCR'S rights herein are granted subject to existing, easements, and rights of record to the extent that such easements rights and takings are still in effect and applicable. The MBTA explicitly reserves the right to all uses of the Premises not herein granted to the DCR, including the right to lease, license, grant easements and reserve encroachments relative to portions of the Premises to third parties, except that the MBTA shall not (and shall not grant to others the right to) do anything on the Premises that shall materially impede the permitted Use of the Premises, as defined in Section 3 ,supra, except temporarily (e.g. while a pipe line is being installed or repaired) The MBTA may continue to utilize the Premises for revenue purposes but any portion of the Corridor so utilized in connection with any third party transactions will continue to provide for continuity of the Rail Trail Corridor and DCR shall work cooperatively with the MBTA and any third party grantees, lessees or licensees for this purpose. The MBTA agrees to minimize any potential impact to the DCR maintained Corridor including consultation with DCR on public safety, rail trail use and operations, and proposed mitigation measure considerations. The MBTA shall retain the right to authorize subsurface or bridge crossings, provided sufficient clearance is maintained to allow for passage of public safety vehicles along the Corridor. If the MBTA shall create after the date of this Agreement an "at grade" easement, right of way or allow a permitted crossing of the Corridor with a new third party, the new third-party recipient of said easement, right of way or permitted crossing shall be responsible for providing sufficient liability insurance, and general insurance, with coverage for bodily injury, wrongful death, and property damage, consistent with MBTA insurance requirements as enumerated below, naming the MBTA and the Commonwealth of Massachusetts as an additional insured, and indemnifying the Commonwealth of Massachusetts and the MBTA. Notwithstanding language in Section 6.1, 6.2, 6.3, and 7, DCR shall bear no responsibility for such easement, right of way or permitted crossing or for the acts or omissions of the said new third-party or the general public on such easement, right of way or permitted crossing.

The DCR's rights herein are granted subject to existing leases, licenses easements and encroachments, now existing or granted in the future, to the extent that such rights are still in effect and applicable. The MBTA hereby agrees to provide the DCR with copies of the documents that establish the location and term of existing licenses, leases, easements or encroachments, if any. Upon completing a 25% design of the proposed rail trail, the DCR may request that the MBTA exercise any rights it may have to modify or terminate an existing lease or license that would prevent the creation of a contiguous Corridor. The MBTA shall make all reasonable attempts to fulfill such requests to create a contiguous corridor.

- (c) The DCR expressly agrees that any revenues obtained from the leasing, licensing, or the granting of rights for any use of the Premises to any utility or

other entity shall belong solely to the MBTA.

The DCR shall not be entitled to impose any fees, charges, requirements for betterments, linkage payments or other benefits to the DCR on any lessee, licensee or grantee of the MBTA or any other party either for installations on the Premises or on public way crossings along the Premises (except those fees normally charged by the DCR for engineering and environmental review, if any). If despite this section the DCR does receive some such benefit, then the MBTA shall be paid the fair market value of that benefit by the DCR.

- (d) The DCR expressly agrees that if there is any encroachment onto the Premises by a third-party, the MBTA will have the sole right to cure said encroachment and to obtain revenue from such cure or to permit such encroachment, provided that such cure does not materially interfere with the DCR's use of the Corridor. Notwithstanding the preceding, to the extent that the encroachment is on the Corridor, then the DCR shall have the right to expel such encroacher.

9.2 Utility and Communication Lines and Emergency Access

The MBTA expressly reserves all of its rights in the Premises for itself, its successors and assigns, to install, maintain, repair, replace and remove aerial, surface and subsurface utility and communication lines, wires, antennas and conduits in, on, under or above the Premises as well as the right to lease, license and/or grant easements for such utility and communication rights to third parties; except that the DCR shall have the rights specifically granted herein. The MBTA shall take all necessary safety measures including, but not by way of limitation, notification to the DCR of its intention to perform (or have performed) such installation and/or maintenance, the erection of barricades, as shall be reasonably required to protect persons performing such work and construction, as well as members of the public, from injury or damage caused by, or resulting from, any entry, work or construction performed by the MBTA or its contractors, licensees, lessees, grantees (and their contractors) pursuant to this Section. The MBTA shall, at its cost and expense, return the Premises to a condition in which the Premises can be used for the purposes for which they were used before the work pursuant to this paragraph, if its contractors, licensee, lessees, or grantees, as the case may be, fail to do so.

Prior to entry, the MBTA shall require that any contractor, licensee, lessee or grantees provide the DCR, during the Term thereof, insurance of the activities permitted by the MBTA, to the same extent and on the same terms that the MBTA is insured. The DCR shall be named as an additional insured on any general liability policy. All policies shall waive the right of subrogation for any claim that may be made against the DCR.

10. Security and Operations

The MBTA shall have no obligation to provide security services or lighting for the

Premises. DCR may implement public safety and emergency services for the Corridor under the DCR's usage, and may address providing public safety services through municipal public safety departments, as well as police services with the State Police and municipal police departments. DCR, its agents or assignees, may install lighting and adopt time of use and other restrictions applicable to the public. Provided such are not inconsistent with the provisions of this Lease, the Premises shall be subject to DCR regulations regarding the public's use and conduct of activities on DCR property. Any portion of the Corridor that is utilized by a third party shall not be subject to any DCR regulation which would interfere with the third party's ability to operate said portion of the Corridor.

11. Default

In the event the DCR shall have failed or refused to take a required action or to observe any covenant or undertaking herein on its part to be performed and/or observed and such failure or refusal has continued for at least thirty (30) days after written notice from the MBTA of the breach of such covenant(s) by the DCR, which notice shall specify the nature of the breach in reasonable detail, the MBTA may, immediately or at any time thereafter (notwithstanding any license or waiver of the benefit hereof, or consent in a former instance) and without any further demand or notice, in person or by agent or attorney, enter the Premises or any part thereof and block access to the Premises by the public; and/or the MBTA may terminate this Lease by written notice to the DCR and, in either event, expel the DCR and those claiming through or under it and remove their effects without being deemed guilty of any manner of trespass and without prejudice to any remedy which otherwise might be used for breach of covenant and upon entry or notice as aforesaid this Lease shall terminate.

12. Condition of the Premises at Termination

The DCR agrees to deliver up the Premises to the MBTA at the expiration of the Term or termination by the MBTA hereof in as good condition as the Premises were after the DCR installed improvements were made, reasonable wear and tear excepted. DCR shall have no obligation to remove or reimburse the MBTA for costs of removal of any of the DCR installed improvements; and such improvements shall not be considered a change to the grade existing at the commencement of this Lease.

13. Existing Utilities

The DCR acknowledges that there may be surface and subsurface utilities on and adjacent to the Premises and agrees to exercise extreme caution in performance of the scope of work. The DCR shall comply with Massachusetts General Laws, Chapter 82, Section 40 (said statute also known as the "Dig Safe" law) and the regulations promulgated pursuant thereto including but not limited to the Code of Massachusetts Regulations, more particularly, 220 CMR 99.00 et seq. To the extent the MBTA, or parties acting in behalf of the MBTA, locate and mark railroad utilities in the railroad rights of way and appurtenant thereto, the DCR shall be responsible for payment to such parties for such services which may include, but not be limited to, locating and

marking utilities, facilities and appurtenances thereto serving the railroad line(s) or used in connection with services or operations of the MBTA. Any damage to such utilities caused by the DCR shall be the sole responsibility of the DCR. If the DCR does not immediately repair any utilities it has damaged, the MBTA, without being under any obligation to do so and without waiving the DCR's obligation hereunder, may repair any utilities damaged by the DCR immediately and without notice in case of emergency. In the event the MBTA exercises such right, the DCR shall pay to the MBTA immediately upon demand all of the MBTA's cost of performing such repairs plus a fee equal to twenty-five percent of the MBTA's cost of performing such repairs to reimburse the MBTA for its administrative costs.

The MBTA reserves the right to remove the rail infrastructure and agrees that if it chooses to do so, said removal shall be within 180 days of the date the DCR notifies the MBTA to be the date of the rail construction commencement. The DCR shall be responsible for removal and disposal of all other rail infrastructure, after the said 180 days, and may retain any revenue from DCR's removal and disposal of such.

14. Notice of Project Completion and Record Drawings

Upon completion of its work, the DCR shall provide written notice ("Notice of Project Completion") to the MBTA Railroad Operations Department of the date of project completion. The DCR shall also provide the MBTA Railroad Operations Department with one reproducible "As-Built" copy of each approved construction drawing marked to indicate all changes and deviations from the original approved plans and recording the final conditions of the Premises ("Record Drawings") upon completion of the work authorized hereunder. All Record Drawings shall be received and accepted by the MBTA prior to final inspection. The Notice of Project Completion and the Record Drawings shall be delivered to:

Section Chief, Engineering and Maintenance
MBTA Railroad Operations Department
32 Cobble Hill Road
Somerville, MA 02143

15. Results

If the DCR conducts certain investigations on MBTA owned land, then the DCR agrees to provide to the MBTA, at no cost, a copy of the results of such investigations (including data and analysis) and all other work conducted under this Lease in both hard copy form and in a digital format specified by the MBTA regardless of whether the report was prepared by the DCR, its agent, consultant or contractor, or prepared on behalf of the DCR. All results and reports shall be provided to the MBTA within ten (10) days of receipt by the DCR. The DCR agrees to consult with the MBTA prior to contacting any governmental entity, regarding any information, results of analysis or reports regarding the Premises. The DCR shall give the MBTA a copy of any reports or notifications, including but not limited to release notifications, prior to submitting the same to any governmental entity.

16. Construction and Access Plan

The DCR shall submit a plan and detailed specifications (including the materials to be used) and the proposed methods of performing the work, or any part thereof (the "Plan") to the MBTA. The DCR shall not enter the Premises to undertake construction until the Plan has been approved by the MBTA, which approval shall not be unreasonably withheld. The scope of work for said construction, installation, and/or replacement will be more fully defined in the approved Plan, which approved Plan will automatically be incorporated herein by reference and made part of this Lease. The DCR shall also provide the MBTA with a detailed schedule of times when the DCR, its employees, contractors, subcontractors, or agents would like to be on the Premises to undertake the construction and installation of the rail trail improvements (the "Access Plan").

17. Contracts for Improvements

All contracts for the construction or installation of the improvements at the Premises shall require:

- (a) that all contractors and subcontractors provide labor that can work in harmony with other elements of labor employed or to be employed at or near the Premises.
- (b) insurance coverage and suretyship reasonably satisfactory to the MBTA, provide that customary coverage's used by DCR in its public contracting shall be considered reasonably customary, provided said coverage's are in accord with the then current MBTA insurance requirements.
- (c) that all contractors or subcontractors comply with all applicable provisions of this Lease; and

performance bonds and payment bonds in form and substance satisfactory to the MBTA, each of which shall name the MBTA, as an additional obligee, provide that customary coverage's used by DCR in its public contracting shall be considered reasonably customary, provided said coverage's are in accord with the then current MBTA insurance requirements.

18. Notices

All notices required or permitted to be given hereunder shall be in writing and addressed as follows:

In the case of the MBTA to:
Massachusetts Bay Transportation Authority
10 Park Plaza, Room 5750

Boston, Massachusetts 02116
Attn: Director of Real Estate

With a copy to:
MBTA Railroad Operations Directorate
Section Chief, Engineering and Maintenance
32 Cobble Hill Road
Somerville, Massachusetts 02143

With a copy to:
DESIGNATED REPRESENTATIVE
Transit Realty Associates, LLC
77 Franklin Street
Boston, Massachusetts 02110
Attn: General Counsel

And in the case of the DCR to:

Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston, MA 02114
Attn: General Counsel

All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms hereof (hereinafter "Notice"), shall be in writing and shall be deemed to have been properly given when deposited in registered or certified United States mail, postage prepaid, return receipt requested, addressed, as described above or when delivered by messenger or overnight mail service to the correct addressee. Notice shall be deemed received when actually received or when the proffered Notice has been refused by the Addressee. The signature of an employee, servant or agent of the Addressee shall be determinative on the issue of actual receipt.

The DCR and the MBTA shall, at any time and from time to time, have the right to specify as their proper addresses for purposes of this Lease any other address or addresses giving fifteen (15) days' written notice thereof to the other party.

19. Nondiscrimination

With respect to its exercise of all rights and privileges herein granted, the DCR shall undertake affirmative action as required by Federal and State laws, rules and regulations pertinent to Civil Rights and Equal Opportunity unless otherwise exempted therefrom. The DCR agrees that it shall comply with any and all required affirmative action plans submitted pursuant to the directives of any Federal agency and in accordance with applicable Federal law and applicable state laws, rules and regulations.

The DCR shall use reasonable efforts to contact, encourage and utilize minority and female business enterprises in the procurements of materials and services under this

Lease.

The DCR shall not discriminate against any person, employee or applicant for employment because of race, color, religion, creed, national origin, age, sex, sexual orientation, disability/handicap or veteran status in its activities at the Premises, including without limitation, the hiring and discharging of employees, the provision or use of services and the selection of suppliers, contractors or subcontractors.

20. Work In Harmony

The DCR agrees that in any work performed in or about the Premises, it will employ only labor which can work in harmony with all elements of labor being employed by the MBTA on or adjacent to the Premises.

21. Assignment

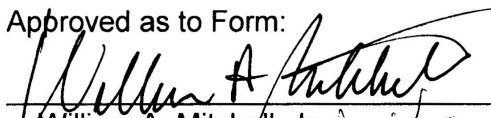
The DCR shall not, without the prior written consent of the MBTA, transfer or assign this Lease or any part hereof. Such consent may be withheld in the sole discretion of the MBTA.

22. Entire Agreement

This Lease contains the entire agreement of the parties hereto with respect to the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, between the parties hereto with respect to the subject matter hereof not embodied herein shall be of any force or effect.

IN WITNESS WHEREOF, the parties hereto, each for itself, its successors and assigns, have caused these presents to be executed, as a sealed instrument, by its officers, thereunto duly authorized.

Approved as to Form:



William A. Mitchell, Jr.
General Counsel

**MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY**

BY:



Richard A. Davey
General Manager

**DEPARTMENT OF CONSERVATION AND
RECREATION**

BY:



Richard K. Sullivan, Jr.
Commissioner

EXHIBIT A

PLAN OF PROPERTY

RIGHT-OF-WAY AND TRACK MAP
BOSTON AND MAINE R.R.
SHEETS V-5/4 THROUGH V-5/30

EXHIBIT B

**COPY OF ORDER OF
MEMORANDUM AND ORDER OF
THE U.S. DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In the Matter of

BOSTON AND MAINE CORPORATION,

Debtor

No. 70-250-M

MEMORANDUM AND ORDER

on

Motion of Debtor's Trustees for Authority to
Abandon the Central Massachusetts Branch Line
and the Marlboro Branch Line of Railroad in
Massachusetts

MURRAY, Senior District Judge

The motion of Debtor's Trustees for an order authorizing the Trustees, pursuant to Rule 8-512(b) of the Bankruptcy Rules, to abandon the Central Massachusetts Branch and the Marlboro Branch (the Branches) came on to be heard on September 17, 1980, after notice given by order of the court in accordance with 11 U.S.C. § 1170(c) (Supp. III 1979) of the time and the place of the hearing. The Trustees presented evidence to the court which was uncontroverted.

By Order No. 475 entered June 21, 1979, this court authorized the Trustees to initiate proceedings before the Interstate Commerce Commission (ICC) for a certificate of public convenience and necessity permitting the abandonment of the Branches. 49 U.S.C. § 10903 (Supp. II 1978); 49 C.F.R. § 1121 (1979). With the subsequent transfer of jurisdiction to the court over abandonments and discontinuance of service, 45 U.S.C. § 915(a), Pub.L. No. 96-101 § 17(a), 93 Stat. 744-45, the ICC, after reviewing documentary evidence and comments submitted to it, issued a report dated March 26, 1980. Before the ICC, the Trustees' petition to abandon the Branches was vigorously opposed. Several freight receivers¹ along the Central Massachusetts

1. The service provided by Debtor along the Branches is almost exclusively that of delivering goods to customers. During 1979, Debtor carried only two rail-car shipments outbound along this line.

Branch, together with various public figures, submitted evidence or comments attempting to persuade the ICC to refuse the Trustees' request. The Trustees had not such opposition in the proceedings before the court; their petition was uncontested.

The Central Massachusetts Branch is a line of railroad in Middlesex and Worcester Counties, Massachusetts extending approximately 21.68 miles. It runs from milepost B 10.50 at Waltham North through Weston, Wayland, South Sudbury and Hudson into Berlin ending at milepost B 32.18. The Marlboro Branch is essentially a spur leaving the Central Massachusetts Branch at milepost B 32.75 in Gleasondale and running south to Marlboro terminating at B 37.49. Debtor does not own the right of way, the track, structures or other materials on the lines, having sold them and the right to transport passengers over the right of way to the Massachusetts Bay Transportation Authority (MBTA) in December of 1976. The Debtor reserved an easement to haul freight on the lines, and has the burden of maintaining the track. Because MBTA now owns the property on the line the Trustees may not abandon the Branches but only discontinue service. See In the Matter of Boston and Maine Corporation, 596 F.2d 2, 6 (1st Cir. 1979).

The Trustees considered taking formal steps to abandon the Branches at their meeting on May 11, 1979. For a period of years there had been no customers on the Marlboro Branch and the customers in Berlin took delivery of their occasional shipments at a public delivery facility in Clinton. Debtor ceased serving its customers in Hudson after February 1980 although it did not place an embargo on the line until August. Despite lack of authority from the court, Debtor had ceased operating over the Marlboro Branch and the western end of the Central Massachusetts Branch some time ago. In effect, Debtor had de facto discontinued service on the line prior to the hearing on the Trustees' petition in this court and prior to the report from the ICC.

Before it discontinued service on the line, Debtor served several customers in South Sudbury, primarily Saxonville Wholesale Lumber Warehouse Company (Saxonville) and Mullen Lumber Company,

and Saxonville accounted for more rail traffic than all of Debtor's other customers on this line combined in the last full year of accounting. In addition, Debtor served Koro Corporation of Hudson which had relied on Debtor for the transportation of plastic pellets necessary to its business. Debtor also had several other customers in Hudson, but these receivers only accounted for limited traffic on an occasional basis.

The Trustees presented evidence to the court that the lumber companies in South Sudbury are currently receiving all their materials via Conrail. Conrail operates a line that intersects the Central Massachusetts Branch in South Sudbury. There was evidence before the court that Conrail will consider providing limited service along the Central Mass. Branch to the east of the junction in South Sudbury but will not serve customers to the west in Hudson. However, there was evidence that Koro Corporation is currently receiving its shipments of plastic pellets in Fitchburg and trucking the material from there to its plant in Hudson. The Trustees also presented evidence that while this method of transporting goods may be more expensive for Koro Corporation it is not an unreasonable cost increase.

The proposed discontinuance would seem to be in the best interests of the Debtor's estate. The number of customers and the amount of traffic on the line may be viewed, at best, as remaining stable. There is no indication that these gauges of economic viability will increase in the foreseeable future. On the other hand, there is considerable maintenance and rehabilitation needed on the line. Currently the line is deemed to be a Class I track under Federal Railroad Administration Track Safety Standards. See 49 C.F.R. § 213 (1979). However, there is evidence that the line has fallen below that level, the lowest category under these standards. The Trustees have deferred maintenance on the line in an attempt to limit expenses, and the burden to the estate of making the necessary improvements is not justified in light of the current and expected revenues.

There is little evidence that discontinuance of service over the lines would be inconsistent with the public interest. At the hearing

before the court no one appeared to oppose the Trustees' petition. The evidence that the Trustees presented showed that the adverse impact of discontinuance of service has dissipated over time. When the Trustees went before the ICC there was considerable agitation among the businesses and communities served by Debtor; however, most freight receivers seemed to have adjusted to the loss of service. Moreover, there was testimony that although the MBTA has ownership rights in the line it does not presently or within the near future intend to use the line for passenger transportation. There was nothing offered to show that the right of way would be suited for other public use purposes. The Executive Office of Transportation and Construction of the Commonwealth of Massachusetts would, in its role as consultant to MBTA, urge that the right of way of the Branches be preserved as a rail transportation corridor for the indefinite future.

Accordingly, it is hereby Ordered that:

In the best interests of Debtor's estate and consistent with the public interest the Trustees are permitted to discontinue freight service over the Central Massachusetts Branch Line and the Marlboro Branch Line, as described in this Memorandum, between Waltham North and Berlin, and between Hudson and Marlboro, in the counties of Middlesex and Worcester, Massachusetts.

Dated

October 3, 1980


Senior District Judge

**OPTION AGREEMENT BETWEEN
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
AND
NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY
FOR A TRANSMISSION LINE EASEMENT ON
CENTRAL MASS BRANCH RIGHT OF WAY
LOCATED IN
HUDSON, STOW, MARLBOROUGH AND SUDBURY, MASSACHUSETTS**

WHEREAS, the Sudbury-Hudson Transmission Reliability Project is one of several projects selected by ISO New England, Inc. to address the reliability needs of the electric transmission system in the greater Boston area (the "**Project**").

WHEREAS, the Project will result in a new 115 kv electric transmission line between the Eversource Sudbury Substation 342 and the Hudson Light and Power Substation, with the subsurface route following the MBTA's inactive Central Branch railroad corridor for a maximum of approximately 8.63 miles.

1. Parties

The **MASSACHUSETTS BAY TRANSPORTATION AUTHORITY**, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts, established and existing pursuant to Chapter 161A of the Massachusetts General Laws, with a usual place of business at Ten Park Plaza, Boston, Massachusetts 02116 (hereinafter "**SELLER**" or "**MBTA**") and **NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY**, a Massachusetts corporation and electric company with a usual place of business at 247 Station Drive, Westwood, Massachusetts 02090 ("**BUYER**") are desirous of entering into an Option Agreement on the terms and conditions set forth below (the "**Option Agreement**").

2. Grant of Option and the Option Period

SELLER hereby grants to BUYER, the right and option (referred to as the "**Option**") to acquire a non-exclusive, perpetual easement (the "**Easement**") in a form substantially similar to the easement form attached hereto as Exhibit C (the "**Easement Form**"), for the

exclusive right within the Easement Premises of constructing, operating, maintaining, repairing and replacing, from time to time, facilities and related equipment and appurtenances necessary or appropriate for the transmission and/or distribution of electricity and communications from Buyer's Sudbury Substation 342 to the Hudson Light and Power Substation directly related to Buyer's transmission and distribution of electricity for the Project (collectively, the "**Facilities**"). Upon BUYER's request, the parties shall execute a mutually agreeable Notice of Option in recordable form, which BUYER may record in the applicable Registry of Deeds at its sole cost and expense.

The effective time period of the Option (the "**Option Period**") shall extend from the date of the last signature to this Option Agreement (the "**Option Start Date**") until the close of business (5:00 PM EST) on the day prior to the sixth (6th) anniversary of the Option Start Date (the "**Option Expiration Date**"). Unless BUYER has previously delivered an Exercise Notice (as defined in Section 3 below), BUYER shall request approval from SELLER for the right to extend the Option prior to the expiration of the Option Period upon no less than forty-five (45) days' prior written notice to SELLER, which approval shall be at SELLER's reasonable discretion (the "**Extension Notice**"). If SELLER approves the Extension Notice, then the Option Period and the associated Option Payment shall be extended for one year; however, SELLER and BUYER agree that the Option Payment for any extension period pursuant to the Extension Notice shall be negotiated by SELLER and BUYER. Unless SELLER approves such Extension Notice, the Option shall terminate.

2A. Exercise of Option

The Option hereby granted shall be exercised, if at all, by written notice delivered from BUYER to SELLER prior to the Option Expiration Date (the "**Exercise Notice**"), so long as the Option Payments under Section 3 are made when due and payable. If the Option is not exercised prior to the Option Expiration Date, BUYER shall have no further right to acquire the Easement. Time is of the essence with respect to the exercise of the Option.

2B. During the Option Period SELLER agrees not to grant new licenses, easements, leases or fee interests to any person or entity for the purpose of constructing, operating, maintaining, repairing and replacing facilities and related equipment and appurtenances for the transmission and/or distribution of electricity, or other uses that would preclude

BUYER from exercising the Option and using the Easement Premises for its intended uses. Notwithstanding the foregoing restrictions, SELLER shall be allowed to grant new licenses, easements or leases for electrical transmission which cross the Easement Premises and which do not directly compete with the Project, provided that any such grants do not interfere with BUYER'S access and/or safe and compliant operation of BUYER'S Improvements. Additionally, and without limiting the generality of the foregoing, any disposition of interests by SELLER in the Easement Premises after the date hereof must either (i) reserve to SELLER the right to grant rights to BUYER consistent with this Option Agreement and any siting approvals obtained by BUYER after the date hereof if SELLER has been notified of said siting approvals, or (ii) provide for the relocation of the affected portion of the Easement Premises to an alternate location within land of MBTA, if available, as MBTA may designate, provided that such location is reasonably acceptable to BUYER for the intended purposes. Notwithstanding the provisions contained in this Section 2B, any and all existing, licenses, easements, or leases existing at the time of the execution of this Option Agreement shall be able to continue under their present terms and conditions and potential extension of the duration thereof.

BUYER specifically acknowledges that a portion of the Easement Premises is part of a right-of-way that has been leased by MBTA to the Commonwealth of Massachusetts, Department of Conservation and Recreation ("**DCR**") for a multiuse path, copy of the lease is attached hereto as Exhibit D (the "**ATC Lease**"). BUYER acknowledges that this Easement is specifically subject to the ATC Lease. BUYER must not materially interfere with or disturb the DCR's use of its leased premises. Additionally, BUYER shall cooperate with DCR in connection with the future operation, use and maintenance of the multiuse path. Moreover, BUYER and DCR shall negotiate a memorandum of understanding or similar instrument detailing BUYER's and DCR's obligations, liabilities and commitments to each other regarding the ATC Lease, this Option Agreement and the Easement.

3. **Option Payment**

Simultaneously with the execution of this Option Agreement by BUYER and as consideration for the Option, BUYER shall pay SELLER the sum of One Hundred Thousand Dollars (\$100,000.00) for the first year; thereafter, for each subsequent year BUYER shall pay SELLER the sum of Ten Thousand Dollars (\$10,000.00) during the

Option Period (collectively, the “**Option Payments**”). To the extent BUYER exercises its rights under this Option Agreement, the Option Payment for the first year of One Hundred Thousand Dollars (\$100,000.00) shall be credited against the Purchase Payment for the first year on the Closing Date (as hereinafter defined), but otherwise the Ten Thousand Dollar (\$10,000.00) Option Payments shall be non-refundable and due annually in advance, commencing on the second anniversary of the Option Start Date. BUYER shall be required to pay the Option Payments regardless of whether or not SELLER sends BUYER an invoice in connection with any such installment. All Option Payments shall be made payable to MBTA and mailed to the following address unless otherwise designated by MBTA:

MBTA
P.O. Box 845142
Boston, MA 02284 - 5142

Notwithstanding the foregoing, BUYER’s obligation to pay the Option Payments shall cease upon the earlier to occur of (i) expiration of the Option Period, or (ii) the delivery of an Exercise Notice (as defined in Section 6 below).

4. **Easement Premises**

The premises within which the Facilities will be installed consist of a strip of land approximately 82.5 foot-wide (the “**Property**”) within the perimeter depicted on Exhibit A attached hereto, for a maximum distance of 8.63 miles (the “**Easement Premises**”). The Facilities will follow the centerline of said Easement Premises, to the extent feasible. In general, the Facilities will enter the Central Massachusetts Branch right of way (“**ROW**”) at BUYER’s existing substation located off Boston Post Road in Sudbury Massachusetts. The Facilities are presently expected to exit the ROW at or before a point near Woodrow Street in Hudson, MA, a distance of approximately 7.98 miles. However, the maximum total length of the ROW is +/- 8.63 miles. Exhibit B hereto contains a map illustrating the potential exit point locations. SELLER and BUYER agree that modifications of the Easement Premises may be necessary as design and siting approval of the Facilities progresses, and such changes are contemplated by this Option Agreement. SELLER and BUYER agree to work together to establish a final route that does not interfere with MBTA uses, the ATC Lease and is substantially consistent with BUYER’s design and

construction needs and permitting approvals. BUYER agrees to accept all risk associated with expenditures made prior to agreement on a final route.

5. **Intended Use and Construction Techniques**

SELLER and BUYER acknowledge and agree that this Option Agreement grants rights for Facilities to be constructed in an underground configuration and this Option Agreement is solely for an underground configuration; however, SELLER acknowledges that for this Option Agreement to be exercised by BUYER, BUYER must first obtain approval from the Massachusetts Energy Facility Siting Board ("EFSB") and that any final decision on the configuration and routing will be made by the EFSB. To the extent the EFSB, through its decision process, determines that an alternative route or use of SELLER's property is the more appropriate approach toward implementation, SELLER will consider other such alternatives and may amend this Option Agreement as may be appropriate, including but not limited to, Section 7 of this Option Agreement.

Construction of BUYER's underground Facilities will consist of transmission cables installed in a conduit ductbank with additional conduits for transmission-related communication equipment. Facilities will also require the installation of manholes and vaults.

It is hereby acknowledged that as a part of the consideration for this Option Agreement and the Easement that MBTA has agreed to waive certain construction and installation requirements relating to clearing and location of BUYER's Facilities which would normally be required per the Massachusetts Bay Transportation Authority Railroad Operations Directorate dated August 2014 as follows: I Guidelines And Procedures For Construction On MBTA Railroad Property, Section 9.01 C2; II Maintenance And Protection Of Railroad Traffic, Sections 2.10 and 2.11; IV Pipeline Occupancy Specifications; and V Specifications For Wire Conduit And Cable Occupations, Section 3.02 E 1, Section 4.01 B, and Section 5.01 and including plates II, III, IV and VI.

SELLER also agrees that BUYER may use the inactive railroad corridor for its Facilities and that soils disturbed during construction may remain on MBTA property, so long as (a) the Massachusetts Department of Environmental Protection ("DEP") does not require such

disturbed soils to be removed offsite, and (b) such disturbed soils are properly graded and sloped so as to not adversely impact SELLER's licensees, lessors, easement holders or any abutters to SELLER's property. BUYER agrees to follow DEP regulations and requirements with respect to such soil storage.

Prior to commencing any construction activities within the Easement Premises, BUYER agrees to submit to MBTA for its prior written approval, detailed construction plans and specifications, a construction schedule and such other information as may be reasonably required by any affected department of MBTA. All of BUYER's activities within the Easement Premises shall be conducted consistent with this Option Agreement and all applicable policies and reasonable conditions imposed in connection with MBTA's departmental approval process.

6. **Quality of Title**

If BUYER timely delivers the Exercise Notice, SELLER shall deliver to BUYER on the Closing Date (as hereinafter defined) the Easement in substantially the form attached hereto as Exhibit C. The Easement shall convey to BUYER the perpetual and exclusive right to construct, operate, maintain, repair and replace, from time to time, the Facilities, within the Easement Premises, together with the non-exclusive right of reasonable access over other portions of the Property to access the Easement Premises, reserving to the SELLER the right to make other uses of the Easement Premises that are not inconsistent with the rights herein granted, and free from all encumbrances, except:

- (a) Provisions of existing building and local zoning laws;
- (b) The leases and licenses described on Exhibit D attached hereto;
- (c) Easements, restrictions, reservations, and eminent domain takings by third parties of record, if any; and
- (d) Any encroachments
 - (1) that can be seen by inspecting the Easement Premises, or
 - (2) that are specifically listed in this Option Agreement and subsection (f) immediately below, or
 - (3) that are shown on the plan attached hereto as Exhibit A.
- (e) Any other easement, license, restriction or encroachment, if any, unless such easement, license, restriction, or encroachment materially interferes

with the use the Easement Premises for constructing, operating, maintaining, repairing and replacing, from time to time, the Facilities.

(f) All title defects waived pursuant to Section 12 herein.

7. Easement Acquisition Payments

The compensation for the Easement will be payable in time over a twenty (20) year period in the annual amount of Four Hundred and Twenty-Five Thousand Dollars (\$425,000.00) (the "**Easement Payment**") payable in equal monthly payments. The Easement Payment shall be increased by one percent (1%) annually as shown in Exhibit E attached hereto. BUYER'S first Easement Payment will be reduced by One Hundred Thousand Dollars (\$100,000.00). The Easement Form will contain further terms and conditions concerning payment of the Easement Payment.

To the extent BUYER's use of the Easement Premises results in the loss of income to the SELLER through temporary or permanent relocation of SELLER's licensee's, lessors or easement holders, BUYER shall pay an equal amount in lost revenue to SELLER.

8. Reimbursement of SELLER's Costs

In addition to the foregoing payments, BUYER will reimburse MBTA for all actual MBTA construction support and engineering review costs within thirty (30) days following receipt of MBTA's invoice and supporting documentation. A force account with MBTA will be required for the review of engineering, construction and permitting documents and for safety and construction oversight activities (the "**Force Account**"). This Force Account will be required to be funded no later than the first submission of site investigation, permitting, engineering or other documents with initial funding of \$25,000.00. In the event MBTA draws down funds from the Force Account such that the Force Account is reduced in available funding of one-half of the required funding (initially to \$12,500.00), then BUYER shall replenish the Force Account to its then-required level of funding within thirty (30) days of notification to BUYER by MBTA of the amount of such drawn down funds. This account will remain in effect until ninety (90) days after Substantial Completion of the Facilities. "Substantial Completion" shall be defined as commencement of commercial

operations of the Facilities. BUYER may be required by SELLER to replenish this account if it seeks to construct major improvements after substantial completion.

9. **Time of Performance**

The Easement is to be delivered to BUYER and the payment of the first monthly installment of the Easement Payment shall be paid to SELLER at the office of SELLER, Ten Park Plaza, Boston, Massachusetts 02116 on a date selected by BUYER in the Exercise Notice, but in no event earlier than thirty (30) days after the Exercise Notice or later than six (6) months after the Exercise Notice, unless otherwise agreed by BUYER and SELLER (the "**Closing Date**"). The parties may mutually agree in writing on some other place and time as the Closing Date.

10. **Survey and Approvals**

BUYER is responsible for preparing and obtaining an approved plan showing the location of the Easement Premises (the "**Easement Plan**") prior to the Closing Date. The Easement Plan must be prepared by a registered land surveyor in recordable form in conformance with the rules and regulations of the Registry of Deeds and with any other requirements of MBTA. BUYER shall be responsible for all necessary permitting approvals associated with the land use and construction of the Facilities on the Easement Premises at BUYER'S expense prior to the Closing Date. Once constructed BUYER agrees to provide at BUYER'S expense as-builts of BUYER'S installed Facilities. BUYER'S inability to obtain any permitting approvals necessary for the development of the Facilities shall not relieve BUYER of its obligations to acquire the Easement once BUYER delivers the Exercise Notice.

BUYER and SELLER acknowledge and agree that should it become necessary at any time subsequent to the Closing Date to amend the Easement Plan to enable BUYER and/or the Easement Premises to comply with applicable laws, or to facilitate BUYER'S use and enjoyment of the Easement Premises, then SELLER will reasonably cooperate with BUYER, provided that no such amendment shall adversely impact SELLER'S ability either to operate its remaining property for transportation purposes or to comply with all

applicable laws and provided that BUYER shall reimburse SELLER for all reasonable out of pocket costs and expenses associated with the cooperation in this regard.

BUYER shall be responsible at its sole cost and expense for preparing and providing the Easement Plan. All costs of recording documents at the Registry of Deeds in connection with this transaction shall be the responsibility of BUYER.

11. Regulatory and Permitting Approvals

SELLER makes no representations as to the fitness of the Easement Premises for any proposed use, the suitability of the Easement Premises for any particular purpose, or as to the ability of BUYER to obtain any necessary permits or approvals relating to the Easement Premises.

12. Title/Extension to Perfect Title

No later than thirty (30) days after the Exercise Notice, BUYER shall obtain a complete review of the title to the Easement Premises and a commitment for title insurance at its sole cost. SELLER shall deliver to BUYER copies of any unrecorded license or other unrecorded matter encumbering the Easement Premises within thirty (30) days from SELLER's receipt of a copy of BUYER's commitment for title insurance. A copy of said title commitment shall then immediately be delivered to SELLER along with a cover letter citing all specific title objections, if any ("**Title Objection Letter**"). Any and all title matters not objected to in the Title Objection Letter shall be waived. If the title report and Title Objection Letter is not completed and delivered to SELLER within this time, all title defects shall be waived. If SELLER shall be unable to give title or to make conveyance as provided herein, SELLER shall use Reasonable Efforts to remove any defects in title timely objected to as described above, in which event SELLER'S time for performance hereof shall be extended for a period of up to sixty (60) days. "**Reasonable Efforts**" shall be limited to those costing less than a total of Ten Thousand Dollars (\$10,000.00). If, at the expiration of such extended time, SELLER fails or is unable to remove such objectionable title matters or address such matters to BUYER'S reasonable satisfaction, then BUYER may elect to terminate this Option Agreement. In the event of such election, all obligations of either party hereto shall cease and this Option Agreement shall be null

and void; except that any tort liability of BUYER'S that arose pursuant to Section 15 hereof shall remain.

13. Acceptance of Easement

BUYER shall have the election, at either the original or any extended time for performance, to accept such title to the Easement Premises in its then condition as SELLER is able to deliver and to pay the Easement Payment without deduction. The acceptance of the Easement by BUYER shall be deemed to be full performance and discharge hereof except such matters which expressly survive the delivery of the Easement pursuant to the terms hereof.

14. No Brokers

BUYER hereby represents and warrants that it has not dealt with any broker who is entitled to a commission or fee in connection with the conveyance contemplated hereby, and covenants to defend, hold harmless and indemnify SELLER from and against any and all claims for any such commissions or fees. SELLER hereby represents and warrants that it has not dealt with any broker or other entity who is entitled to a commission or fee in connection with the conveyance contemplated hereby other than the Massachusetts Realty Group, whose fee is the sole responsibility of SELLER, and SELLER covenants to defend, hold harmless and indemnify BUYER from and against any and all claims for any such commissions or fees. The representations, warranties, and agreements contained in this Section 14 shall survive the delivery of the Easement and/or any expiration or termination of this Option Agreement.

15. Condition of the Easement Premises

SELLER hereby expressly disclaims any warranties of any nature, express or implied or otherwise, except as expressly set forth herein, including without limitation, anything related to the presence of "oil", "hazardous materials" or "hazardous wastes" as those terms are defined in Massachusetts General Laws Chapter 21E ("**Chapter 21E**"), as from time to time amended, and the regulations promulgated pursuant thereto, the Massachusetts Contingency Plan, 310 CMR 40.0000 et seq. (the "**MCP**") (collectively,

"**Hazardous Materials**"), and as further defined in all other applicable state and Federal laws regarding Hazardous Materials ("**Applicable Laws**") on, in, at, over, under, from, through or associated with the Easement Premises. BUYER hereby acknowledges that SELLER is granting the Easement and BUYER shall accept the Easement Premises in an "as is" condition, including all debris thereon, and with "all faults" as of the Closing Date, without any warranty or representation by SELLER, its agents or representatives whatsoever relating to the Easement Premises. BUYER further acknowledges and confirms that BUYER is not relying on any representation or inducement which was or may have been made or implied by SELLER or any other party acting on behalf of SELLER with respect to the Easement Premises, including, without limitation, the fitness of the Easement Premises for any proposed use, the suitability of the Easement Premises for any particular purpose, or as to the ability of BUYER to obtain any necessary permits or approvals.

16. Indemnification and Release

Upon and after delivery of the Easement, BUYER for itself, its successors and assigns, but subject to the last grammatical paragraph of Section 17 below, shall protect, indemnify, defend, and save SELLER harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees), causes of action, suits, claims, demands or judgments of any nature whatsoever including, without limitation, damages to real estate or personal property or the illness, injury or death of a person, and those related to any environmental condition or to Hazardous Materials that may be imposed upon or incurred by or asserted against SELLER and which occur or arise as a result (but only to the extent) of any of the following activities or occurrences occurring after the effective date of the Easement, and except to the extent that the "claim" arose because of the negligence or willful misconduct of SELLER or its employees, contractors, lessees, grantees or licensees:

(i) as a result of any environmental investigation by BUYER, the use and enjoyment of the Easement Premises by BUYER, presence of Facilities on the Easement Premises, and all activities of BUYER or its respective employees and contractors within the Easement Premises and the Property; or

(ii) the presence of any environmental condition, including Hazardous Materials on the Easement Premises or the Property (or other property of SELLER adjacent to the Property), provided, that, BUYER's obligations with respect to Hazardous Materials not introduced, placed or released by BUYER or its employees or contractors shall be limited under this Paragraph 16 to compliance with the Utility Related Abatement Measures ("URAM") set forth in 310 CMR § 40.0460 et seq., as the same may be amended from time to time, except as specifically set forth herein; and provided, further, that (x) BUYER's obligations with respect to Hazardous Materials (i) within the Property shall be limited to those response actions required under Applicable Laws for the use of the Property as a railroad right of way, or (ii) within SELLER's property adjacent to the Property shall be limited to those response actions required under Applicable Laws for the use of such adjacent property for its then current uses, and (y) BUYER's maximum liability for contamination discovered (but not caused) by BUYER shall be Two Million Dollars (\$2,000,000.00) per release tracking number assigned by the Massachusetts Department of Environmental Protection, and Four Million Dollars (\$4,000,000.00) in the aggregate; or

(iv) any failure of BUYER or its employees, agents, contractors or subcontractors to perform or comply with any of the terms of this Option Agreement, or any contracts, agreements or restrictions, statutes, laws, ordinances or regulations affecting the allowed activities or any part thereof.

In addition, BUYER, for itself, its successors and assigns, shall agree not to sue or commence action, claim, counterclaim or cross-claim, or otherwise seek affirmative relief against SELLER arising out of the condition of the Easement Premises at the Closing Date, including, but not limited to, the presence of Hazardous Materials on, in, at, over, under, from, through or associated with the Easement Premises or on any other property not owned by SELLER because of migration of such Hazardous Materials from the Easement Premises.

Any required response action related to the Easement Premises required by a governmental authority shall be performed by BUYER at BUYER's sole cost and shall be performed in accordance with Applicable Laws.

17. Environmental Investigation; Indemnification; and Disclaimer of Damages

BUYER, at BUYER's sole cost and expense, may complete an environmental and/or other investigations of the Easement Premises and the Property. Any such investigation, including without limitation, any environmental investigation, if conducted, must be completed by BUYER not later than six (6) months prior to the expiration of the Option Period. BUYER shall waive its right to conduct or complete such investigations if they are not completed within said time period. Before beginning any environmental investigation or other invasive investigation, BUYER shall submit to SELLER for its approval a scope of work showing the locations at which BUYER intends to have sampling carried out, the extent of the sampling, and what testing will be done on the samples. BUYER shall make such submission to SELLER in a timely manner so that SELLER has at least fourteen (14) days to approve the submission and still leave time for BUYER to do the environmental investigation within said time period. If requested in writing by SELLER, BUYER shall submit all investigatory test results and reports obtained by BUYER to SELLER and/or its consultants within one week of SELLER'S written request. SELLER shall be entitled to the indemnity provisions of Section 16, to the extent provided therein, with respect to any Hazardous Materials discovered at the Easement Premises or adjoining property of SELLER as a result of BUYER's inspections hereunder.

Neither BUYER nor SELLER shall be liable to the other for consequential, special, exemplary, punitive, indirect or incidental losses or damages, including loss of use, cost of capital, loss of goodwill, lost revenues or loss of profit under this Option Agreement.

18. Leases, Licenses, Uses and Occupancies

SELLER will notify in writing all known parties in possession of any known encroachments shown on the plan attached hereto as Exhibit A or revealed by physical inspection prior to Closing Date, and shall provide a copy of such notices to BUYER at the Closing Date. SELLER shall have no obligation to cure any such encroachments.

19. **Pre-Approval and Pre-Closing Expenditures**

BUYER agrees to accept all risk associated with expenditures it makes prior to approval of the grant of the Easement by SELLER's Fiscal Management and Control Board and/or General Manager and Closing Date.

20. **Fiber Optic Strands**

As additional consideration for SELLER's grant of the Easement, BUYER shall provide SELLER with an indefeasible right to use ("IRU") two (2) dedicated fibers within the fiber optic portion of the Facilities in support of transportation operations or as the SELLER may see fit to utilize for any other purposes (the "**MBTA Fibers**"). Such IRU shall commence upon the completion of installation of the Facilities within the Easement Premises and continue throughout the term of the Easement. Such use of the MBTA Fibers shall be at SELLER's sole risk and BUYER makes absolutely no representation or warranty of any kind with respect to the MBTA Fibers or their suitability for any purpose, and SELLER will accept the same in their then "AS-IS, WHERE-IS" condition. SELLER hereby releases BUYER from and agrees to indemnify, defend (at the option of BUYER) and save BUYER harmless from and against any and all damages, losses, costs, and expenses (including reasonable attorneys' fees), causes of action, suits, claims, demands or judgments to the extent arising from SELLER's use of the MBTA Fibers.

21. **MEPA Compliance**

Notwithstanding any provision of this Option Agreement to the contrary, MBTA shall have no obligation to grant the Easement to BUYER unless and until a MEPA Permit (as defined below) has been issued with respect to BUYER's proposed installation of the Facilities. The term "**MEPA Permit**" shall mean, to the extent required by the Massachusetts Environmental Policy Act (M.G.L. c. 30, §§ 61 et seq. and implementing regulations at 301 C.M.R. 11.00 et seq., as amended from time to time) in connection with construction and operation of the Facilities, a certificate of the Secretary of the Massachusetts Office of Energy and Environmental Affairs ("**OEEA Secretary**") pursuant to 301 C.M.R. 11.06(7) stating that no environmental impact report is required for the Facilities, if the same shall be issued (a "**No EIR Certificate**"), and otherwise shall mean a certificate of the OEEA

Secretary pursuant to 301 C.M.R. 11.08(8) stating that the final environmental impact report with respect to the Facilities adequately and properly complies with MEPA (a "**FEIR Certificate**"). For purposes of this Option Agreement, the No EIR Certificate or the FEIR Certificate, as the case may be, shall not be deemed issued unless and until all applicable appeal periods have expired without any appeal having been taken (or, if taken, such appeal having been dismissed or settled with prejudice).

22. Construction of Option Agreement

The contracting parties agree that this is a Massachusetts contract and contains all the terms and conditions of this transaction. It is mutually agreed that any oral representation made by either party prior to the signing of this Option Agreement is null and void.

23. Notices

Any notice or other communication in connection with this Option Agreement shall be deemed given when received or upon attempted delivery if delivery is not accepted. Such notices shall be in writing and shall be deemed to have been properly given when delivered by courier (or by an overnight mail service that electronically tracks deliveries to the correct addressee), addressed, as described in Section 1 of this Option Agreement. In addition, a duplicate notice from BUYER shall be sent in the same manner as the notice to SELLER to SELLER'S representative, Massachusetts Realty Group, 20 Park Plaza, Suite 1120, Boston, MA 02116, Attn: Assistant Counsel, and a duplicate notice from SELLER shall be sent in the same manner as the notice to BUYER and to BUYER'S representative, Eversource Energy Supervisor T & D Rights and Survey, 247 Station Drive SE 210 Westwood Massachusetts 02092. Either party may change the address(es) at which notices are to be received by notice given as set forth above.

24. Authority of Signatory

If either party executes this Option Agreement by agent or representative, such agent or representative hereby warrants and represents to the other party that he is authorized to execute, acknowledge, and deliver this Option Agreement on behalf of such party and to

thereby bind such party to the same. This warranty shall survive the delivery of the Easement.

25. Severability

If any term of this Option Agreement or the application thereof to any person or circumstance shall, at any time, or to any extent be deemed invalid or unenforceable, the remainder of this Option Agreement and the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected.

26. No Waiver

No delay or omission on the part of either party in exercising its rights under this Option Agreement shall constitute a waiver of such right or any other right under this Option Agreement. Also, no waiver of any such right on one occasion shall be construed as a waiver of it on any other occasion.

27. Entire Agreement

This Option Agreement (including all documents referenced herein and all Exhibits hereto) constitutes the entire agreement between the parties relating to the subject matter hereof, supersedes all prior oral or written offers, negotiations, agreements, understandings, and courses of dealing between the parties relating to the subject matter hereof and is subject to no understandings, conditions, or representations other than those expressly stated herein. This Option Agreement may only be modified or amended by a writing, which states that it modifies or amends this Option Agreement, and which is signed by both parties.

28. Successors and Assigns

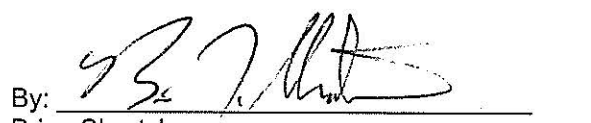
This Option Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the said parties hereto set their hands and seals on the day and year written below each party's signature.

NSTAR ELECTRIC COMPANY
D/B/A EVERSOURCE ENERGY

By: 
Vice President *Supervisor for Right and Survey*

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

By: 
Brian Shortsleeve
Chief Administrator and Acting General Manager

Date of Execution June 7, 2017

Date of Execution: 5/30/17

Approved as to Form:


Lauren D. Armstrong
Deputy General Counsel, MassDOT and MBTA

EXHIBIT A

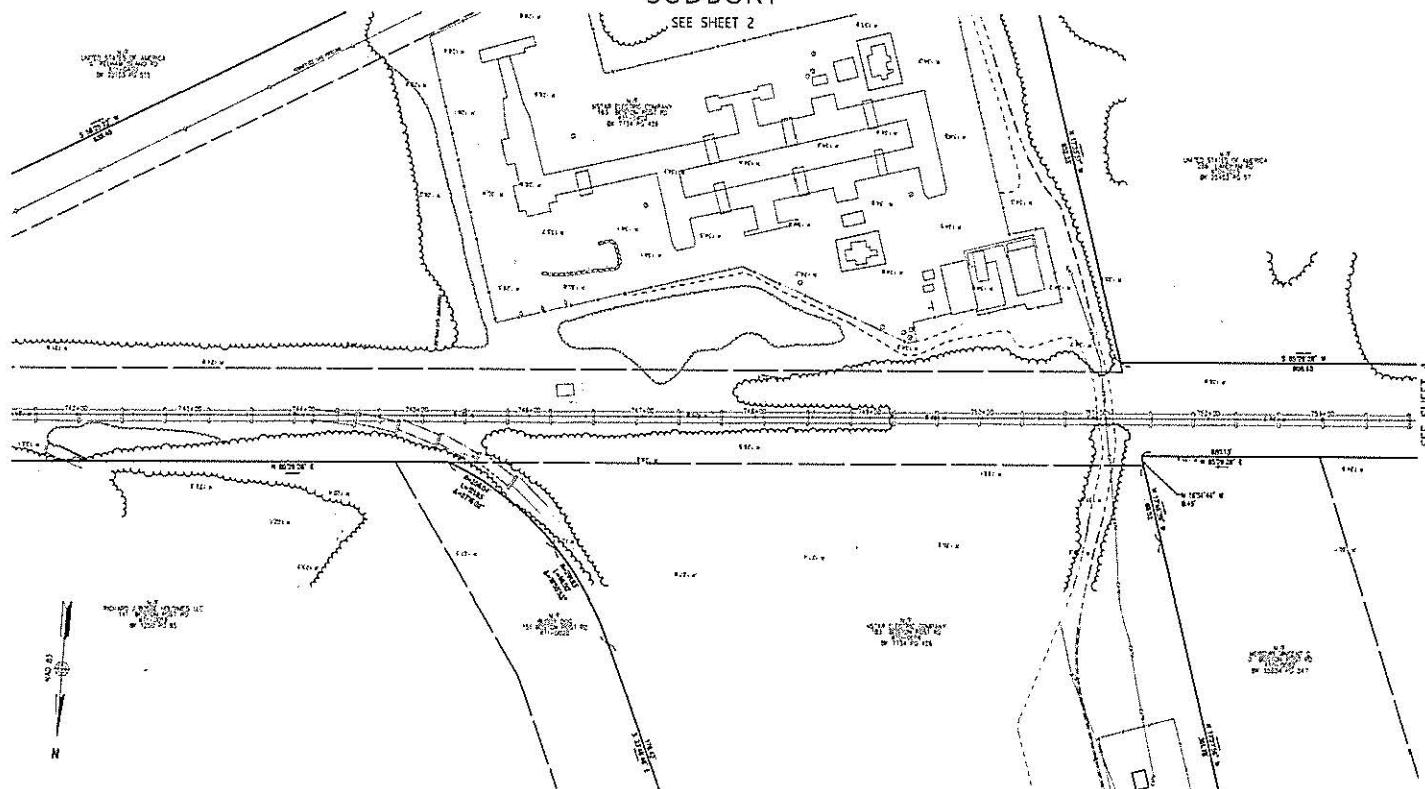
Easement Premises

The site plan shows the layout of the transmission line, including the main line and various structures. The plan is oriented with North at the top. A scale bar indicates a distance of 40 feet. The title block contains the following information:

STRUCTURES NO. DATE TYPE AREA (SQ. FT.) 1 1/1/00 100' x 100' 10,000 2 1/1/00 100' x 100' 10,000 3 1/1/00 100' x 100' 10,000 4 1/1/00 100' x 100' 10,000 5 1/1/00 100' x 100' 10,000 6 1/1/00 100' x 100' 10,000 7 1/1/00 100' x 100' 10,000 8 1/1/00 100' x 100' 10,000 9 1/1/00 100' x 100' 10,000 10 1/1/00 100' x 100' 10,000 11 1/1/00 100' x 100' 10,000 12 1/1/00 100' x 100' 10,000 13 1/1/00 100' x 100' 10,000 14 1/1/00 100' x 100' 10,000 15 1/1/00 100' x 100' 10,000 16 1/1/00 100' x 100' 10,000 17 1/1/00 100' x 100' 10,000 18 1/1/00 100' x 100' 10,000 19 1/1/00 100' x 100' 10,000 20 1/1/00 100' x 100' 10,000 21 1/1/00 100' x 100' 10,000 22 1/1/00 100' x 100' 10,000 23 1/1/00 100' x 100' 10,000 24 1/1/00 100' x 100' 10,000 25 1/1/00 100' x 100' 10,000 26 1/1/00 100' x 100' 10,000 27 1/1/00 100' x 100' 10,000 28 1/1/00 100' x 100' 10,000 29 1/1/00 100' x 100' 10,000 30 1/1/00 100' x 100' 10,000 31 1/1/00 100' x 100' 10,000 32 1/1/00 100' x 100' 10,000 33 1/1/00 100' x 100' 10,000 34 1/1/00 100' x 100' 10,000 35 1/1/00 100' x 100' 10,000 36 1/1/00 100' x 100' 10,000 37 1/1/00 100' x 100' 10,000 38 1/1/00 100' x 100' 10,000 39 1/1/00 100' x 100' 10,000 40 1/1/00 100' x 100' 10,000 41 1/1/00 100' x 100' 10,000 42 1/1/00 100' x 100' 10,000 43 1/1/00 100' x 100' 10,000 44 1/1/00 100' x 100' 10,000 45 1/1/00 100' x 100' 10,000 46 1/1/00 100' x 100' 10,000 47 1/1/00 100' x 100' 10,000 48 1/1/00 100' x 100' 10,000 49 1/1/00 100' x 100' 10,000 50 1/1/00 100' x 100' 10,000 51 1/1/00 100' x 100' 10,000 52 1/1/00 100' x 100' 10,000 53 1/1/00 100' x 100' 10,000 54 1/1/00 100' x 100' 10,000 55 1/1/00 100' x 100' 10,000 56 1/1/00 100' x 100' 10,000 57 1/1/00 100' x 100' 10,000 58 1/1/00 100' x 100' 10,000 59 1/1/00 100' x 100' 10,000 60 1/1/00 100' x 100' 10,000 61 1/1/00 100' x 100' 10,000 62 1/1/00 100' x 100' 10,000 63 1/1/00 100' x 100' 10,000 64 1/1/00 100' x 100' 10,000 65 1/1/00 100' x 100' 10,000 66 1/1/00 100' x 100' 10,000 67 1/1/00 100' x 100' 10,000 68 1/1/00 100' x 100' 10,000 69 1/1/00 100' x 100' 10,000 70 1/1/00 100' x 100' 10,000 71 1/1/00 100' x 100' 10,000 72 1/1/00 100' x 100' 10,000 73 1/1/00 100' x 100' 10,000 74 1/1/00 100' x 100' 10,000 75 1/1/00 100' x 100' 10,000 76 1/1/00 100' x 100' 10,000 77 1/1/00 100' x 100' 10,000 78 1/1/00 100' x 100' 10,000 79 1/1/00 100' x 100' 10,000 80 1/1/00 100' x 100' 10,000 81 1/1/00 100' x 100' 10,000 82 1/1/00 100' x 100' 10,000 83 1/1/00 100' x 100' 10,000 84 1/1/00 100' x 100' 10,000 85 1/1/00 100' x 100' 10,000 86 1/1/00 100' x 100' 10,000 87 1/1/00 100' x 100' 10,000 88 1/1/00 100' x 100' 10,000 89 1/1/00 100' x 100' 10,000 90 1/1/00 100' x 100' 10,000 91 1/1/00 100' x 100' 10,000 92 1/1/00 100' x 100' 10,000 93 1/1/00 100' x 100' 10,000 94 1/1/00 100' x 100' 10,000 95 1/1/00 100' x 100' 10,000 96 1/1/00 100' x 100' 10,000 97 1/1/00 100' x 100' 10,000 98 1/1/00 100' x 100' 10,000 99 1/1/00 100' x 100' 10,000 100 1/1/00 100' x 100' 10,000 101 1/1/00 100' x 100' 10,000 102 1/1/00 100' x 100' 10,000 103 1/1/00 100' x 100' 10,000 104 1/1/00 100' x 100' 10,000 105 1/1/00 100' x 100' 10,000 106 1/1/00 100' x 100' 10,000 107 1/1/00 100' x 100' 10,000 108 1/1/00 100' x 100' 10,000 109 1/1/00 100' x 100' 10,000 110 1/1/00 100' x 100' 10,000 111 1/1/00 100' x 100' 10,000 112 1/1/00 100' x 100' 10,000 113 1/1/00 100' x 100' 10,000 114 1/1/00 100' x 100' 10,000 115 1/1/00 100' x 100' 10,000 116 1/1/00 100' x 100' 10,000 117 1/1/00 100' x 100' 10,000 118 1/1/00 100' x 100' 10,000 119 1/1/00 100' x 100' 10,000 120 1/1/00 100' x 100' 10,000 121 1/1/00 100' x 100' 10,000 122 1/1/00 100' x 100' 10,000 123 1/1/00 100' x 100' 10,000	
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SEE SHEET 2

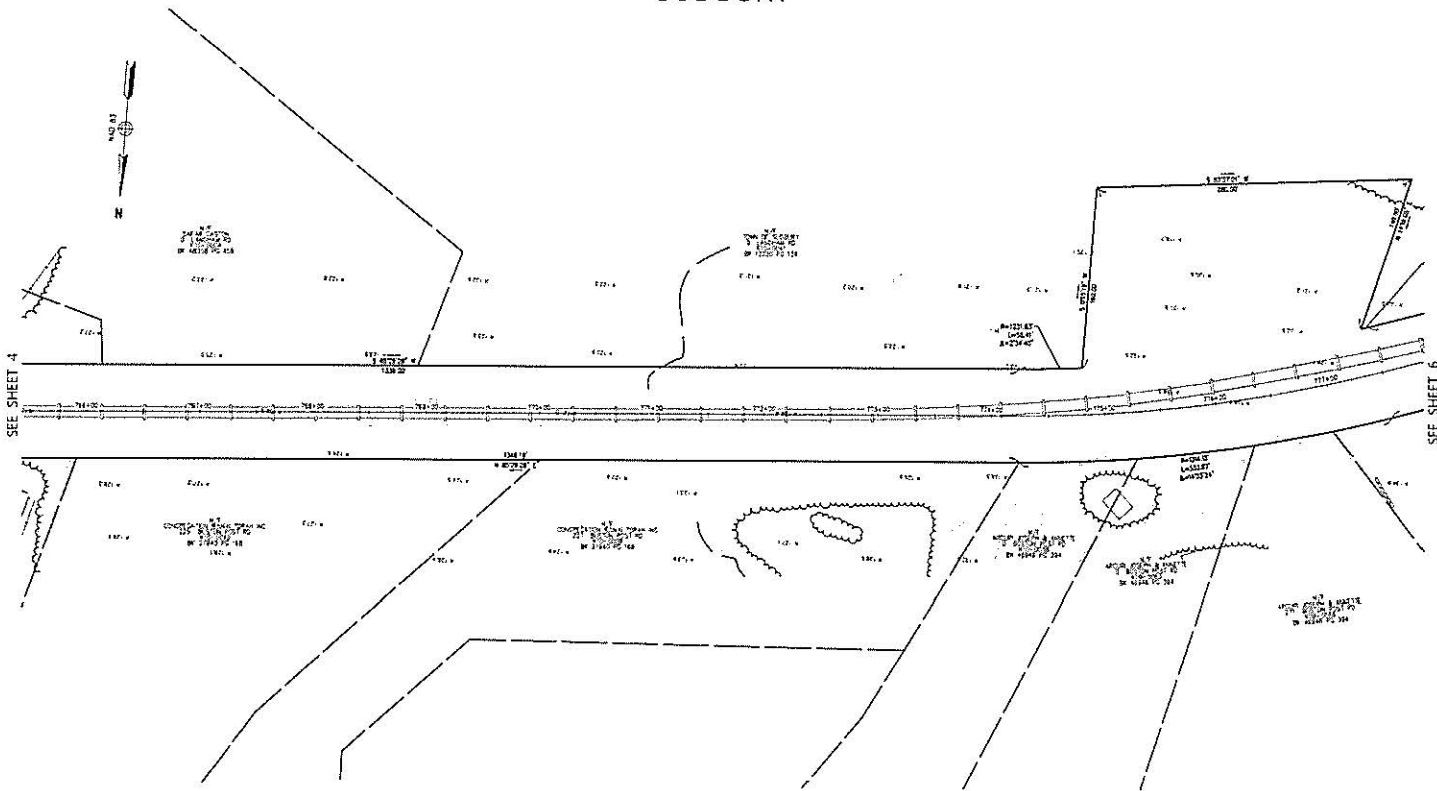


STRUCTURES	Prepared by:  Variance Hangen Brustlin, Inc. 100 State Street Suite 200 Boston, MA 02109 Tel: 617-261-1000 Fax: 617-261-1001 Email: info@vhb.com	Project No.: EVSOURCE ENERGY	Drawing No.: Eversource Transmission Line Sudbury - Stow and Hudson, Massachusetts Sheet No.: Candidate Route Design Option 2
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STRUCTURES			Project # Vanasse Hangen Brustlin, Inc.  REVENUES 1000 Main Street Boston, MA 02111 Tel: 617.552.3000 Fax: 617.552.3001 www.vanasse.com			Project # EVERSOURCE ENERGY 1000 Main Street Boston, MA 02111 Tel: 617.552.3000 Fax: 617.552.3001 www.eversource.com			Project # Eversource Transmission Line Sudbury, Stow and Hudson, Massachusetts 1000 Main Street Boston, MA 02111 Tel: 617.552.3000 Fax: 617.552.3001 www.eversource.com		
SCALE 40 FEET TO THE INCH DATE 06/10/10			SCALE 40 FEET TO THE INCH DATE 06/10/10			SCALE 40 FEET TO THE INCH DATE 06/10/10			Candidate Route Design Option 2		

SUDBURY



SEE SHEET 4

SEE SHEET 6



STRUCTURES

Vanasse Hangen Brustlin, Inc.
vhb
 PROJECT NO. 100-100-100
 PROJECT NAME: EVERSOURCE ENERGY
 PROJECT LOCATION: SUDBURY, MASSACHUSETTS
 PROJECT DATE: 10/10/2010

EVERSOURCE ENERGY
 SCALE: 40 FEET TO THE INCH
 DATE: 10/10/2010

Eversource Transmission Line
 Sudbury, Stow and Hudson, Massachusetts
 Candidate Route
 Design Option 2

SUDBURY

SEE SHEET 5

SEE SHEET 7

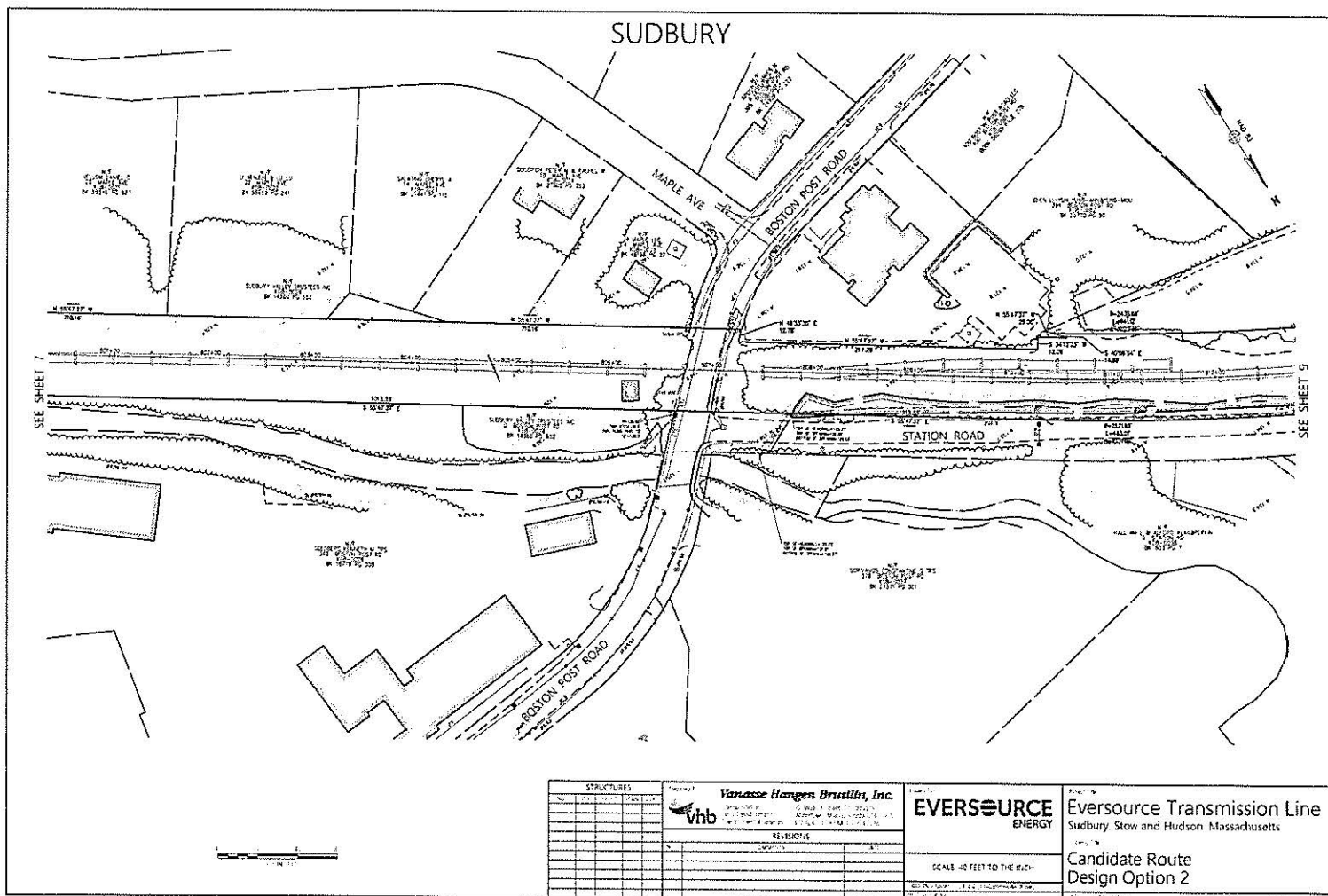
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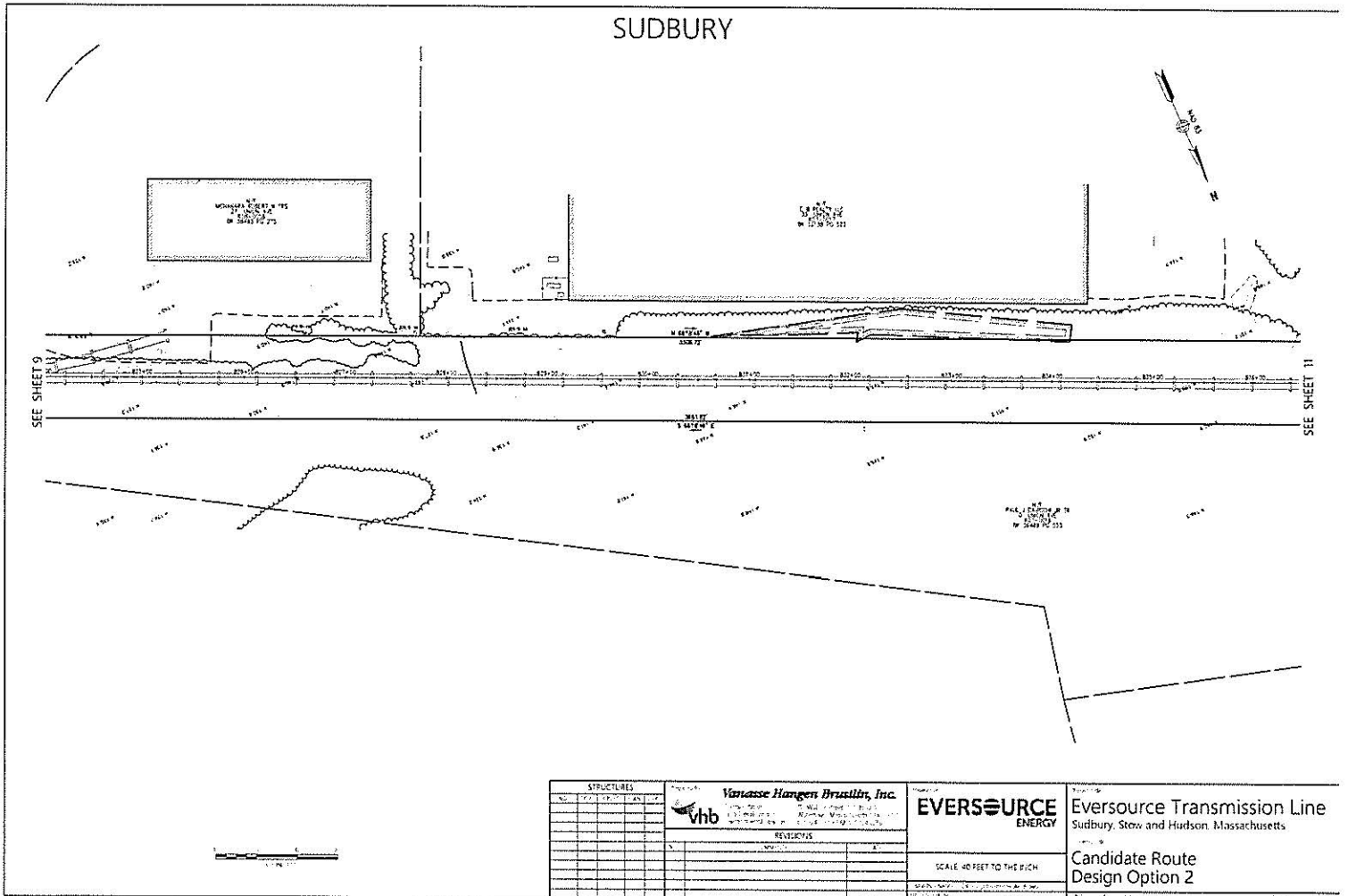
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STRUCTURES					PROJECT: Vanasse Hungen Brustlin, Inc.  EVERSOURCE ENERGY Eversource Transmission Line Sudbury, Stow and Hudson, Massachusetts				
NO. 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000					REVISIONS				
SCALE: 40 FEET TO THE INCH					Candidate Route Design Option 2				



SUDBURY



SUDBURY

SEE SHEET 10

SEE SHEET 12

TRAILSIDE CIRCLE

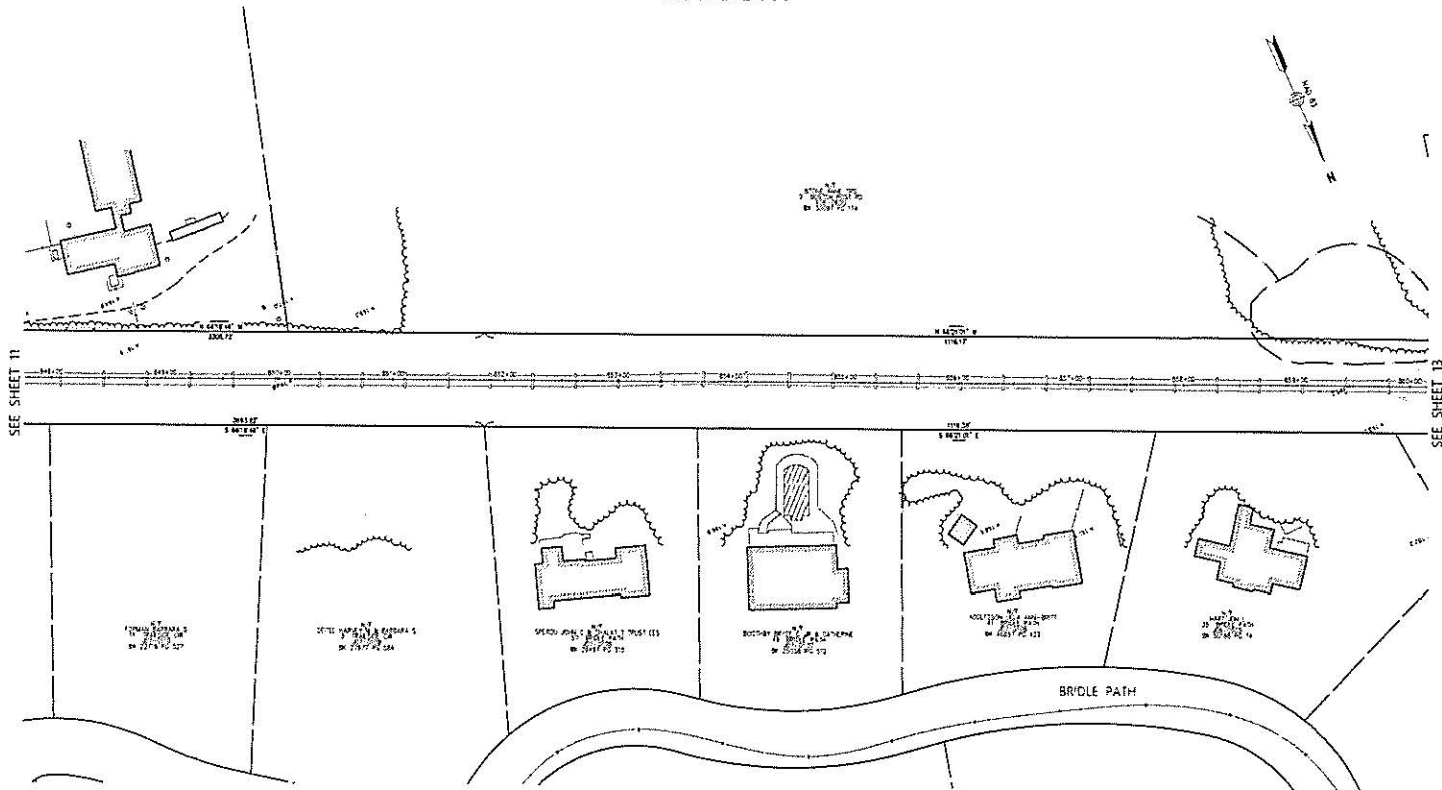
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EVERSOURCE
ENERGY

SCALE 40 FEET TO THE INCH

Eversource Transmission Line
Sudbury, Stow and Hudson, Massachusetts
Candidate Route
Design Option 2

SUDBURY



STRUCTURES			
NO.	TYPE	DATE	BY

Vannasse Hangen Brustlin, Inc. vhb	
PROJECT	
REVISIONS	
NO.	DESCRIPTION

EVERSOURCE ENERGY
SCALE: AS SHOWN TO THE RIGHT
DATE: 10/1/2011
BY: [Signature]
CHECKED: [Signature]

Eversource Transmission Line Sudbury, Stow and Hudson, Massachusetts
Candidate Route Design Option 2

SUDBURY

JARMAN ROAD

HORSE POND ROAD

STONEBROOK ROAD

SEE SHEET 12

SEE SHEET 14



STRUCTURES			
NO.	TYPE	DATE	REMARKS

Vanasse Hangen Brustlin, Inc.
vhb
 1000 WASHINGTON STREET, SUITE 200
 BOSTON, MASSACHUSETTS 02108
 TEL: 617.552.3000 FAX: 617.552.3001
 WWW.VHB.COM

REVISIONS

NO.	DESCRIPTION	DATE

EVERSOURCE ENERGY

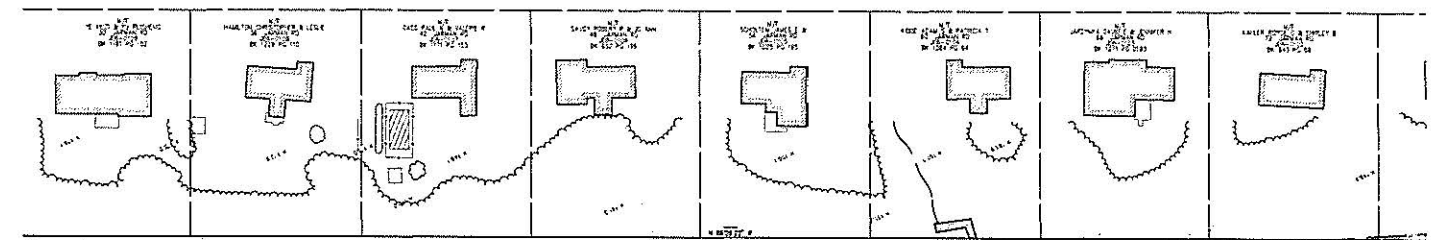
SCALE 40 FEET TO THE INCH

Eversource Transmission Line
 Sudbury, Stow and Hudson, Massachusetts

Candidate Route
Design Option 2

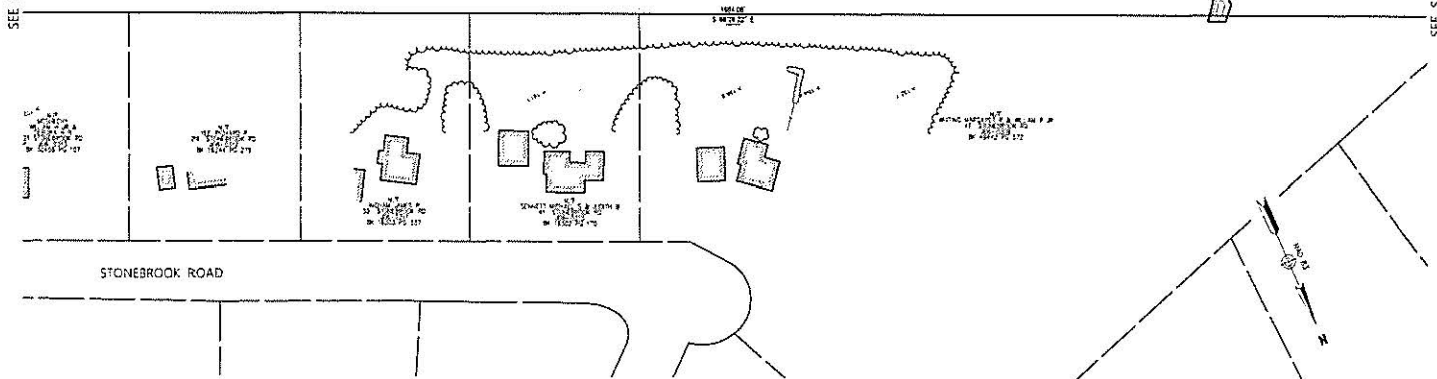
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JARMAN ROAD



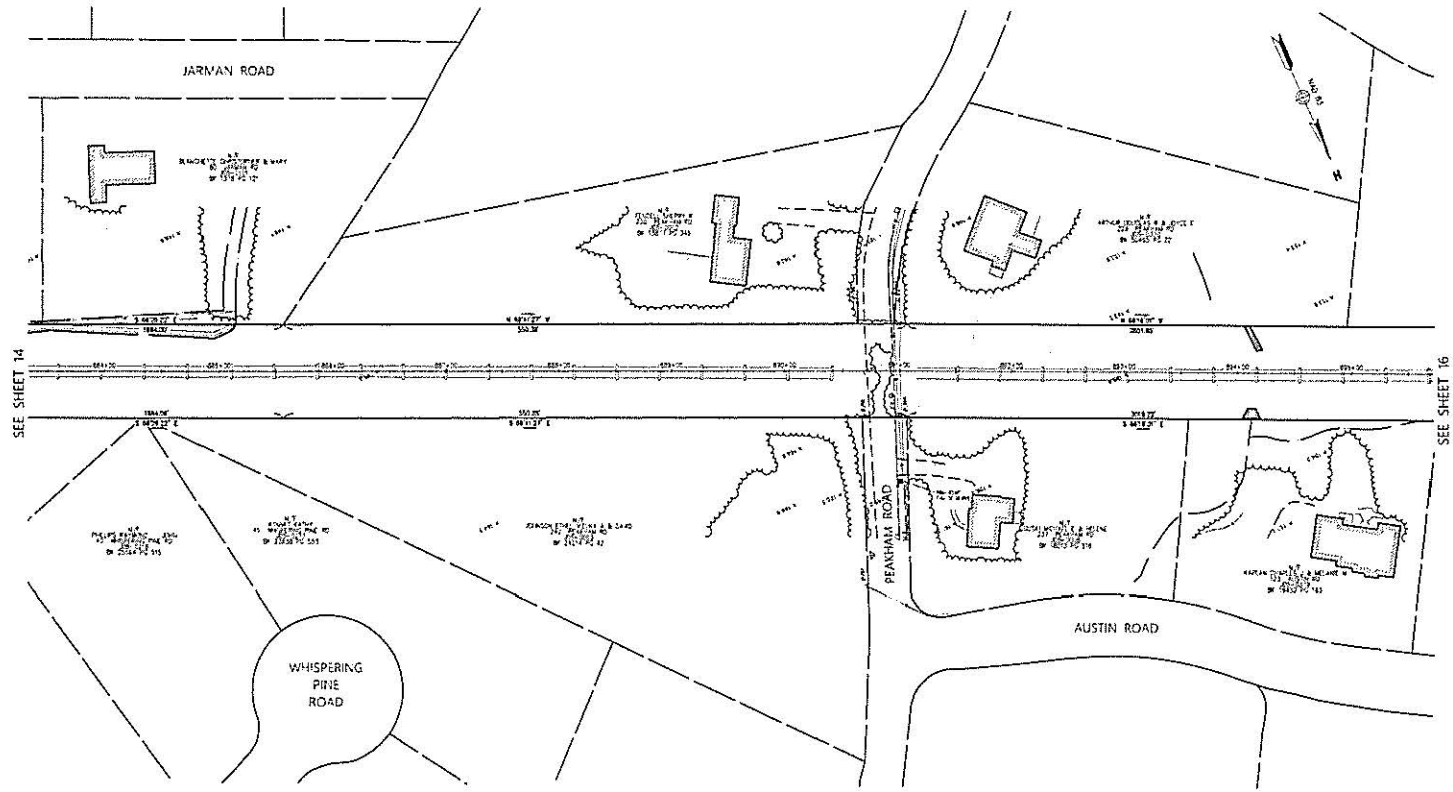
SEE SHEET 13

SEE SHEET 15

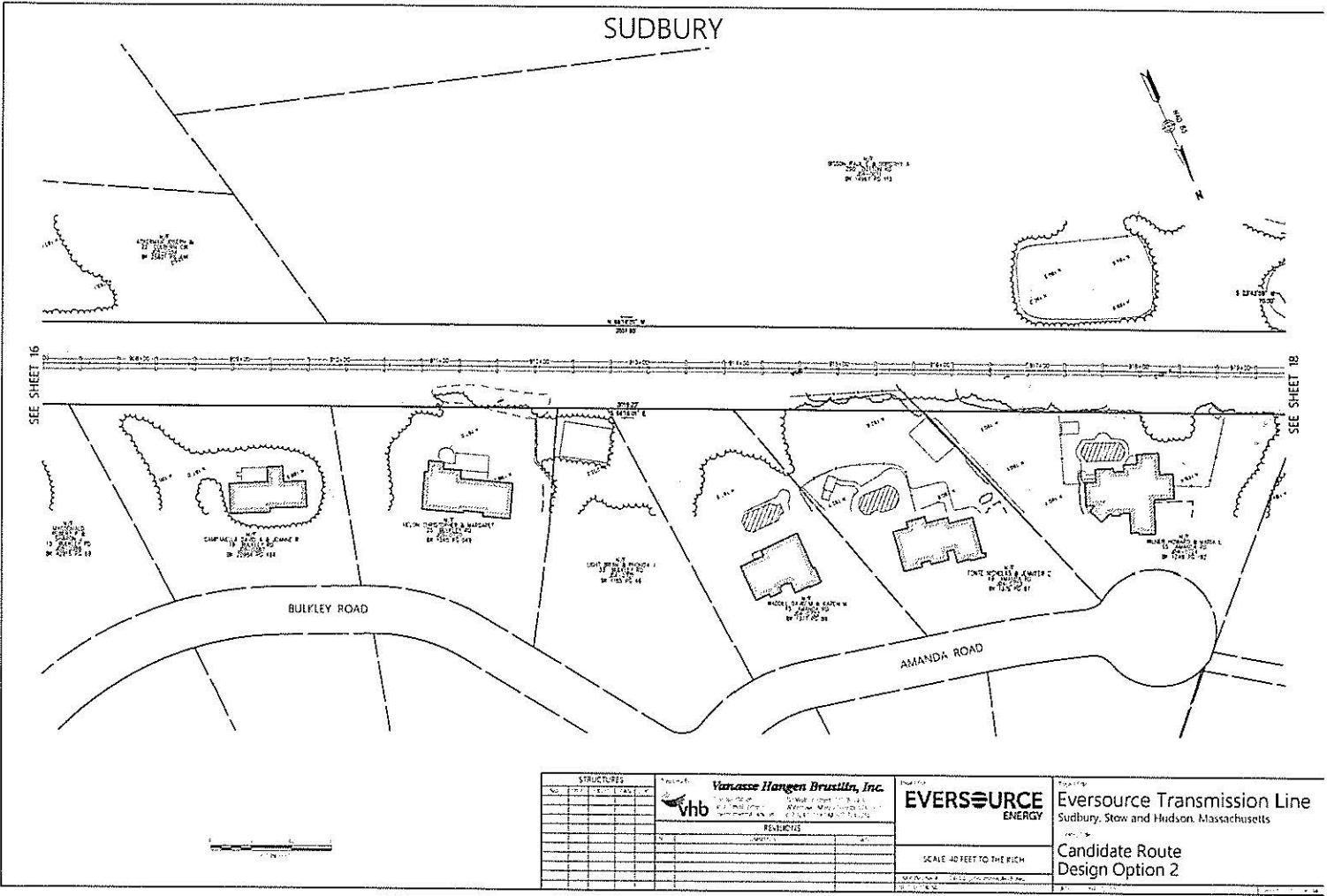


STRUCTURES	PROJECT: Vanasse Hengen Brustlin, Inc.  1000 WEST 10TH AVENUE, SUITE 200 DENVER, COLORADO 80202 TEL: 303.733.8800 FAX: 303.733.8801 WWW.VHB-INC.COM	PROJECT: EVERSOURCE ENERGY 	PROJECT: Eversource Transmission Line Sudbury, Stow and Hudson, Massachusetts Candidate Route Design Option 2
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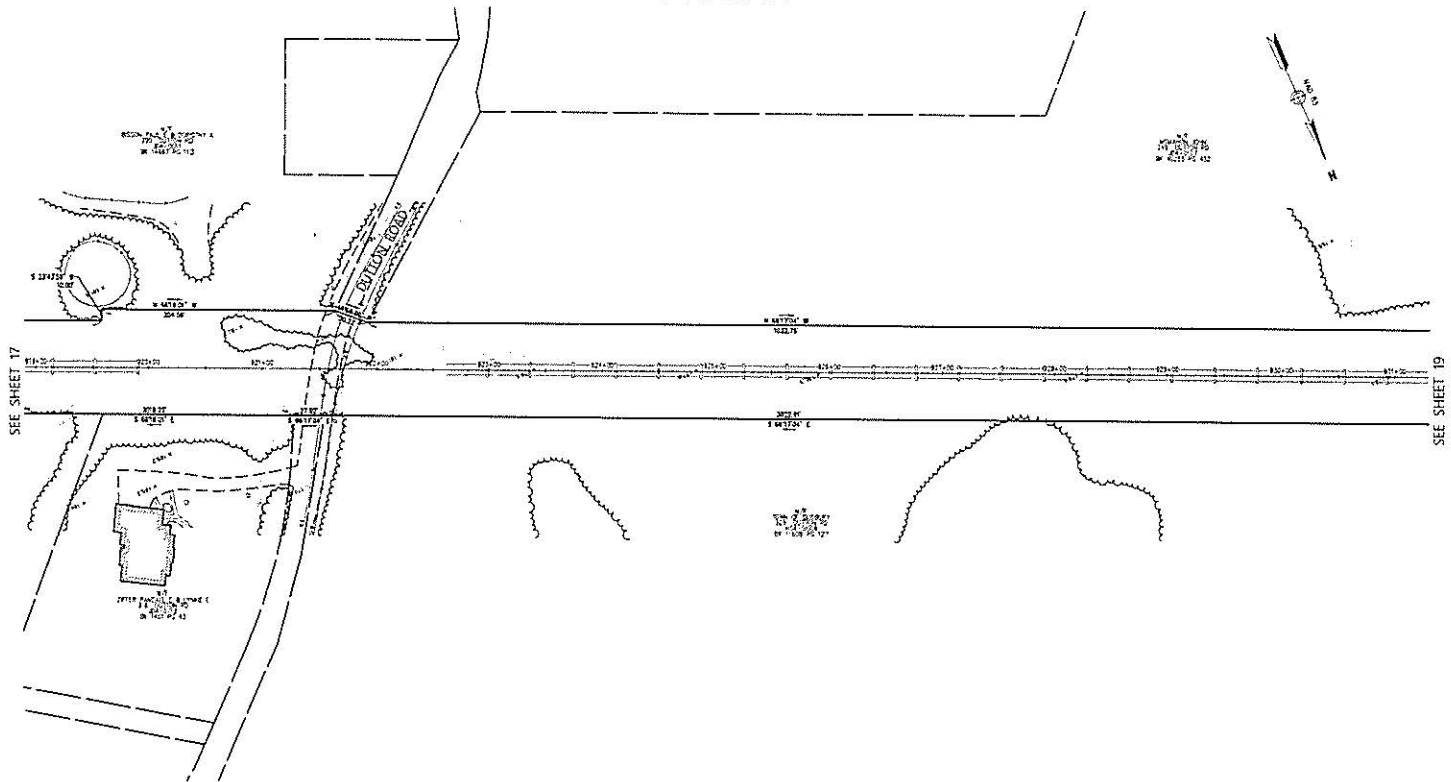
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STRUCTURES <table border="1"> <thead> <tr> <th>NO.</th> <th>TYPE</th> <th>DATE</th> <th>STATUS</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	TYPE	DATE	STATUS																																									Vanasse Hangen Brustlin, Inc. 100 Water Street Boston, MA 02109 Tel: 617.552.3000 Fax: 617.552.3001 www.vhbi.com	EVERSOURCE ENERGY SCALE: 40 FEET TO THE INCH SHEET NO. 14 OF 16 (SEE SHEET 15 & 16) DATE: 10/15/10	Eversource Transmission Line Sudbury, Stow and Hudson, Massachusetts PROJECT NO. 10000000000000000000 Candidate Route Design Option 2
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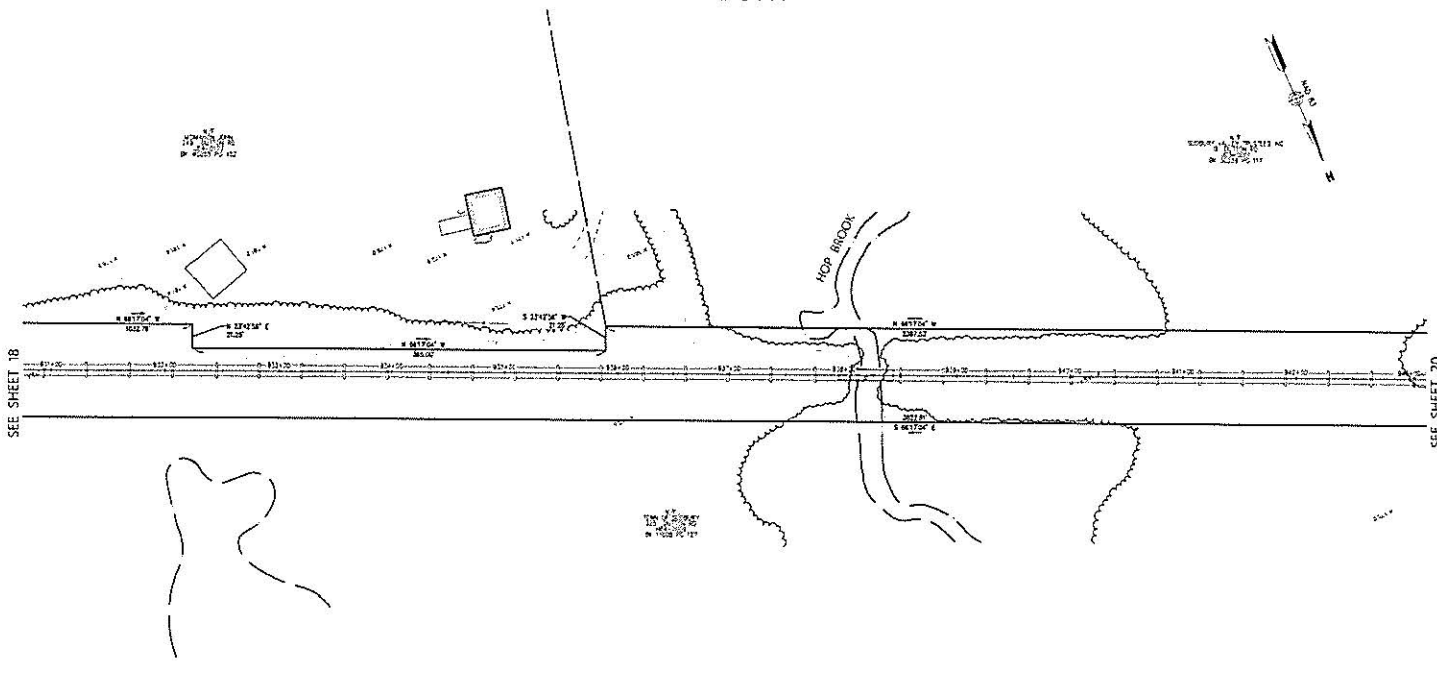
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EVERSOURCE ENERGY	
SCALE	40 FEET TO THE INCH
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Eversource Transmission Line Sudbury, Stow and Hudson, Massachusetts Candidate Route Design Option 2
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SUDBURY



STRUCTURES	DATE	BY

Vanasse Hangen Brustlin, Inc.
vhb
 100 Water Street
 Boston, MA 02109
 Tel: 617.552.3000
 Fax: 617.552.3001
 www.vhbi.com

EVERSOURCE
 ENERGY
 SCALE: 40 FEET TO THE INCH
 PROJECT NO. 100-100-0000-0000

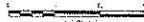
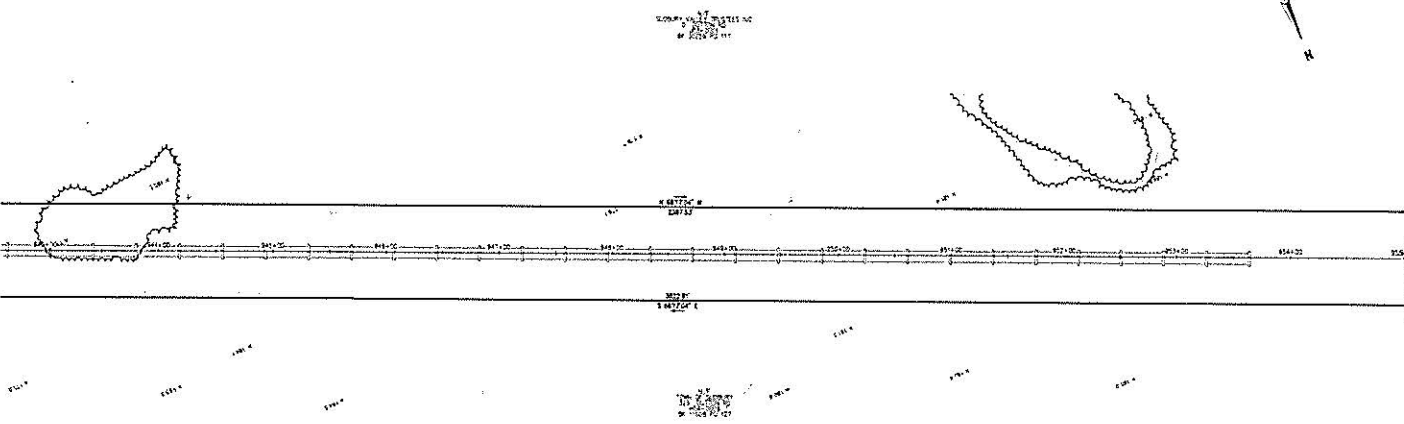
Eversource Transmission Line
 Sudbury, Stow and Hudson, Massachusetts
 Candidate Route
 Design Option 2

SUDBURY



SEE SHEET 19

SEE SHEET 21

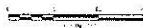


STRUCTURES		VHB		EVERSOURCE ENERGY	Eversource Transmission Line Sudbury, Stow and Hudson, Massachusetts
No.	DESCRIPTION	DATE	BY		
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2	STRUCTURE 2	10/1/10	J. H. B.		
3	STRUCTURE 3	10/1/10	J. H. B.	SCALE: 40 FEET TO THE INCH	Candidate Route Design Option 2
4	STRUCTURE 4	10/1/10	J. H. B.		
5	STRUCTURE 5	10/1/10	J. H. B.	SCALE: 40 FEET TO THE INCH	Candidate Route Design Option 2
6	STRUCTURE 6	10/1/10	J. H. B.		
7	STRUCTURE 7	10/1/10	J. H. B.	SCALE: 40 FEET TO THE INCH	Candidate Route Design Option 2
8	STRUCTURE 8	10/1/10	J. H. B.		
9	STRUCTURE 9	10/1/10	J. H. B.	SCALE: 40 FEET TO THE INCH	Candidate Route Design Option 2
10	STRUCTURE 10	10/1/10	J. H. B.		

RECEIVED
JAN 10 1977



SEE SHEET 22

[illegible]

A diagram showing a vertical wire with an upward-pointing arrow. A circular loop is centered on the wire. The wire is labeled 'N' at the top and 'S' at the bottom. The loop is labeled 'N' at the top and 'S' at the bottom.

SECRET
ON 10/15/50

CITY OF MARLBOROUGH
TOWN OF SUBURBY

CITY OF NEW BRUNSWICK
COMPTROLLER
BOOK 1474 PAGE 344

TOWN OF HUDSON
TOWN OF SUDBURY

SEE SHEET 21

SEE SHEET 23

DATE: 10/10/1964

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Vanasse Hangen Brustlin, Inc.
 1000 North 17th Street, Suite 200
 Arlington, VA 22209
 (703) 243-7000
 Fax: (703) 243-7001
 E-mail: info@vhab.com
 Web: www.vhab.com

REVISIONS		
NO.	DESCRIPTION	DATE
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2	Revised design	10/1/68
3	Revised design	10/1/68
4	Revised design	10/1/68
5	Revised design	10/1/68
6	Revised design	10/1/68
7	Revised design	10/1/68
8	Revised design	10/1/68
9	Revised design	10/1/68
10	Revised design	10/1/68

EVERSOURCE
ENERGY

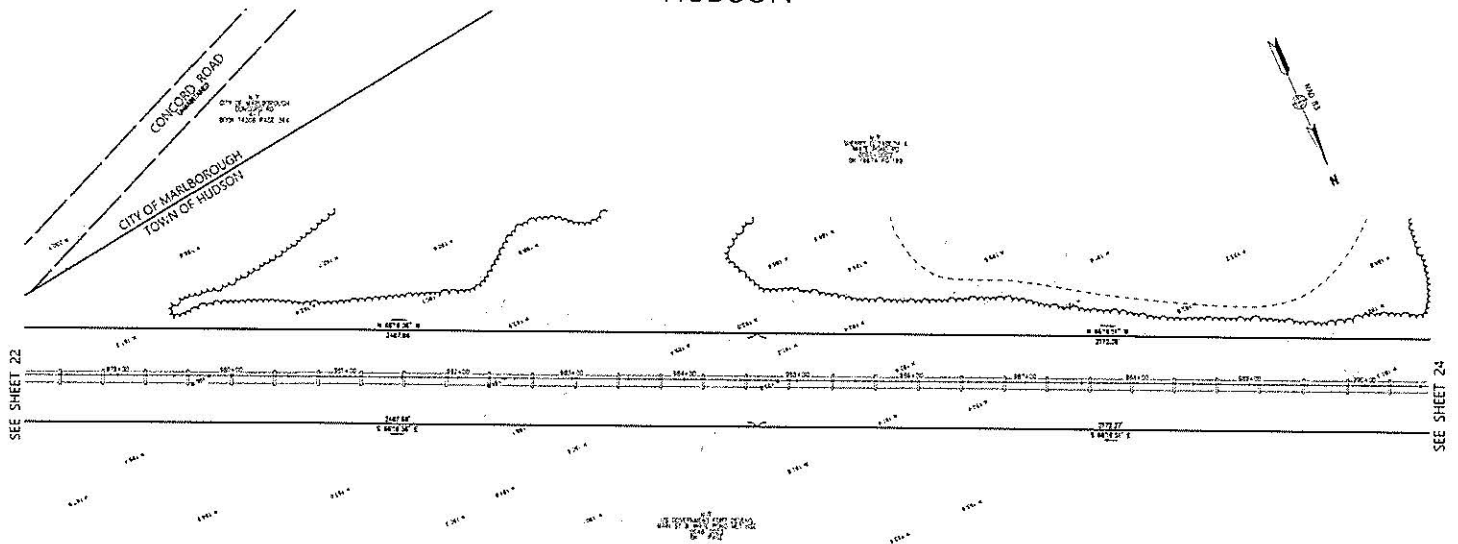
SCALE 40 FEET TO THE INCH

Eversource Transmission Line
Sudbury, Stow and Hudson, Massachusetts

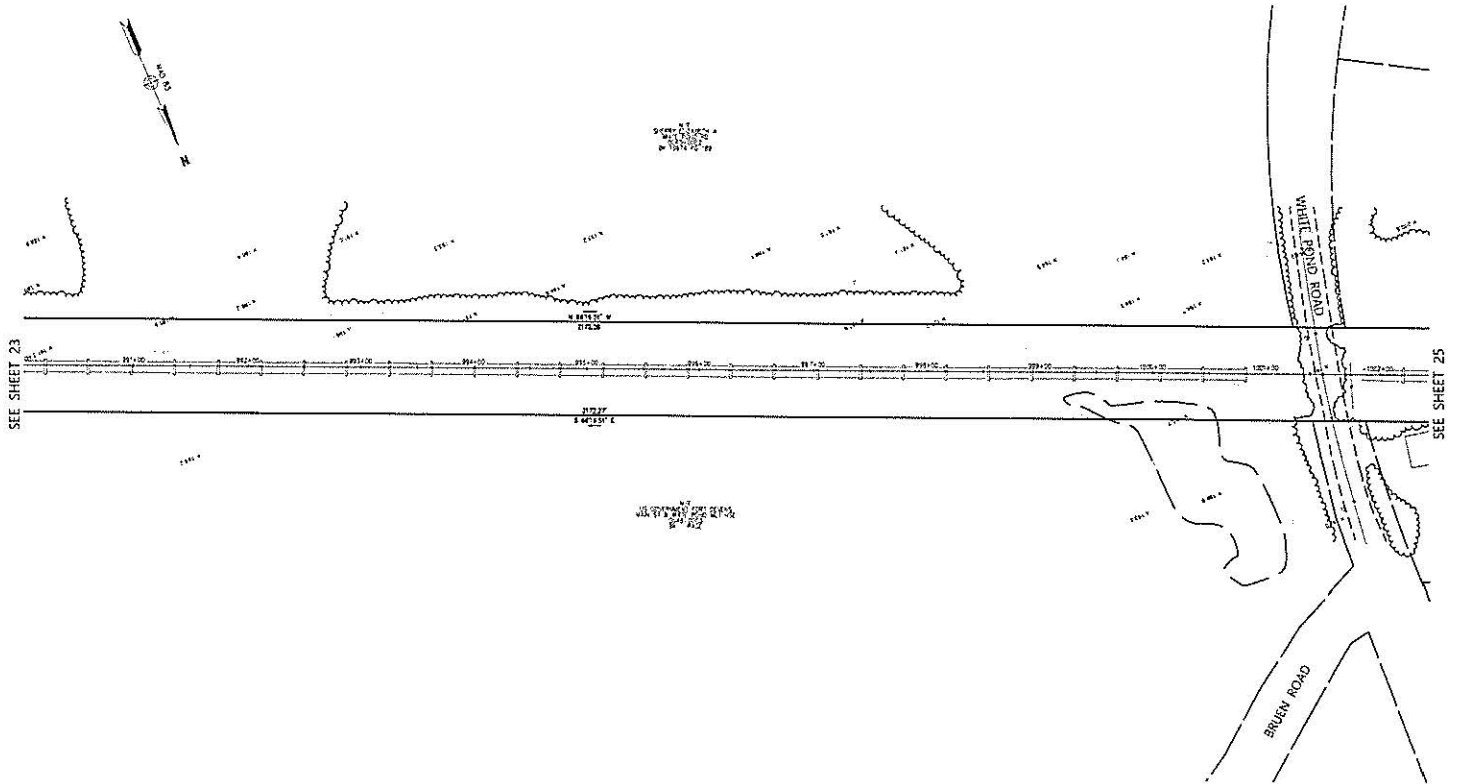
Candidate Route	Design Option 2
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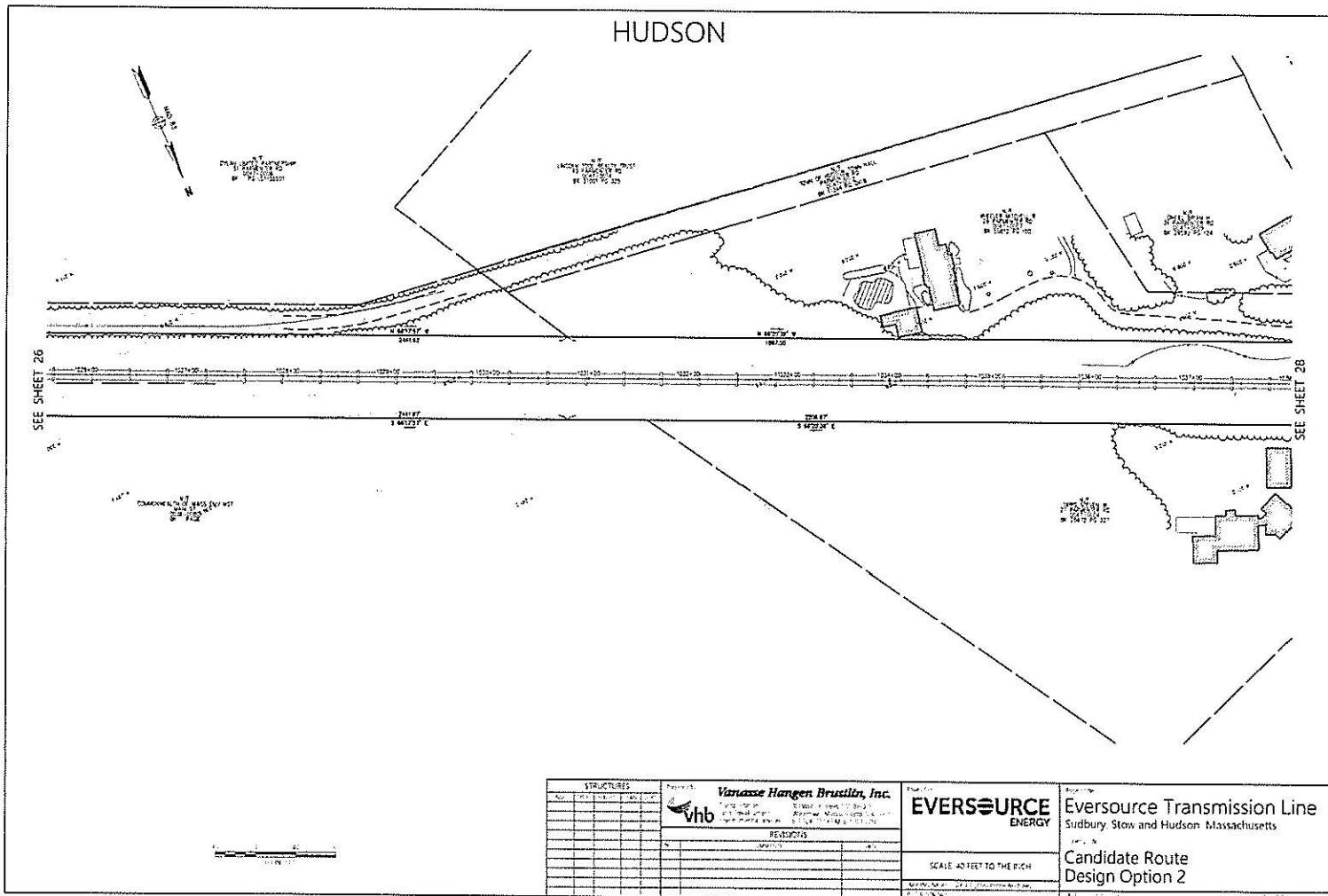
HUDSON

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HUDSON

[illegible]

HUDSON



HUDSON

SEE SHEET 27

SEE SHEET 29

DARTMOUTH ROAD

STRUCTURES

Vannasse Hangen Brustlin, Inc.

EVERSOURCE ENERGY

Eversource Transmission Line
Sudbury, Stow and Hudson, Massachusetts

Candidate Route
Design Option 2

SCALE: 40 FEET TO THE INCH

REVISIONS

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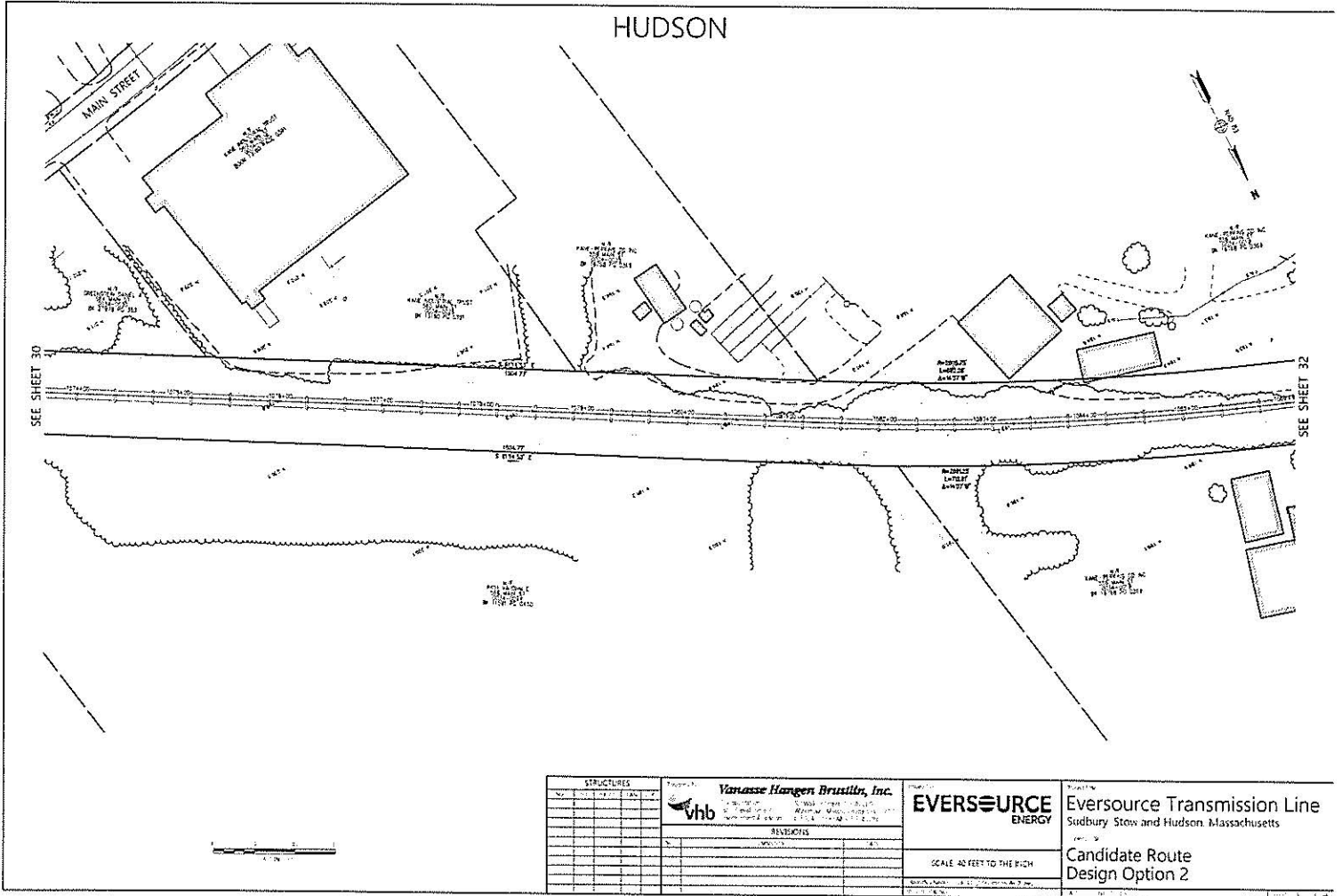
 Vanasse Hangen Brustlin, Inc. 1000 Pennsylvania Avenue, N.W. Washington, D.C. 20004 (202) 638-7000	
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EVERSOURCE
ENERGY

SCALE 40 FEET TO THE INCH

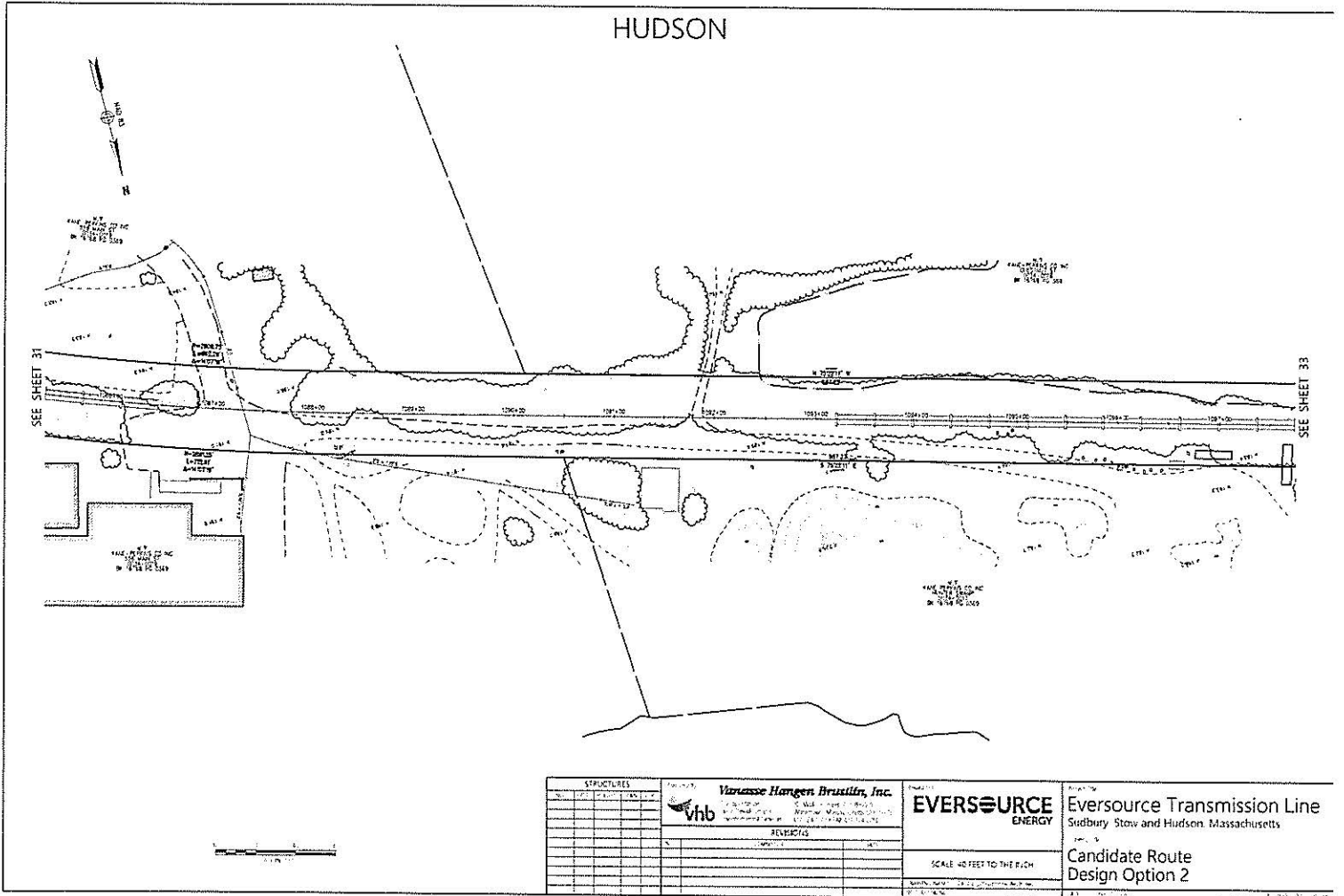
Eversource Transmission Line
Sudbury, Stow and Hudson, Massachusetts
Candidate Route
Design Option 2

HUDSON



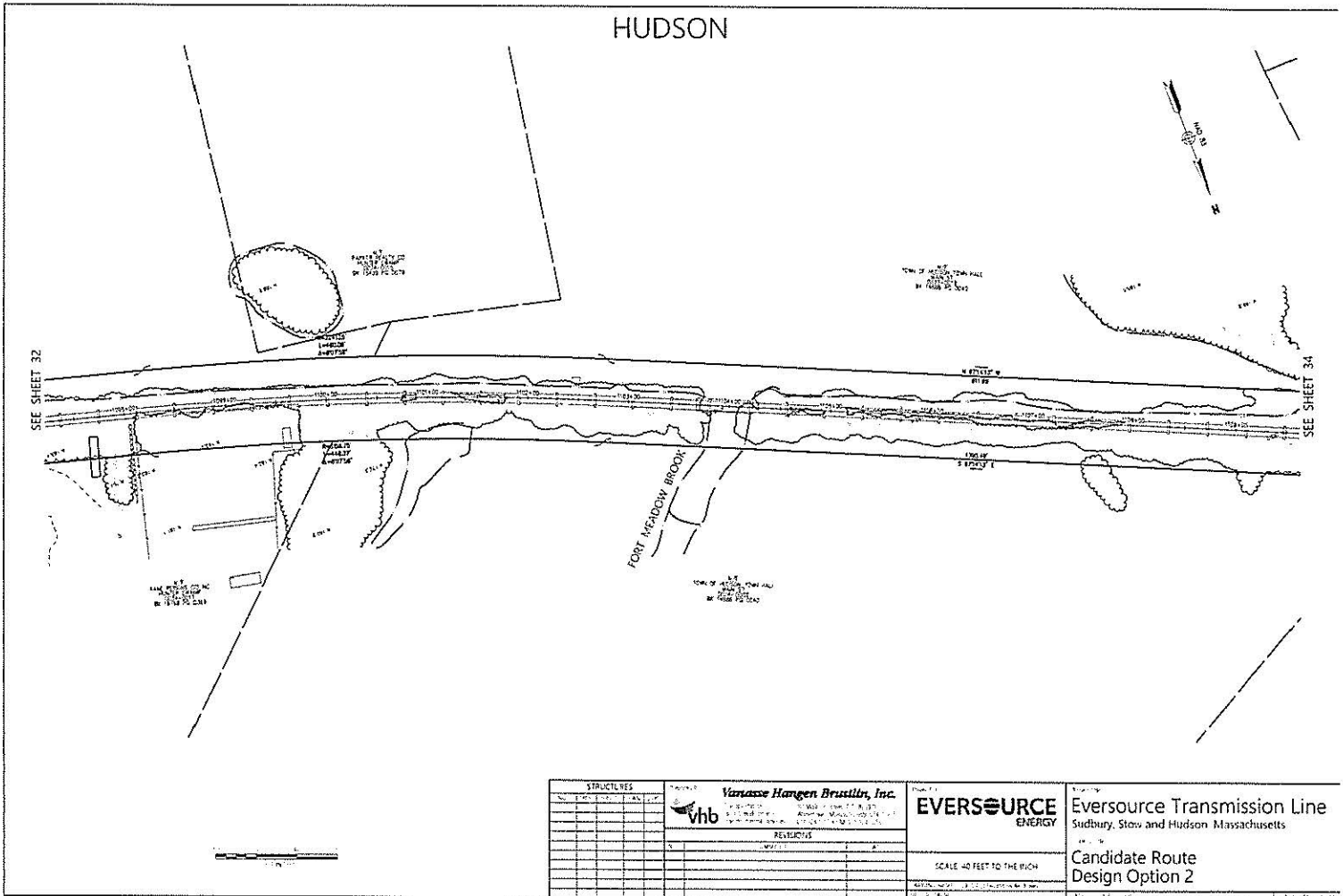
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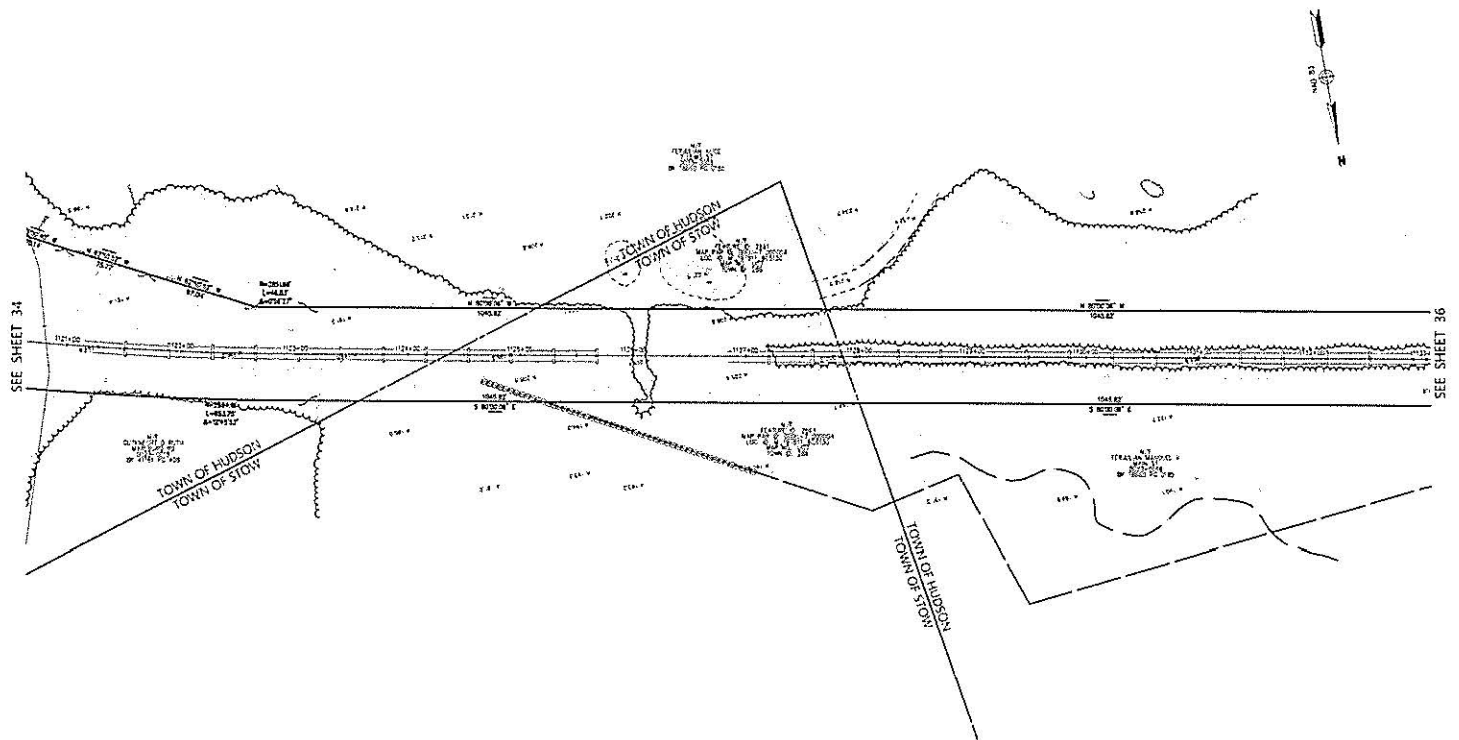


STRUCTURES				PROJECT		OWNER	
NO.	TYPE	DATE	REMARKS	Varianse Hanger Brustin, Inc.		EVERSOURCE ENERGY	
				vhb		Eversource Transmission Line	
				REVISIONS		Sudbury Stow and Hudson, Massachusetts	
						Candidate Route	
						Design Option 2	

HUDSON



HUDSON



STRUCTURE		 Vannasse Hangen Brustlin, Inc. 100 WATER STREET SUITE 200 BOSTON, MA 02109 TEL: 617-261-1000 FAX: 617-261-1001 WWW.VHBBUSINESS.COM		 EVERSOURCE ENERGY		Eversource Transmission Line Sudbury, Stow and Hudson, Massachusetts Candidate Route Design Option 2	
		SCALE: 40 FEET TO THE INCH DATE: 08/20/2013 DRAWN BY: [illegible] CHECKED BY: [illegible]					

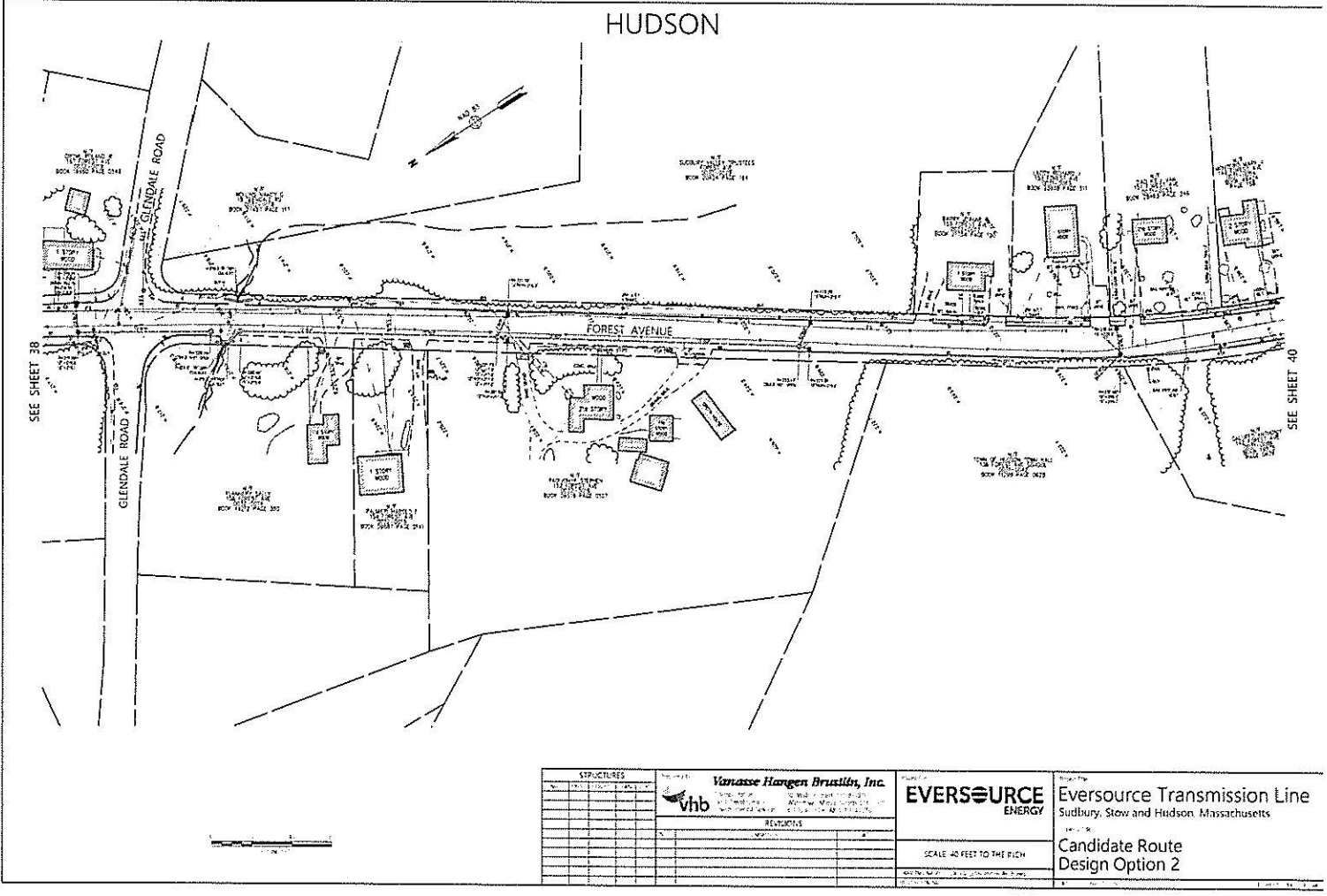
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EVERSOURCE
ENERGY

SCALE 40 FEET TO THE HIGH

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Eversource Transmission Line
Sudbury Stow and Hudson Massachusetts



HUDSON

GLENDALE ROAD

FOREST AVENUE

SEE SHEET 38

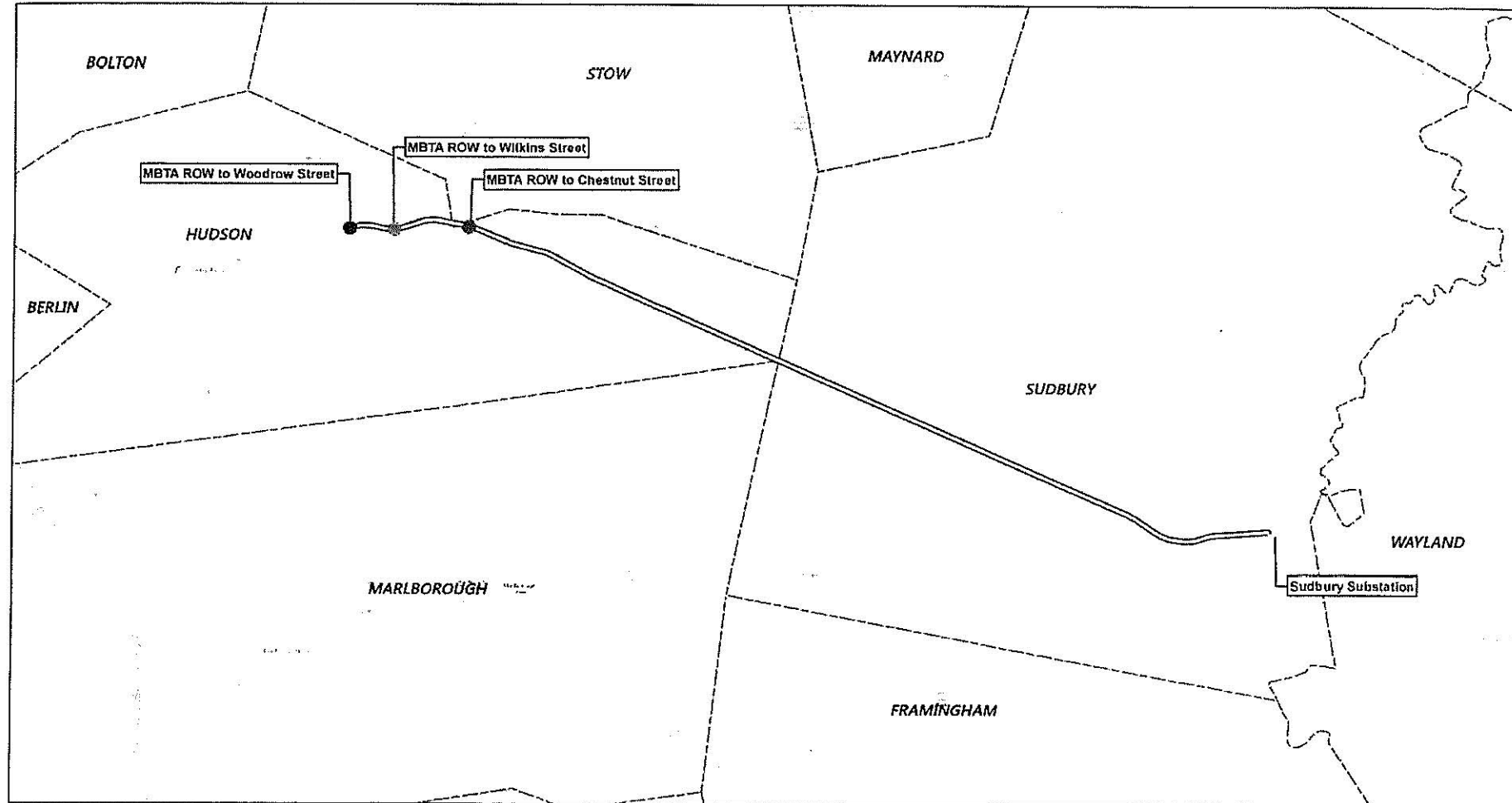
SEE SHEET 40



STRUCTURES																				PROJECT # Vanasse Hangen Brustlin, Inc. vhb 100 STATE STREET, SUITE 200 BOSTON, MASSACHUSETTS 02109 TEL: 617.552.3000 FAX: 617.552.3001 WWW.VHB.COM										PROJECT # EVERSOURCE ENERGY										PROJECT # Eversource Transmission Line Sudbury, Stow and Hudson, Massachusetts									
REVISIONS																														SCALE 40 FEET TO THE INCH										CANDIDATE ROUTE DESIGN OPTION 2									
DATE: 10/1/10																				DRAWN BY: [Name]										CHECKED BY: [Name]										DATE: 10/1/10									

EXHIBIT B

Map Illustrating Potential Exit Point Locations



EVERSOURCE
ENERGY

NOTE: Not to scale. Alignments shown are for graphical purposes only.
Lines that appear immediately adjacent to each other should be assumed to follow the same alignment

Source:
MassGIS, VHB

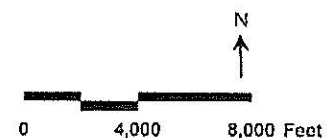


EXHIBIT C

Easement Form

**ELECTRIC TRANSMISSION LINE EASEMENT AGREEMENT
BETWEEN
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
AND
EVERSOURCE ENERGY**

The MASSACHUSETTS BAY TRANSPORTATION AUTHORITY, a body politic and corporate, and a political subdivision of the Commonwealth of Massachusetts established and existing pursuant to Chapter 161A of the Massachusetts General Laws ("MBTA" or "Grantor"), with a principal place of business at Ten Park Plaza, Boston, Massachusetts, 02116 for consideration of the annual payments, covenants and agreements set forth herein, grants to NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY, a Massachusetts Corporation and electric company with a usual place of business at 247 Station Drive, Westwood, Massachusetts 02090, and its successors and assigns ("Grantee") (each, a "Party" or collectively, "Parties"), a permanent, non-exclusive (except as to Grantee's Permitted Uses, defined herein) subsurface easement, within the terms and conditions hereof, in certain land owned by MBTA in Sudbury, Stowe, Marlborough and Hudson, Massachusetts, on the inactive Central Massachusetts Branch Right-of-Way (the "Right-of-Way" or "ROW"), consisting of approximately 8.63 miles of land, with an approximate width of eighty-two and half (82.5) feet, and as more particularly shown on a plan of land (the "Plan") recorded herewith entitled Eversource Transmission Line, dated _____, prepared by _____, a reduced-size copy of which is attached as Exhibit A (the "Easement Area"), for the purposes of laying, constructing, reconstructing, operating, maintaining, repairing, replacing, rebuilding and upgrading and/or removing within the Easement Area, Grantee's Improvements as defined herein; and with the further right to enter and go onto, over and across the Right of Way to said Easement Area for the purpose of preparing the Easement Area for construction, reconstruction, operation, maintenance, repairing, replacing, rebuilding, upgrading and/or removing Grantee's Improvements, as defined herein, clearing trees, shrubs and other vegetation, and by removing debris, obstructions, buildings, structures and encroachments, such upgrading to be limited to adding additional lines and/or cables or as otherwise approved by MBTA in accordance with the terms hereof, and such clearing and/or removal as so approved, within said Easement Area, subject to the terms and conditions set forth herein (all of the foregoing rights being hereinafter referred to as the "Easement"). For purposes of clarity, the Easement Area is coextensive with the area of the ROW within the 8.63 mile segment of such ROW described herein.

Grantor further grants to Grantee the limited right for construction laydown purposes to store equipment and stockpile materials and relocate excavated soils and store such soils within the

ROW during initial construction of the Grantee's Improvements, as defined herein, as reasonable and necessary to exercise the rights set forth above. Such entry shall be subject to the terms and conditions of this Easement Agreement (including, without limitation, Section 6 and Section 8 below).

To the extent any limited surface appurtenances are necessary within the Easement Area in connection the Easement (e.g., manholes and hand holes), such appurtenances shall be permitted provided the same are shown on a plan consented to in writing by MBTA.

"Grantee's Improvements" shall mean, and may include, some or all of the following, and any other facilities hereafter approved by MBTA, for transmission and or distribution lines for electricity including subsurface transmission lines, and conduit and cables for cable-related communications equipment for the use of Grantee for transmission of related data appropriate for the transmission and/or distribution of high voltage electricity and communications from Grantee's Sudbury Substation 342 to the Hudson Light and Power Substation directly related to Buyer's transmission and distribution of electricity for the Sudbury-Hudson Transmission Reliability Project to address the reliability needs of the electric transmission system in the greater Boston area (the "Project") including any such cables and/or lines to be buried at depths as may be required for constructability by MBTA or shown on any plan(s) consented to under the terms hereof and with such permanent or temporary shoring of the trench for lateral support as may be required by MBTA or shown on any such plan(s), including PVC duct banks for subsurface transmission and or distribution lines and PVC conduit for cable-related communications equipment, and any related facilities, including splicing manholes or hand holes, each such duct bank containing high or low voltage direct current or alternating current cables with all related appurtenances (the "Permitted Uses").

For MBTA's title to the Easement Area, see:

This Easement shall be subject to all easements and restrictions of record on the date hereof. Grantee shall indemnify, defend and hold MBTA harmless from and against claims, damages, and other losses incurred by MBTA as a result of Grantee's activities in the Easement Area or failure to comply with the provisions of this Easement.

This Easement shall be held by Grantee and its successors and assigns as an easement in gross.

This Easement is non-exclusive, except as to the Permitted Uses and Grantor reserves all rights not granted hereby in the Easement Area, including, but not limited to, the following:

- A. MBTA reserves to itself all rights not explicitly granted herein;
- B. MBTA reserves to itself the right to install, operate, repair and maintain transportation/rail infrastructure within the Easement Area, provided that such rights will not unreasonably or permanently interfere with Grantee's enjoyment of the rights granted in this Easement;

- C. Subject to the conditions set forth herein, MBTA reserves to itself the right to relocate all or any portion of the Grantee's Improvements to another location within the Easement Area at any time after the expiration of twenty (20) years from the date hereof, if in MBTA's opinion, the Grantee Improvements unreasonably interfere with then present or future use of MBTA's ROW for the operation of its transportation system (and for no other purpose). Upon MBTA's written notice to Grantee to so relocate the Grantee Improvements, given after the expiration of such twenty-year term, such relocation will become effective not less than five (5) years from the date of such notice (so as to allow Grantee sufficient time to commence and complete regulatory permitting proceedings to relocate Grantee's Improvements and to complete the construction of the relocated facilities in advance of any removal of the Grantee Improvements from their current location within the Easement Area without disruption to Grantee's operation of Grantee's Improvements for the transmission of high voltage electrical power). Any such relocation of the Grantee's Improvements to another portion of the Easement Area shall be at Grantee's sole cost and expense. Grantee shall enjoy all rights conveyed herein with respect to the Grantee Improvements as so relocated within the Easement Area. In the event of such relocation to another portion of the Easement Area, the parties shall execute and record an amendment to this instrument to memorialize the relocation of the Grantee Improvements within the existing Easement Area.
- D. MBTA reserves to itself the right to issue licenses to and/or to grant easements to third parties within the Easement Area, provided, however, that such future licenses or grants will not unreasonably interfere with Grantee's enjoyment of the rights granted in this Easement, except that temporary interference with Grantee's access to the Easement Area shall be allowed during periods of installation, maintenance and repair.
- E. MBTA has previously granted licenses or easements to third parties in the Easement Area, which represent additional exceptions to Grantee's rights therein. Without limitation of the rights reserved by Grantor herein, MBTA reserves the right for MBTA and such licensees and easement holders to enter onto Easement Area for all purposes allowed under their licenses and easements.

This Easement is granted pursuant to the following additional terms and conditions:

1. Exclusive Use of Grantee Improvements Wherever Located. Grantor shall have no right, power or authority to use, or to grant any rights to a third-party to use, Grantee's Improvements, whether the same are within or outside the Easement Area, all of which are and shall remain exclusively Grantee's property.
2. Consideration.
 - A. Commencing on _____ and continuing on an annual basis for twenty (20) years thereafter, Grantee shall pay Grantor on the first day of each month without notice or demand, setoff, reduction or recoupment, payments as follows (the "Easement Payment"): The Easement Payment for the first Easement Payment Year, as defined herein, is Four Hundred Twenty-Five Thousand Dollars (\$425,000.00) reduced by Grantee's One Hundred Thousand Dollar credit related to the option agreement previously executed by Grantor and Grantee, due in equal monthly payments of Twenty-Seven

Thousand and Eighty-Three Dollars and 33/100 (\$27,083.33). Thereafter, the annual Easement Payment shall be Four Hundred Twenty-Five Thousand Dollars (\$425,000.00) due in equal monthly payments of Thirty Five Thousand Four Hundred Sixteen Thousand Dollars and 67/100 (\$35,416.67). The annual Easement Payment shall increase annually by one percent (1%) over the prior year's payment for a period of Twenty (20) years.

For purposes of this Easement, the first "Easement Payment Year" shall commence on _____ and end on the last day of the twelfth (12th) full calendar month following the date hereof. Each successive Easement Year shall be comprised of succeeding periods of twelve (12) calendar months commencing on the day following an anniversary of the last day of the first Easement Year.

Grantee shall be required to pay the Easement Payment regardless of whether or not Grantor sends Grantee an invoice in connection with any such Easement Payment. The Easement Payment shall be made payable to MBTA and mailed to the following address unless otherwise designated by MBTA:

MBTA
P.O. Box 845142
Boston, MA 02284 - 5142

B. Commencing on the date that Grantee completes installation of fiber optic cable within any portion of the Easement Premises and continuing thereafter throughout the term of this Easement, Grantee shall provide to Grantor, without charge or fee, an indefeasible right to use ("IRU") two (2) dedicated fibers within the fiber optic cable in support of transportation operations or as MBTA may see fit to utilize for any other purposes (the "MBTA Fibers"). Such IRU shall be at Grantor's sole risk and Grantee makes absolutely no representation or warranty of any kind with respect to the MBTA Fibers or their suitability for any purpose, and Grantor will accept the same in their then "AS-IS, WHERE-IS" condition. Grantor hereby releases Grantee from and agrees to indemnify, defend (at the option of Grantee) and save Grantee harmless from and against any and all damages, losses, costs and expenses (including reasonable attorneys' fees), causes of action, suits, claims, demands or judgments to the extent arising from Grantor's use of the MBTA Fibers.

3. Compliance; Special Conditions. By acceptance of this Easement, Grantee agrees and covenants that it will comply with all of the terms and conditions set forth herein. Notwithstanding any provision of this Easement Agreement to the contrary, Grantee's use of the Easement Area and ROW shall be subject to the following conditions:

A. In no event shall Grantee's activities within the Easement Area or ROW (including, without limitation, the installation, operation, maintenance, repair or replacement of Grantee's Improvements): (i) interfere with Grantor's access to the ROW or (ii) adversely impact any existing utility installations within the ROW.

B. Prior to commencing any excavation, Grantee must cause the Easement Area to be staked in the field by a registered land surveyor and provide Grantor with the results of a

survey that depicts the natural features of the land, existing structures, fencing and utilities. If Grantor determines from the survey that any utility relocation is necessary to accommodate Grantee's Improvements, and it is not practicable to relocate the Easement Area to avoid such utility relocation, then Grantee shall cause such utility relocation at Grantee's sole cost and expense.

C. Grantee shall locate and install Grantee's Improvements in a manner that is consistent with use of the ROW as a multi-use path.

4. Maintenance and Repair. Grantee shall at its sole cost and expense (i) keep, maintain and repair at all times all of Grantee's Improvements within the Easement Area in lawful order, condition and repair; and (ii) promptly make any and all repairs, replacements, alterations to Grantee's Improvements within the Easement Area whether ordinary or extraordinary, foreseen or unforeseen, in accordance with the terms and conditions set forth herein. MBTA has no responsibility to make any repairs, replacements, alterations to Grantee's Improvements within the Easement Area.

5. Subordinate to MBTA Operations. During all periods when MBTA is utilizing the ROW for transportation related purposes, this Easement shall be subject and subordinate to the requirements of MBTA to maintain public safety and to maintain and operate a transportation system and to the requirement that Grantee's exercise of rights in this grant of the Easement may not obstruct, delay or prevent MBTA's continuance or expansion of transportation service. Grantee understands and agrees to exercise best efforts to prevent and, if occurring, immediately cease any occupation, work, use or activity permitted hereunder that is inconsistent with the foregoing. MBTA and its employees and contractors shall have twenty-four (24) hour uninterrupted access to the surface of the Easement Area upon the condition that Grantor's employees and contractors or licensees shall not disturb or otherwise unreasonably interfere with Grantee's Improvements except with Grantee's prior consent in each instance, which shall not unreasonably be withheld, delayed or conditioned.

6. License for Entry; Work Plan and Access Plan.

A. Except for emergency situations governed below, for each proposed work project by Grantee within the Easement Area during any period when the ROW is used by MBTA for transportation related purposes and before Grantee commences any work within the Easement Area, Grantee shall provide notice of said work project to MBTA.

B. Notwithstanding the foregoing, the consideration stated in this Easement includes the license fee for any required standard MBTA License for Entry, as defined herein, and the administrative fee for the initial construction and future maintenance of Grantee's Improvements contemplated by this Easement.

C. For Grantee's initial installation and construction of Grantee's Improvements and thereafter, for each proposed work project during any period when the ROW is used by the MBTA for transportation purposes and before commencing any work within the Easement Area, Grantee shall execute a MBTA standard form license for entry ("License for Entry")

and submit a plan and detailed specifications (including the materials to be used) and the equipment and proposed methods of performing the work, or any part thereof (the "Work Plan") to MBTA and such other information as may be reasonably required by MBTA. Grantee shall not enter onto the Easement Area or the ROW for the commencement of work until the Work Plan for said work project has been consented to in writing by MBTA. The permitted work will be fully defined in the consented to Work Plan. Grantee shall also provide MBTA with a detailed schedule of times when Grantee, its employees, contractors, subcontractors, or agents would like to be on the ROW (the "Access Plan"). After completion of a work project on, under, within or above the ROW or the Easement Area, Grantee shall promptly return the Easement Area and the ROW to the same condition they were in prior to each such work project, except that permitted Grantee's Improvements may remain in place. At the end of each day's entry, the Easement Area and ROW must be in a safe and operable condition. MBTA agrees that Grantee shall not need a License for Entry to conduct routine or special inspections or to perform testing or routine minor repairs in circumstances where (i) there will be no substantial work performed on Grantee's Improvements; and (ii) there will be no interference with MBTA's transportation system or uses.

D. During any period when the ROW is used by MBTA for transportation purposes, unless entry is made pursuant to an Access Plan consented to by Grantor, Grantee agrees to give, each time it desires entry, at least seven (7) days' prior written notification to Grantor (except in cases of emergency when notice shall be given by contacting Grantor's Maintenance Control Office (current phone number 617-222-5298 to gain access, and otherwise) in accordance with written emergency procedures established contemporaneously with the execution of this Easement, and updated from time to time, among Grantor and Grantee) of its need to access the Easement Area and ROW. Grantee understands that the more notice given to Grantor, the more likely it will be that Grantee can gain access at the times requested. Grantee shall present to Grantor evidence of the insurance coverage required herein before each entry that requires a License for Entry, unless evidence of existing unexpired insurance coverage meeting all insurance requirements is on file with Grantor.

E. Regarding all access by Grantee above, Grantor agrees as follows:

- (i) No consents required, including those for all Work Plans, all Access Plans and other access, shall be unreasonably withheld, delayed or conditioned; and
- (ii) As to all requested access, whether under an Access Plan or otherwise, Grantor will use good faith efforts to issue prompt responses and, with respect to Emergency Work (referred to below), issue immediate responses.

7. Additional Personnel.

A. During any period when the ROW is used by MBTA for transportation purposes, should MBTA deem that additional personnel beyond the flagman required for each instance of access pursuant to Section 6, such as watchmen, communications or

signalization personnel, electric traction personnel, inspectors assigned to construction crews, and/or other measures, including train re-routing, reasonably desirable or necessary to protect its operations, property or employees or other persons within or near the ROW, MBTA shall have the right to place such personnel of MBTA or to take such measures as MBTA deems appropriate at the sole cost and expense of Grantee. Such costs and expenses shall include the current wages and fringe benefits due and owing to such personnel in and for the performance of such measures. In such cases, Grantee hereby covenants and agrees to bear the full, reasonable cost and expense thereof and to reimburse MBTA within thirty days (30) of receiving an itemized, written invoice for such reimbursement, notwithstanding any dispute with respect to the reasonableness thereof, which shall not be deemed waived by Grantee's payment. MBTA's failure to provide such personnel or take such measures shall not relieve Grantee of any obligation or liability Grantee has otherwise assumed, and shall not give rise to any liability to MBTA and its successors and assigns. Upon being notified that such personnel or measures have been deemed necessary or desirable by MBTA, Grantee shall not commence or continue the work permitted under the Work Plan or otherwise, unless and until such required personnel or measures are in place.

B. If Grantee shall deem any requirement for additional personnel or undertaking of other measures by MBTA for the supervision of work by Grantee, as unreasonable, Grantee shall nevertheless pay for such flagging, and the like, but may take exception thereto in writing as an unreasonable requirement in each instance. Without waiving any rights as the parties may have at law or in equity, the parties agree to review such exceptions at the times of billings for such services and attempt to adjust them as appropriate.

C. MBTA agrees that in determining the use of personnel and other safety measures arising under this Easement Agreement, the costs of which will be borne by Grantee, MBTA will employ for this Easement Agreement the same standard it uses for MBTA's own work.

8. Emergency Work. The parties acknowledge their paramount interest in safety and that each activity in the ROW (i.e., high voltage electrical transmission) represents potentially hazardous activity to life and property. Accordingly, Grantee agrees to actively maintain procedures and training protocols to coordinate any response requiring access to the ROW and Easement Area for Emergency Work, which procedures shall include notice to and cooperation with MBTA. With respect to Emergency Work during any period when the ROW is used by MBTA for transportation purposes, Grantee shall give notice to Grantor as quickly as possible of Grantee's need to access the Easement Area by contacting MBTA's Office of Maintenance Control at 617-222-5298 and arranging for the necessary emergency access to be granted by MBTA. Once such access has been granted by Grantor, Grantee may immediately enter the ROW and Easement Area for the sole purpose of performing Emergency Work. "Emergency Work" of Grantee will be deemed to include such work as may be necessary, in the reasonable determination of Grantee, to restore or prevent the interruption of service to Grantee's electricity customers, or work necessary to comply with urgent governmental requirements or to address health and safety issues, all of the foregoing to the extent such work could not be performed on a non-emergency basis without materially compromising public health or safety. Notwithstanding the absence of a written

license agreement in the case of Emergency Work, during any period when the ROW is used by MBTA for transportation purposes, Grantee shall be liable to MBTA for all obligations of a licensee under the License for Entry (as limited by the provisions of this Easement Agreement), including but not limited to costs of flagmen and other safety personnel, shuttle buses and other costs of maintaining a commuter service, indemnification against third-party claims, repairs to MBTA facilities.

9. Completion of Work.

A. During any period when the ROW is used by the MBTA for transportation purposes, for each Work Plan or emergency access, upon completion of its work, Grantee shall provide written notice of the date of project completion ("Notice of Project Completion") to Grantor's Railroad Operations Department. Grantee shall also provide Grantor's Railroad Operations Department with one reproducible so-called "as-built" copy of each construction drawing marked to indicate all changes and deviations from the original consented to Work Plan and indicating the final conditions of the ROW upon completion of the work authorized pursuant to that Work Plan ("Record Drawings"). All Record Drawings shall be received by Grantor subject to final inspection and acceptance, which acceptance shall not be unreasonably withheld, delayed or conditioned. If MBTA does not provide acceptance or specific written objections to the Record Drawings within 30 days after they are submitted by Grantee, Grantee shall send to MBTA, by certified or registered mail, return receipt requested, a request for acceptance or written objections within an additional thirty (30) days and a statement in a separate paragraph on the first page referring to this section of this Easement and stating:

**UNDER SECTION 9 OF THE EASEMENT BETWEEN MBTA AND
GRANTEE, FAILURE OF MBTA TO RESPOND WITHIN 30 DAYS WILL
BE DEEMED ACCEPTANCE BY MBTA OF THE RECORD DRAWINGS.**

If no reply is received by Grantee with such period, Grantee shall send a second such 30-day request and if no reply is then received, it shall be presumed that such Record Drawings are accepted by MBTA. Each Notice of Project Completion and the Record Drawings shall be delivered to:

MBTA Railroad Operations Department
32 Cobble Hill Road
Somerville, MA 02143
Attn: Director of Engineering and Maintenance

with a duplicate to:

Massachusetts Bay Transportation Authority
Capital Delivery Department
100 Summer Street, 12th Floor
Boston, MA 02110
Attn: Assistant General Manager

B. If the Record Drawings differ significantly from the Easement as described herein or from the Easement Plan (or any amended Easement Plan), then a new easement plan shall be prepared by Grantee and, after acceptance by Grantor, shall be recorded by Grantee. Any easement plan prepared pursuant to this Easement Agreement shall be certified by a land surveyor registered in the Commonwealth of Massachusetts and shall be prepared in recordable form in conformance with the rules and regulations of the Registry of Deeds and with any requirements of MBTA.

10. Compliance with Laws. Grantee shall comply with, and shall cause all work authorized hereunder to comply with, all applicable Federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, codes and ordinances. Grantee shall ensure at all times that the installation, operation and maintenance of Grantee's Improvements (including specifically its electric transmission lines) comply with prudent electric utility industry construction and engineering practices, including (except to the extent waived by Grantor in writing) Grantor's Standard Specifications as of the time of any work commencement, a copy of which Standard Specifications shall be made available to Grantee upon its request. Grantee shall also be responsible for obtaining and maintaining any and all Federal, state, public utility commission, local and/or other governmental authority permits and/or approvals necessary to carry out the Permitted Uses. MBTA agrees reasonably to cooperate with the efforts of Grantee in obtaining and complying with such permits and approvals.

11. Compliance with Easement and License for Entry.

A. Grantee will comply with all the requirements and restrictions contained herein and any applicable License for Entry, and any related Work Plan and Access Plan. In the event Grantee shall fail to comply with any term or condition herein or in any License for Entry, Work Plan or Access Plan (an "Event of Default"), Grantee shall have thirty (30) days from receipt of such notice to cure such Event of Default (except that in the case of an Event of Default which cannot with due diligence be cured within such thirty day (30) period, then so long as Grantee proceeds with due diligence to commence to cure the same within the aforesaid thirty (30) day period and thereafter prosecutes the curing of such Event of Default with due diligence to completion, the time of Grantee within which to cure the same shall be extended for such period as may be reasonably necessary to complete the same. Notwithstanding the preceding, if the Event of Default is one that threatens the safety of the public or the ability of MBTA to operate the transportation system and/or conduct any of its daily business functions, then it shall be considered an emergency Event of Default and if Grantee does not immediately commence and diligently prosecute a cure, MBTA may use self-help at the expense of Grantee and Grantee shall be responsible for such expenses.

B. Grantee represents and warrants that, during any period when the ROW is used by the MBTA for transportation purposes, any repair or replacement of any Grantee Improvements located on or near the Easement Area affecting or threatening public safety or the operation of a transportation system will receive priority commensurate with Grantee's other public service customers. Nothing in this Easement Agreement will prevent MBTA from taking such actions as it deems necessary or appropriate with respect to operating a transportation system, including but not limited to repairing and replacing MBTA facilities and operating alternative transportation such as buses as a result of

interference caused by Grantee Improvements.

In the event MBTA (or its contractors) exercises any such rights stated in this Section 11., then Grantee shall pay to MBTA all of the costs of taking such actions and, in addition, interest on such amount shall be paid at the annual rate of six (6%) percent over the prime rate for investment-grade large corporate borrowers as reported on the day of MBTA's or its contractor's billing of Grantee by the Wall Street Journal (the "Default Rate"); and such interest shall accrue on a daily basis based on the balance due for the number of days after Grantee receives such billing to the date MBTA or its contractors receives Grantee's payment thereof. Such payment shall be due within thirty (30) days after Grantee's receipt of an invoice including reasonable evidence of such costs, including third party bills, daily logs, cash disbursements and the like.

In no event shall MBTA have the right to terminate this Easement as a result of an Event of Default unless the Event of Default is caused by the nonpayment of any Easement Payment, fees, costs or payments due pursuant to this Easement and/or any License for Entry ("Nonpayment Event of Default"). Upon any Nonpayment Event of Default, MBTA shall have the right to terminate this Easement upon ninety (90) days' prior written notice to Grantee in accordance with and in compliance with all applicable laws. Grantee shall have the right to cure a Nonpayment Event of Default by tendering payment in full prior to the expiration of the ninety (90) day Nonpayment Event of Default notice period.

12. Dig Safe. Grantee acknowledges that there may be surface and subsurface railroad and/or third-party utilities on, under, over and adjacent to the ROW and agrees to exercise extreme caution in performance of each Work Plan's permitted activities. Grantee shall comply with Massachusetts General Laws, Chapter 82, Section 40 (said statute also known as the "Dig Safe" law) and the regulations promulgated pursuant thereto, including, but not limited to, 220 CMR 99.00, et seq. or any amendment thereof or superseding statute or regulations. If, in connection with a Work Plan's permitted activities, Grantor locates and marks railroad utilities in the railroad ROW and land appurtenant thereto, Grantee shall be responsible for payment for such services which may include, but not be limited to, locating and marking utilities, facilities and appurtenances thereto serving the railroad and transit line(s) or used in connection with services or operations of Grantor. Any damage to such utilities caused by Grantee, its employees or contractors engaged by Grantee shall be the sole responsibility of Grantee. If Grantee does not immediately repair any utilities it has damaged, Grantor, without being under any obligation to do so and without waiving Grantee's obligation hereunder, may repair any utilities damaged by Grantee immediately and without notice in case of emergency. In the event Grantor exercises such right, Grantee shall pay to Grantor all of Grantor's reasonable costs of performing such repairs, such payment to be made within thirty (30) days after Grantee's receipt of evidence of such costs, including third-party bills, daily logs, cash disbursements and the like. Interest on the unpaid balance thereof shall accrue on a daily basis on any unpaid amount will accrue at the Default Rate. Nothing in this Section 12 shall be interpreted to mean that Grantee shall have the right to dig or otherwise disturb the soil on the ROW except as otherwise provided herein. In addition, Grantor may exercise all available remedies at law or in equity, except termination of this Easement, to achieve the purposes, or enforce the provisions, of this Section 12.

13. Indemnification and Environmental Matters.

A. Subject to Section 24 below, Grantee shall protect, indemnify, defend (subject to Section 15 below), and save Grantor harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees), causes of action, suits, claims, demands or judgments of any nature whatsoever including, without limitation, damages to real estate or personal property or the illness, injury or death of a person, and those related to any environmental condition or to oil and hazardous materials as those terms are defined in Massachusetts General Laws Chapter 21E ("Chapter 21E") and the regulations promulgated pursuant thereto, the Massachusetts Contingency Plan, 310 CMR 40.0000 et seq. (the "MCP"), (collectively, "Hazardous Materials"), that may be imposed upon or incurred by or asserted against Grantor and which occur or arise as a result (but only to the extent) of any of the following activities or occurrences irrespective of whether they occurred before or after the effective date of this Easement, and except to the extent that the "claim" arose because of the negligence or willful misconduct of Grantor or their respective employees, contractors, lessees, grantees or licensees:

(i) the use and enjoyment of the Easement by Grantee, presence of Grantee's Improvements on the Easement Area, and all activities of Grantee or its respective employees and contractors within the Easement Area and ROW; or

(ii) the presence or discovery of any environmental condition, including Hazardous Materials on the Easement Area or the ROW (or other property of Grantor adjacent to the ROW), which presence or discovery is a result of the activities of Grantee or its employees or contractors, provided that Grantee's obligations with respect to Hazardous Materials not introduced, placed or released by Grantee or its employees or contractors shall be limited to compliance with the Utility Related Abatement Measures ("URAM") set forth in 310 CMR § 40.0460 et seq., as the same may be amended from time to time but only if Grantor is not required to take any response actions or incur any costs or expenses with respect to such Hazardous Materials (Grantor agreeing to use commercially reasonable efforts to limit its obligations to take such response actions or incur such costs or expenses); and provided, further, that (x) Grantee's obligations with respect to Hazardous Materials (i) within the ROW shall be limited to those response actions required under Applicable Laws for the use of the ROW as a railroad right of way, or (ii) within Grantor's property adjacent to the ROW shall be limited to those response actions required under Applicable Laws for the use of such adjacent property for its then current uses, and (y) Grantee's maximum liability for contamination discovered (but not caused) by Grantee shall be Two Millions Dollars (\$2,000,000.00) per release tracking number assigned by the Massachusetts Department of Environmental Protection, and Four Million Dollars (\$4,000,000.00) in the aggregate; or

(iii) the placement or accidental release of any Hazardous Materials on, in, at, under, over, through or associated with the ROW or Easement Area (or other property of Grantor adjacent to the ROW) by Grantee or its employees, agents, contractors or subcontractors; or

- (iv) any failure of Grantee or its employees, agents, contractors or subcontractors to perform or comply with any of the terms hereof, or any contracts, agreements or restrictions, statutes, laws, ordinances or regulations affecting the allowed activities or any part thereof.

Grantee's covenant to indemnify and defend and save Grantor from claims related to the causes set forth in the four immediately preceding subsections above includes indemnification and defense of Grantor from claims arising from the presence of Hazardous Material on, in, at, over, under, from, through or associated with the Easement Area and/or ROW and for any Hazardous Materials on abutting property not owned by Grantor caused by migration of such Hazardous Materials from the Easement Area and/or ROW, in all cases to the extent attributable to actions of Grantee, its employees or contractors, as aforesaid, and includes, without limitation, third-party claims for property damages and decreases in land values. Further, such indemnification includes the obligation of Grantee to perform any required response action related to the Easement Area and/or ROW required by a governmental authority at Grantee's sole cost and expense and in accordance with Chapter 21E, the MCP, and any other Applicable Laws. For the purpose of this Easement, the term "Applicable Laws" with regard to environmental laws, means, without limitation, all state and/or Federal laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governmental agencies, and offices, relating in any way to the control and/or abatement of environmental pollution and environmental hazards that now or at any time hereafter may be applicable. With this meaning of Applicable Laws, Grantee may, to the maximum extent permitted by law, limit response actions, if such actions are necessary, to those required under the URAM regulations, or take other actions as permitted by law, but only if Grantor is not required to take any response actions or incur any costs or expenses with respect to Hazardous Materials discovered (but not caused by) Grantee. Furthermore, (x) Grantee may limit response actions, if such actions are necessary, (i) within the ROW, to those response actions required under Applicable Laws for the use of the ROW as a railroad right of way, or (ii) within Grantor's property adjacent to the ROW, to those response actions required under Applicable Laws for the use of such adjacent property for its then current uses, and (y) Grantee's maximum liability for contamination discovered (but not caused) by Grantee shall be \$2 million per release tracking number assigned by the Massachusetts Department of Environmental Protection, and \$4 million in the aggregate.

Any and all issues relating to Chapter 21E, the MCP, Hazardous Materials and/or any response actions pursuant to this Section must be coordinated directly with the MBTA's Site Remediation Specialist, Debra Darby, or her successor. Ms. Darby can be reached at 617-222-3169. Any and all submittals that are required pursuant to this Section must be sent to Ms. Darby's attention at 10 Park Plaza, Room 6720, Boston, MA 02116.

14. "As Is" Condition of Easement Area. Grantee has determined that the Easement Area and surrounding ROW are suitable for the uses Grantee contemplates, and accepts the Easement Area in its current as is condition. Grantee assumes all the risk of entry onto and use of the Easement Area and the ROW. Grantee hereby releases Grantor from any responsibility for Grantee's losses or damages related to the condition of the Easement Area and the ROW (including, but not limited to the presence of pre-existing Hazardous Materials), and Grantee covenants and agrees that it will

not assert or bring, nor cause any third-party to assert or bring, any claim, demand, lawsuit or cause of action (whether by way of original claim, cross claim, counterclaim, contribution claim, indemnification claim, third-party claim, or any other claim) against Grantor or any MBTA contractors, including, without limitation, claims for response actions, response costs, assessments, containment, removal and remedial costs, governmental oversight charges, including any overhead or response action costs incurred or assessed by the Massachusetts Department of Environmental Protection, fines or penalties, permit and annual compliance fees, reasonable attorneys' and other professionals' expenses and fees, natural resource damages, property damages, including diminution in property value claims, and personal injury damages and damages related to a person's death relating to, or arising from, the condition of the Easement Area or the ROW and which occur or arise from (i) Grantee's use and enjoyment of the Easement Area or the ROW, and all activities of Grantee or its respective employees or contractors or (ii) the presence or discovery of any environmental conditions, including Hazardous Materials on the Easement Area or the ROW (or other property of Grantor adjacent to the ROW), which presence or discovery is the result of the activities of Grantee or its employees or contractors; or (iii) the accidental release of any Hazardous Materials on, in, under, over, through or associated with the ROW or Easement Area (or other property of Grantor adjacent to the ROW) by Grantee or its employees or contractors ; or related to the noise, odor, vibrations, particles, pollution, fumes, compaction and electromagnetic fields (collectively "Negative Impacts") that occur as a result of Grantor's present and future operation of its transportation system on the ROW. Grantee shall obtain a written release of liability similar to the one in this Section 14 and in the next Section 15 in favor of the Grantor from each of Grantee's consultants and contractors before they enter onto the ROW or the Easement Area.

15. Indemnification of Claims. Subject to Section 24 below, Grantee shall indemnify, defend (at the option of Grantor) and save Grantor harmless from and against any and all damages, losses, costs, and expenses (including reasonable attorneys' fees), causes of action, suits, claims, demands or judgments related to the injury, illness or death of any employee of Grantee, to the extent arising from the acts or omissions of Grantee, except to the extent the "claim" arose because of the negligence or willful misconduct of Grantor or their respective employees, contractors, lessees, grantees or licensees. It shall not be negligence for Grantor to allow Grantee and third parties access to the ROW or the Easement Area.

A. Grantee shall be notified, in writing, by Grantor within a reasonable time from Grantor's receipt of the assertion of any claim against Grantor that Grantee has agreed to indemnify above (the "Indemnified Claim").

B. If Grantor decides to itself conduct the defense of an Indemnified Claim against it or to conduct any other response to an Indemnified Claim itself, Grantee shall reimburse Grantor for all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by Grantor in connection with Grantor's defense of the Indemnified Claim against it and/or the conduct of all response actions, including, without limitation, those required by Chapter 21E and the MCP.

C. If Grantor decides to have Grantee defend the Indemnified Claim or handle the response action, Grantor shall notify Grantee of that decision in writing and Grantee shall

bear the entire cost of defending the Indemnified Claim and shall have sole control of the defense of any Indemnified Claim and all negotiations for its settlement or compromise provided that Grantor is fully indemnified by Grantee and provided further that the settlement or compromise shall not include the admission of guilt (or comparable plea), wrongdoing or negligence or the permitting or imposition of civil or criminal penalties or indictments, or the entering of consent decrees or orders of any kind by Grantee on behalf of Grantor or any other action that would materially prejudice the rights of Grantor without Grantor's express written approval. Grantor shall cooperate with Grantee in the defense of any Indemnified Claim.

16. Non-Exclusive. MBTA reserves to itself all rights not explicitly granted herein. The term "Non-Exclusive," as used herein, shall mean that Grantee does not have exclusive rights in, within, over, under or through the Easement Area, except with respect to Grantee's Permitted Uses of Grantee's Improvements provided herein. In particular, and not in limitation of the foregoing, MBTA may have previously granted licenses or easements to third parties for utility and/or communication installations and MBTA reserves the right for MBTA, and such licensees and easement holders, to enter onto the Easement Area to maintain, repair, replace, relocate and/or remove said utility and/or communication installations. In addition, MBTA reserves the right to continue to license to and/or to grant easements to third parties within the Easement Area (whether surface, subsurface or aerial) for uses and purposes other than the Permitted Uses of Grantee's Improvements granted to Grantee herein, so long as such grants do not unreasonably interfere with Grantee's use and enjoyment of the rights granted in the Easement Agreement; except that during periods of installation and repair, MBTA shall require such licensees/easement holders to minimize their impact on Grantee's access to the Easement Area, and to return the Easement Area to substantially the condition it was previously in as quickly as possible. However, nothing contained herein shall limit the right of MBTA to grant licenses, leases and/or easements to utility companies or related companies for the sole purpose of crossing over the ROW for any necessary or required utility connections, provided that such grants do not interfere with Grantee's access to Grantee's Improvements and/or the safe and compliant operation of Grantee's Improvements. Grantee shall be provided with plans of any proposed grants of rights by MBTA in the Easement Area, and shall have the right within ninety (90) days after receipt of such plans to request design adjustment to minimize impact to Grantee's access and Improvements. MBTA shall not be liable for delays, obstructions, or like occurrences affecting Grantee, arising out of the use of the Easement Area by MBTA or by others so authorized by MBTA. Grantee shall take such steps as may be necessary to prevent unreasonable interference caused by the work and rights of Grantee authorized hereunder to any other utility or communication systems currently located in, on, under or above the Easement Area and any such interference shall be corrected promptly, and at the sole cost and expense of Grantee.

17. Compliance with Railroad Operations Directorate. Grantee shall ensure at all times that the installation, operation, maintenance, repair, replacement, relocation and removal of Grantee's Improvements comply with sound construction and engineering practices; with the engineering and safety rules and regulations imposed by any governmental authority having jurisdiction over Grantee or MBTA; with appropriate standards of recognized industry and professional associations, including but not limited to, applicable building codes; and with MBTA's standards for engineering and safety referenced in MBTA Railroad Operations Directorate as it may be updated from time to time. However, it is specifically acknowledged that as a part of the

consideration for this Easement that MBTA is waiving the following standards stated in the Massachusetts Bay Transportation Authority Railroad Operations Directorate dated August 2014 as follows: I Guidelines And Procedures For Construction On MBTA Railroad Property, Section 9.01 C2; II Maintenance And Protection Of Railroad Traffic, Sections 2.10 and 2.11; IV Pipeline Occupancy Specifications, and V Specifications For Wire Conduit And Cable Occupations, Sections 3.02 E 1, 4.01 B, and 5.01 including plates II, III IV and VI.

18. No Liens. Grantee shall not encumber or voluntarily cause a lien to be placed upon the Easement Area or ROW, and shall take all steps necessary to immediately remove any involuntarily imposed encumbrances or liens relating to debts or claims against Grantee at its sole cost and expense. Grantee may, however, upon written notice to Grantor, but without requiring Grantor's consent or approval, mortgage, collaterally assign or otherwise encumber and grant security interests (collectively, a "security interest") in all or any part of Grantee's interest in the Easement and Grantee's Improvements (collectively, the "Grantee Property") to an institutional lender or group of lenders or agent on their behalf. The various security interests in all or a part of the Grantee Property are collectively referred to as a "Grantee Mortgage" and the holder of such security interest a "Grantee Mortgagee". Any Grantee Mortgagee shall use the Grantee Property solely for the purposes permitted under this Easement. Whenever Grantee has granted a security interest in this Easement, it will so notify Grantor within thirty (30) calendar days; provided that failure to give such notice shall not constitute a default under this Easement Agreement, but rather shall only have the effect of not binding Grantor to provide such Grantee Mortgagee with notice until Grantee provides notice including the Grantee Mortgagee's address.

19. Mortgagee Protection Provisions.

A. Opportunity to Cure. Grantor shall use reasonable effort to give written notice of an Event of Default to each Grantee Mortgagee of whom it shall have received written notice at the same time it delivers notice of default to Grantee, specifying in detail the alleged event of default and the required remedy. Each Grantee Mortgagee or its designee shall have the right, but not the obligation, to cure any default as Grantee, and/or the right, but not the obligation, to remove any Grantee's Improvements or other property owned by Grantee or such Grantee Mortgagee located on or within the Easement Area to the same extent as Grantee. Failure by Grantor to give a Grantee Mortgagee notice of default shall not diminish Grantor's rights against Grantee.

B. Grantee Mortgagee Liability. Any Grantee Mortgagee whose interest in Grantee Property is held solely for security purposes, shall have no obligation or liability under this Easement unless and until Grantee Mortgagee succeeds to absolute title to Grantee Property and the rights of Grantee under this Easement. A Grantee Mortgagee shall be liable to perform obligations under this Easement only for and during the period it directly holds such absolute title.

C. Grantee Mortgagee's Right to Enforce Mortgage and Assign. Each Grantee Mortgagee shall have the right, in its sole discretion: (i) to assign its Grantee Mortgage; (ii) to enforce its lien and acquire title to all or any portion of Grantee Property by any lawful means; (iii) to take possession of and operate all or any portion of Grantee Property and to perform all obligations to be performed by Grantee under this Easement, or to cause

a receiver to be appointed to do so; and (iv) to acquire all or any portion of Grantee Property by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer all or any portion of Grantee rights under this Easement to a third party. Grantee Mortgagee shall have the absolute right, but not the obligation, to substitute itself for Grantee and perform the duties of Grantee hereunder for purposes of curing a default under this Easement. Grantor expressly consents to such substitution, agrees to accept such performance, and authorizes Grantee Mortgage (or its employees, agents, representatives or contractors to enter upon the ROW to complete such performance with all of the rights and privileges of Grantee hereunder.

D. Estoppel Certificates. Upon request from time to time, Grantor shall execute and deliver to Grantee or a Grantee Mortgagee a commercially reasonable certificate certifying as to the truthfulness of matters concerning this Easement (including the absence or existence of Events of Default), acknowledging the rights of a Grantee Mortgagee with respect to Grantee Property and addressing such other matters as Grantee or a Grantee Mortgagee may reasonably request.

20. Abandonment of Easement. Within two (2) years after the date that Grantee permanently ceases to use the Easement Area or ROW, in Grantor's sole determination, Grantee shall, at its sole cost and expense, remove Grantee's Improvement's, including Grantor's conductor and shall abandon in place Grantee's conduit or conduits, and insofar as practicable restore the Easement Area to the condition it was in prior to Grantee's activities in the Easement Area. Any Grantee's Improvements not so removed shall, at the option of Grantor, either become the property of Grantor or be removed by Grantor and disposed of without any liability to Grantor for such removal and disposition and the Easement shall terminate and be of no further force and effect except for Sections 13, 14 and 15 herein which shall survive termination of this Easement.

21. Civil Rights and Equal Opportunity. With respect to the exercise of all rights and privileges herein granted, and to the extent not in conflict with Grantee's then-existing legal obligations or unless it is otherwise exempt from compliance:

A. Grantee shall undertake affirmative action as required by Federal and state laws, rules and regulations pertinent to Civil Rights and Equal Opportunity. Grantee agrees that it shall comply with any and all required affirmative action plans submitted pursuant to the directives of any Federal agency and in accordance with applicable Federal Law and applicable state laws, rules and regulations to the extent not in conflict with Grantee's then-existing legal obligations.

B. Grantee shall not discriminate against any person, employee or applicant for employment because of race, color, creed, national origin, age, sex, sexual orientation, disability or military veteran status in its activities on the Easement Area, including without limitation, the hiring and discharging of employees, the provision or use of services and the selection of suppliers, contractors, or subcontractors.

C. Grantee shall use reasonable efforts to contact, encourage and utilize minority and female business enterprises in the procurement of materials and services related to the

Easement Area.

22. Payment of Taxes.

A. Grantee shall be solely responsible for the payment of any taxes, levies, betterments or assessments, fees or charges, whether in existence on the date hereof or becoming due during the time during which the Easement continues to exist, which may be assessed against Grantee or Grantor which are directly attributable to Grantee's Improvements on, or Grantee's use of, the Easement Area, or any other personal property or fixtures of Grantee located thereon (collectively referred to as "Taxes"). Grantee shall pay all Taxes directly to the taxing authority before delinquency and before any fine, interest or penalty shall become due or be imposed by operation of law for its nonpayment.

B. Grantee may contest in good faith for its own account and at its own expense, the validity or amount of any Taxes, provided Grantee shall indemnify Grantor against any resulting loss, cost and expense. Grantee shall not permit a lien or encumbrance to be placed on the Easement Area by reason of its failure to pay any Taxes and, if any such lien or encumbrance shall be imposed, shall cause the same to be released or bonded off promptly after notice thereof to MBTA.

23. Insurance.

A. Grantee and its consultants and contractors shall at all times maintain the following insurance and shall provide MBTA with a certificate or certificates of insurance and shall, until termination of both Grantee operations on the Easement Area and this Easement, renew and replace any expired certificate, evidencing the insurance of the activities permitted hereunder, with companies that comply with the requirements stated below, in which MBTA and others hereinafter specified are additional insureds as their interests may appear and which provide minimum liability coverage as follows:

(i) Commercial General Liability Insurance

Commercial general liability insurance insuring Grantee, and all activities of Grantee permitted pursuant to this Easement Agreement, as well as Grantee's indemnification obligations contained herein to the extent legally allowable, with minimum liability coverage for personal injury, bodily injury and property damage with limits not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate, and excess umbrella coverage with limits of not less than Ten Million Dollars (\$10,000,000.00) must also be provided. Such insurance shall be written on an occurrence basis. These policies shall name MBTA as an additional insured.

(ii) Workers Compensation Insurance

Workers compensation insurance insuring all persons employed by Grantee in connection with any work done on or about the Easement Area or the ROW with respect to which claims for death or bodily injury could be asserted against MBTA with limits of liability of not less than those required by Massachusetts General

Laws, Chapter 152, as amended. The policy shall contain a clause waiving the right of subrogation in favor of MBTA. Each of Grantee's subcontractors and consultants performing work on or about the Easement Area shall have similar policies covering their employees.

(iii) Automobile Liability Insurance

Automobile liability insurance, and if necessary, commercial excess liability insurance, with limits of not less than One Million Dollars (\$1,000,000.00) each accident covering all owned, non-owned, hired, rented or leased vehicles of Grantee and its subcontractors and consultants that are used in the activities permitted hereunder. Each of Grantee's subcontractors and consultants performing work on or about the Easement Area shall have similar policies covering their vehicles.

B. The required insurance coverages hereinbefore shall be kept in full force and effect at all times, shall be primary and non-contributory to any insurance or self-insurance maintained by MBTA, and shall require that MBTA be given at least thirty (30) days' advance written notice in the event of any cancellation or non-renewal in coverage. Grantee may self-insure for any or all of its obligations under this Section. MBTA shall be named as an additional insured under the Commercial General Liability, Automobile Liability and Excess Policies. The Workers' Compensation and Employers' Liability Insurance Policies shall include a waiver of subrogation in favor of MBTA, which precludes these insurers from being able to make any subrogation claims against MBTA. All such required insurance (except for Automobile Liability Insurance) shall not contain any exclusions for acts of terrorism, and shall fully cover any acts of terrorism, irrespective of whether such acts of terrorism are caused by domestic or foreign terrorists, and irrespective of whether such acts of terrorism are certified or non-certified by the Secretary of the Treasury, in concurrence with the Secretary of Homeland Security, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002, as amended. All such insurance as is required of Grantee, or evidence of insurance with similar coverage, shall also be provided by or on behalf of all subcontractors to cover their operations performed on the Easement Area or with respect to the rights granted Grantee in this Easement Agreement. Grantee shall provide either a copy of the policy then in force providing such coverage or a certificate of its insurance carrier evidencing such coverage not later than two weeks prior to the expiration or early termination of the policy or certificate then on file with MBTA. Grantee shall be held responsible for any modifications, deviations or omissions in the compliance with these requirements by any contractor or subcontractor of Grantee.

The foregoing limits may be adjusted, and additional or modified coverage required, by MBTA from time to time as it reasonably determines and applies generally to all similar easements.

24. Liability; Damages. The obligations of Grantee under this Easement are not intended to be and shall not be personally binding on, nor shall any resort be had to the personal assets of, any of its directors, officers, partners, beneficiaries, members, stockholders, employees, or agents. Neither Grantee nor MBTA shall be responsible for special, punitive, exemplary, incidental, consequential or indirect damages or loss of revenue, income or profits, diminution of value, whether based on contract, tort, strict liability or other law or otherwise. No parent, subsidiary,

affiliate or employee of MBTA or Grantee shall have any liability under this Easement Agreement.

25. Notice. Notices required to be delivered hereunder shall be in writing and either (a) shall be delivered in hand or by recognized overnight courier services with signed receipt, or shall (b) be mailed by certified or registered mail, return receipt requested, postage prepaid, to the party entitled to receive such notice at the address(es) stipulated below, until such party notifies the other party of a change of address in like manner. Notices shall be deemed given on the date of the delivery or completed transmission, as aforesaid.

IF TO GRANTOR:

Massachusetts Bay Transportation Authority
Real Estate Department
Ten Park Plaza, Room 5720
Boston, MA 02116
Attn: Chief of Real Estate

and

Massachusetts Bay Transportation Authority
Railroad Operations Department
32 Cobble Hill Road
Somerville, MA 02143
Attn: Director of Engineering and Maintenance

WITH A COPY TO:

Massachusetts Realty Group
20 Park Plaza, Suite 1120
Boston, MA 02116
Attn: Tenant Management

IF TO GRANTEE:

NSTAR Electric Company
d/b/a Eversource Energy
247 Station Drive SE 210
Westwood, MA 02090
Attn: Supervisor T&D Rights and Survey

26. Force Majeure. The time period for the completion of all obligations of each party hereto shall be extended for such additional periods as may be required due to a "Force Majeure Event" defined as materials unavailability or shortages, war, civil commotion, embargoes, casualties, acts of God, or any other similar events which are beyond the control of the party obligated to perform. If a Force Majeure Event occurs, the party obligated to perform shall notify the other party hereto promptly with an identification of the Force Majeure Event; and after the Force Majeure Event has

ended, the party obligated to perform shall notify the other party promptly of such circumstances and then promptly complete the obligation with all due diligence.

27. Counterparts. This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract and grant, is to take effect as a sealed instrument, sets forth the entire agreement between the parties on its subject matter and may be cancelled, modified or amended only by a written instrument in recordable form executed on behalf of both Grantor and Grantee by duly authorized signatories. This Easement Agreement, and any amendment thereto, shall be recorded and/or registered by Grantee at its sole cost and expense at the Middlesex (South) County Registry of Deeds or Middlesex (South) County Land Registration Offices of the Land Court, as applicable, promptly after it is executed by the parties.

28. Run with the Land. The obligations and benefits created pursuant to this instrument shall run with and bind the land described herein, and bind and inure to the benefit of the respective parties, and their successors and assigns.

29. MBTA Decision. The parties agree that in each instance where a decision, consent, approval, requirement, determination, condition, or the like (collectively, the "MBTA Decision") is called for or contemplated in this Easement, the MBTA Decision will be in the sole discretion of MBTA as to matters identified by MBTA as affecting railroad and transportation safety; and in all other matters the MBTA Decision will be in the reasonable discretion of MBTA applying the same criteria as MBTA then-currently applies to other, similar utility easements. Grantee may rely only on MBTA Decisions in writing; no MBTA Decision may be deemed or inferred by silence or the passage of time. The parties agree that electronically transmitted communications from MBTA to Grantee shall be considered written decisions, consents or approvals if the context of the transmission so indicates.

30. Conflicts. In the event of a conflict between the provisions of this Easement Agreement regarding indemnification or insurance, and any License for Entry executed by the parties hereunder, the provisions of the Easement Agreement shall apply.

31. Exemption from Excise Tax on Deeds. Pursuant to Massachusetts General Laws, Chapter 64D, Section 1, the recording of this instrument is not subject to any excise tax on deeds.

[Signatures on next page]

Executed as a sealed instrument on this _____ day of _____, 201__.

MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY

By: _____

General Manager

Approved as to Form:

By: _____

Deputy General Counsel, MassDOT and MBTA

COMMONWEALTH OF MASSACHUSETTS)
) ss.
COUNTY OF SUFFOLK)

Before me, the undersigned notary public, personally appeared the above named _____, the General Manager of Massachusetts Bay Transportation Authority, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, or ☐ personal knowledge of the undersigned.

Notary Public
My Commission Expires:

[Additional signatures on next page]

NSTAR ELECTRIC COMPANY D/B/A
EVERSOURCE ENERGY

By: _____
Vice President

STATE OF _____)
) ss.
COUNTY OF _____) _____, 201 _____

Before me, the undersigned notary public, personally appeared the above named _____, the Vice President of Eversource Energy, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, or ☐ personal knowledge of the undersigned.

Notary Public
My Commission Expires:

Exhibit A
Easement Plan
[See Attached]

Exhibit B

Form of License of Entry

[See Attached]

EXHIBIT D

MBTA Leases and Licenses

Exhibit D

MBTA Agreements: Central Mass Branch

1). Town of Sudbury (Location unknown but likely runs along proposed route selection).

Licensor: MBTA

Occupant: Town of Sudbury

Date: 8/1/1999. TAW

Location: Central Mass Branch ROW in Sudbury

Type: Use and Occupancy Agreement for purposes of rehabilitating and maintaining the utility structure thereon

Fees: No fee

2). Sudbury Lumber Company (Sudbury Lumber occupies area along the Mass Central Branch in Sudbury along proposed route selections).

Licensor: MBTA

Occupant: Sudbury Lumber Company, Inc.

Date: 11/1/2000

Location: Union Ave and Station Road in Sudbury along the Central Mass Branch ROW

Type: Use and Occupancy Agreement for the purpose of non-revenue parking of vehicles and storage of equipment

Fees: Pay \$2,666 annually

3). E.H. Perkins Construction Co. (E.H Perkins occupies area along the Mass Central Branch in Hudson along proposed route selections).

Licensor: MBTA

Occupant: E.H. Perkins Construction Inc.

Date: 2/1/2009

Location: 560 Main Street in Hudson along the Central Mass Branch ROW

Type: Use and Occupancy Agreement for the purpose of maintaining a private at-grade crossing

Fees: Pay \$5,144 annually

4). Douglas P Webb License (Portions of 27 Union Ave are occupied by AAA Limousine Co. which is likely the successor to Webb and is included in a proposed route selection).

Licensor: MBTA

Licensee: Douglas P. Webb Revoc. Trust

Date: 12/1/1975, TAW

Location: 27 Union Ave in Sudbury along the Central Mass Branch ROW

Type: for land and small building (currently being subleased for use of a limousine operation)

Fees: \$5,000 annually

5). Sale to Town of Hudson (Location of agreement likely includes area around the Sudbury substation which is included in all proposed route selections).

Grantor: MBTA

Grantee: Town of Hudson

Date of Instrument: 7/18/2002

Location: over MBTA property in Sudbury, Wayland, Weston, Waltham

Type: perpetual rights and easements for electricity transmission lines

6). Town of Hudson Easement (Location of agreement unknown).

Grantor: Town of Hudson

Grantee: MBTA

Date of Instrument: 7/16/2007

Location: Various locations in Hudson, MA

Type: to cure encroachments

EXHIBIT E

Schedule of Easement Payments

Exhibit E - Schedule of Easement Payments

Annual Increase	1.00%

Year	Eversource
Year 1	\$425,000
Year 2	\$429,250
Year 3	\$433,543
Year 4	\$437,878
Year 5	\$442,257
Year 6	\$446,679
Year 7	\$451,146
Year 8	\$455,658
Year 9	\$460,214
Year 10	\$464,816
Year 11	\$469,464
Year 12	\$474,159
Year 13	\$478,901
Year 14	\$483,690
Year 15	\$488,527
Year 16	\$493,412
Year 17	\$498,346
Year 18	\$503,329
Year 19	\$508,363
Year 20	\$513,446

\$9,358,077

NSTAR ELECTRIC COMPANY
DBA EVERSOURCE ENERGY

ASSISTANT SECRETARY AND ASSISTANT CLERK'S CERTIFICATE

I, the undersigned, HEREBY CERTIFY that at a meeting of the Board of Directors of NSTAR ELECTRIC COMPANY DBA EVERSOURCE ENERGY (the "Company"), duly called and held on October 11, 2016, at which meeting the entire Board was present and acting throughout, the following resolutions were duly adopted:

RESOLVED, that each of the Chief Executive Officer, the President and Chief Operating Officer, the Executive Vice President and General Counsel and the Vice President-Supply Chain, Environmental Affairs and Property Management of the Company ("Authorized Officers"), acting singly, is hereby authorized to execute and deliver, in the name and on behalf of the Company, any and all deeds, releases, easements, modifications of easements, grants, leases, permits, licenses, certificates or other documents necessary or desirable, in the opinion of the Authorized Officer taking such action, to sell, transfer, convey, surrender, release, grant or otherwise dispose of, or to lease, release or grant any interest in, any piece or parcel of real property owned by the Company or any interest of the Company in real property of others.

RESOLVED, that each Authorized Officer is hereby authorized to take such further actions as may be necessary or desirable, in the opinion of such officer, in connection with the disposition of, or the removal of any encumbrance affecting any piece or parcel of real property or any interest in real property disposed of pursuant to the foregoing resolution.

RESOLVED, that each Authorized Officer is hereby authorized to sign for and on behalf of the Company any and all documents which grant to other parties permission to use and occupy a piece or parcel of the Company's real property pursuant to the terms of licenses, profits, rights-of-way and covenants.

RESOLVED, that each Authorized Officer is hereby authorized to sign for and on behalf of the Company all documents necessary and incidental to the purchase of any interest in real property, subject to the signature authority limits contained in applicable corporate policies, including the Delegation of Authority Policy.

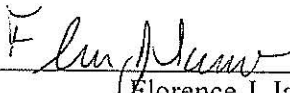
RESOLVED, that each Authorized Officer has the authority to delegate to Directors, Managers, supervisors and other employees, agents and representatives of the Company the authority to sign for and on behalf of this Company all documents necessary and incidental to (i) the disposition of any piece or parcel of real property or any interest in real property; (ii) granting of rights to other parties with respect to the Company's real property; or (iii) the purchase of any interest in real property, all under the authority granted to such Authorized Officer pursuant to the foregoing resolutions, such delegation to be subject to the signature authority limits contained in applicable corporate policies, including the Delegation of Authority Policy.

I DO FURTHER CERTIFY that the foregoing resolutions have not been modified or amended and are still in full force and effect as of this date.

I DO FURTHER CERTIFY that pursuant to the resolutions set forth above, Ellen K. Angley, Vice President-Supply Chain, Environmental Affairs and Property Management, who is an Authorized Officer of the Company, did delegate to Theresa Feuersanger, Supervisor, T&D Rights & Survey of Eversource Energy Service Company, lawful and proper authority to sign for and on behalf of the Company documents, including the document accompanying this Certificate, and that the execution of such document represents the binding and authorized action of the Company made in compliance with the terms of the resolutions set forth above.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Company on this 9th day of June, 2017.

(Seal)



Florence J. Iacono
Assistant Secretary and Assistant Clerk