

PROJECT PROGRAMMATIC AGREEMENT

**Among the
FEDERAL RAILROAD ADMINISTRATION,
MARYLAND STATE HISTORIC PRESERVATION OFFICER,
And
NATIONAL RAILROAD PASSENGER CORPORATION,**

**Regarding the
SUSQUEHANNA RIVER RAIL BRIDGE PROJECT
BETWEEN HAVRE DE GRACE, HARFORD COUNTY, MARYLAND
AND PERRYVILLE, CECIL COUNTY, MARYLAND**

WHEREAS, the existing Susquehanna River Rail Bridge, located along the National Railroad Passenger Corporation's (Amtrak) Northeast Corridor (NEC) between the City of Havre de Grace, Harford County, and the Town of Perryville, Cecil County, was constructed in 1906 and is nearing the end of its useful life, with existing structural and operational deficiencies that cannot accommodate projected regional high-speed travel requirements on the NEC; and

WHEREAS, the Federal Railroad Administration (FRA) has provided funding through the High-Speed Intercity Passenger Rail (HSIPR) Program to the Maryland Department of Transportation (MDOT) to carry out preliminary engineering (PE) and environmental assessment in compliance with the National Environmental Policy Act (42 U.S.C. § 4321 et. seq.) (NEPA) for alternatives to replace the existing bridge; and

WHEREAS, FRA is preparing an Environmental Assessment (EA) pursuant to NEPA and has coordinated the NEPA processes with consultation pursuant to Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306108) (NHPA), as amended, and its implementing regulations at 36 CFR § 800 (hereinafter collectively referred to as Section 106); and

WHEREAS, the Preferred Alternative identified in the EA consists of demolition and replacement of the existing Susquehanna River Rail Bridge and construction of two new two-track bridges over the Susquehanna River with a new track alignment with an embankment and retaining walls (hereinafter referred to as the Project) (**Attachment 1**); and

WHEREAS, Amtrak, owner and operator of the NEC and the existing Susquehanna River Rail Bridge, has acted as the Project designer responsible for carrying out the preliminary engineering in support of the NEPA process; and

WHEREAS, FRA has determined that, should FRA provide financial assistance for the Project, it would be an undertaking pursuant to Section 106, and FRA would be responsible for compliance with Section 106; and

WHEREAS, should FRA provide financial assistance for the Project (which could include financial assistance for further design, property acquisition, demolition, construction, and other related activities), FRA intends to use this Project Programmatic Agreement (PA) to satisfy its Section 106 responsibilities; and

WHEREAS, FRA, in consultation with the Maryland State Historic Preservation Officer (MD SHPO), has defined the Project's area of potential effects (APE) for historic architecture

(Attachments 2 and 3) and conducted technical studies for both historic architecture and archeology pursuant to Section 106 (Attachment 4); and

WHEREAS, FRA invited parties to consult in the Section 106 process and some accepted, and FRA has consulted with 1) Cecil County Government; 2) City of Havre de Grace; 3) Friends of Concord Point Lighthouse, Inc.; 4) Harford County Government; 5) Havre de Grace Decoy Museum; 6) Lower Susquehanna Heritage Greenway; 7) National Park Service (NPS), Chesapeake Bay Office; 8) National Railway Historical Society, Perryville Chapter; 9) Town of Perryville; 10) MDOT; and 11) Maryland Transit Administration (MTA) regarding the effects of the Project on historic properties, and has afforded the public-at-large an opportunity to comment through the concurrent NEPA public involvement process; and

WHEREAS, through consultation, FRA has identified the following thirteen (13) architectural historic properties in the APE that are listed in or eligible for listing in the National Register of Historic Places (NRHP) (see Attachments 2 and 3):

1. Susquehanna River Rail Bridge and nine undergrade bridges (collectively known as the “Susquehanna River Rail Bridge Overpasses”) (HA-1712)
2. Havre de Grace Historic District (HA-1125)
3. Perryville United Methodist Church (CE-1573)
4. Perryville Presbyterian Church (CE-1574)
5. Southern Terminus, Susquehanna and Tidewater Canal – South Lock #1 and Toll House (HA-112; HA-113)
6. Martha Lewis (skipjack) (HA-2189)
7. Rodgers Tavern (CE-129)
8. Principio Furnace (Principio Iron Works) (CE-112)
9. Perry Point Mansion House and Mill (CE-146; CE-244)
10. Perryville Railroad Station (CE-1442)
11. Perry Point Veterans Administration (VA) Medical Center Historic District (CE-1544)
12. Crothers House (Furnace Bay Golf Course Clubhouse) (CE-1566)
13. Woodlands Farm Historic District (CE-145); and

WHEREAS, through consultation, FRA has determined that the Project, if constructed, will have an adverse effect on the following four historic properties:

1. Susquehanna River Rail Bridge and eight of the nine Susquehanna River Rail Bridge Overpasses that carry the NEC (Mill Creek Undergrade Bridge at Milepost 59.00; Perryville Railroad Station Undergrade Bridge at Milepost 59.39; Access Road Undergrade Bridge at Milepost 59.52; North Freedom Lane Undergrade Bridge at Milepost 60.51; North Stokes Street Undergrade Bridge at Milepost 60.56; Centennial Lane Undergrade Bridge at Milepost 60.61; North Adams Street Undergrade Bridge at Milepost 60.69; and North Juniata Street Undergrade Bridge at Milepost 60.77) (HA-1712)
2. Havre de Grace Historic District (HA-1125)
3. Rodgers Tavern (CE-129)
4. Perryville Railroad Station, including the Station, the Perryville Railroad Station Undergrade Bridge at Milepost 59.39, and the Perryville Interlocking Tower (CE-1442)

WHEREAS, through consultation, FRA has determined that the Project is located in an area with the potential for the presence of both pre- and post-contact archeological resources, but that the identification of and effects on archeological resources cannot be fully determined based on the current PE design; and

WHEREAS, through consultation, FRA has elected to complete the final identification, evaluation, and effects assessment on archeological resources in phases, pursuant to 36 CFR § 800.4(b)(2) and 800.5(a)(3), and in accordance with the ongoing consultation process specified in this PA pursuant to 36 CFR § 800.14(b); and

WHEREAS, FRA has invited Amtrak, as the Project designer, and owner and operator of the NEC, to participate in this PA as an invited signatory with responsibilities under this PA, and Amtrak has accepted; and

WHEREAS, FRA intends to invite the following four consulting parties to be concurring parties under this PA: MDOT, MTA, City of Havre de Grace, and Town of Perryville; [will need to update with who accepts the invitation] and

WHEREAS, MD SHPO agrees that fulfillment of the terms of this PA will satisfy the responsibilities of any Maryland state agency under the requirements of the Maryland Historical Trust Act of 1985, as amended, State Finance and Procurement Article §§ 5A-325 and 5A-326 of the Annotated Code of Maryland, for any components of the Project that require licensing, permitting, and/or funding actions from Maryland state agencies; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), FRA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination and intention to enter into a PA with specified documentation by letter dated August 1, 2014, and the ACHP, by letter dated August 22, 2014, declined to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, FRA, MD SHPO, and Amtrak (each a signatory and together signatories) agree the Project will be implemented in accordance with the following stipulations in order to take into account the effect of the Project on historic properties.

STIPULATIONS

I. APPLICABILITY

- A. With the exception of the provisions regarding the identification, assessment, and adoption of treatment measures in Stipulations VI, VII, and VIII, this PA applies to FRA's undertaking and only binds FRA if FRA provides financial assistance for activities necessary to advance the Project toward and/or through construction.
- B. Notwithstanding Stipulation I.A., this PA applies to all of Amtrak's activities necessary to advance the Project toward and/or through construction, including, but not limited to, further design, acquisition of property for the Project, demolition, and construction that are funded with any amount of financial assistance from FRA or non-federal funds. Nothing herein shall be interpreted as agreement by Amtrak that Section 106 applies to other Amtrak projects with independent utility that use exclusively non-federal funds. This PA does not apply to actions or activities having independent utility that Amtrak may carry out, including the normal maintenance, upkeep, and continued safe operation of the NEC.
- C. This PA could apply should another federal agency have an undertaking as part of the Project; that agency may adopt this PA and agree to comply with its terms to fulfill its Section 106 responsibilities, as provided for in Stipulation XIV.

II. TIMING

Activities necessary to advance the Project toward and/or through construction may be phased or implemented incrementally, as appropriate, relative to the schedule(s) and funding availability for further design and construction.

III. ROLES AND RESPONSIBILITIES

- A. FRA, as a signatory and the lead federal agency for the NEPA work related to the Project, has authority to execute, amend, and/or terminate this PA. FRA will ensure that the identification, assessment, and adoption of treatment measures are carried out in accordance with the procedures established in Stipulations VI, VII, and VIII, regardless of whether or not FRA provides financial assistance for activities necessary to advance the Project toward and/or through construction. If FRA provides financial assistance for the Project, in addition to ensuring that the identification, assessment, and adoption of treatment measures are carried out in accordance with the procedures established in Stipulations VI, VII, and VIII, FRA will also ensure that all other stipulations and procedures in this PA are carried out, as appropriate, in accordance with the terms prescribed in this PA. If FRA provides financial assistance for activities necessary to advance the Project toward and/or through construction, FRA will continue to consult with all parties identified in the initial Section 106 consultation process resulting in the creation of this PA, and FRA will identify and invite additional consulting parties, as needed, to participate in the implementation of this PA.
- B. MD SHPO, as a signatory with responsibility for regulatory review and compliance, has authority to execute, amend, and/or terminate this PA and is also responsible for providing formal review and comment for actions requiring the same as part of carrying out this PA.
- C. Amtrak, as an invited signatory, has the same rights with regard to seeking amendment and/or termination of this PA as other signatories and will ensure that specified stipulations and procedures, for which it has assumed responsibility, are carried out in accordance with the terms prescribed in this PA.
- D. Consulting parties include certain additional individuals or organizations with a demonstrated interest in the Project who have already participated in, or who may later join in as consulting parties in the Section 106 process due to the nature of their legal or economic relation to the Project or affected properties, or their concern with the Project's effects on historic properties. Consulting parties, who may also have signed this PA as a concurring party, retain their rights as consulting parties to participate in on-going consultation prescribed by this PA, and attain no additional rights relative to this PA.
- E. Concurring parties are consulting parties who have been invited to concur in this PA. Concurring parties to this PA are able to review and comment on draft documentation prepared pursuant to stipulations herein.

IV. PROFESSIONAL QUALIFICATIONS AND STANDARDS

- A. Amtrak will ensure that all work carried out pursuant to this PA will be done by or under the direct supervision of a qualified professional in the disciplines of

Archeology, Architectural History and/or Historic Architecture who meets the relevant standards outlined in the Secretary of the Interior's (SOI) *Professional Qualifications Standards for Archeology and Historic Preservation* (36 CFR § 61) (http://www.nps.gov/history/locallaw/arch_stnds_9.htm).

B. Implementation of the stipulations pursuant to this PA will utilize, as appropriate, the following regulations, policies, standards, and guidelines, or any subsequent replacements of or revisions to same:

- Section 106, NHPA, as amended, and its implementing regulations (36 CFR § 800)
- *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings* (National Park Service 1995)
- *Historic American Buildings Survey Guide to Field Documentation* (National Park Service, May 16, 2011)
- *Historic American Buildings Survey Guidelines for Historical Reports* (National Park Service 2007)
- *Heritage Documentation Programs, HABS/HAER/HALS Photography Guidelines* (National Park Service, November 2011, updated June 2015)
- *Standards and Guidelines for Architectural and Historical Investigations in Maryland* (Maryland Historical Trust, 2000)
- *Guidelines for Compliance-Generated Determinations of Eligibility (DOEs)* (Maryland Historical Trust, 2002)
- *Standards for Submission of Digital Images to the Maryland Inventory of Historic Properties* (Maryland Historical Trust, effective January 2008, revised January 2015)
- *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44716)
- *Section 106 Archaeology Guidance* (ACHP, 2009)
- *Standards and Guidelines for Archeological Investigations in Maryland* (Maryland Historical Trust, 1994)
- *Collections and Conservation Standards, Technical Update No. 1 of the Standards and Guidelines for Archeological Investigations in Maryland* (Maryland Historical Trust, Revised 2005)
- *Curation of Federally-Owned and Administered Archeological Collections* (36 CFR § 79)
- *Native American Graves Protection and Repatriation Act of 1990* (43 CFR § 10, as amended)
- *Maryland Burial Law* (Title 10 Subtitle 4 §§ 10-401 through 10-404 of the Annotated Code of Maryland)
- *Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects* (ACHP, February 23, 2007)

V. TREATMENT MEASURES FOR ARCHITECTURAL RESOURCES

A. Amtrak, in consultation with the signatories and other consulting parties and, if using FRA financial assistance for activities necessary to advance the Project toward and/or through construction, as directed by and under the authority of FRA, will mitigate Project effects on architectural historic properties according to the stipulations and procedures outlined below. Amtrak will initiate the architectural stipulations and

complete the stipulations in accordance with the Project phasing and the deadlines established herein.

- B. Prior to initiating construction, Amtrak will complete evaluations of the following three National Historic Trails within the undertaking's APE to determine if any segments of these trails are eligible for inclusion in the NRHP: Captain John Smith Chesapeake National Historic Trail, Star-Spangled Banner National Historic Trail, and the Washington-Rochambeau Revolutionary Route National Historic Trail. As part of the evaluation, Amtrak will consult with the respective NPS trail Superintendent. If Amtrak in consultation with FRA (if providing financial assistance for the Project), MD SHPO, and NPS identify any additional resources listed in or eligible for listing in the NRHP, Amtrak will follow the procedures described in Section VII.
- C. Design Review
1. To the extent practicable, Amtrak will make commercially reasonable efforts to ensure that the design of the Project is compatible with affected historic properties and conforms to the guidance contained in the *Secretary of the Interior's Standards for the Treatment of Historic Properties* ("Standards"). For those components of the Project that may affect historic resources, Amtrak will develop design documents in consultation with MD SHPO and the concurring parties. MD SHPO review of design documents (plans and specifications) will occur at approximately 30% design and 60% design. These reviews will be limited to determining whether proposed designs are compatible with affected historic properties and in conformance with the *Standards*. Amtrak will submit design documents, with an explanation of how the proposed design conforms to the *Standards* to concurring parties and MD SHPO for review and comment. Amtrak, in consultation with MD SHPO and FRA (if providing financial assistance for the Project), will resolve any design and preservation issues identified by MD SHPO during the 30% design review prior to submission of 60% design level documents.
 2. Amtrak will ensure individual historic properties and contributing elements of historic districts are clearly labeled on all relevant Project plan sheets.
 3. Amtrak will consult with MD SHPO and concurring parties to determine which aspects of the design will require additional SHPO coordination regarding exterior appearance. For those features for which MD SHPO or concurring parties request more information, Amtrak will submit to MD SHPO and the concurring parties additional material such as color renderings, catalog documentation, or material samples.
 4. Amtrak will consider design review comments provided by the signatories and concurring parties, but ultimately is responsible for ensuring that the structural and engineering design of bridges and other structures meets engineering and safety standards for passenger and freight railroads.
 5. To the extent practicable, Amtrak will design the proposed new bridges, including the bridge superstructure and piers, to reflect traditional design features and to preserve the existing viewshed from the Havre de Grace Historic District.
 6. Amtrak will design the alterations to the eight Susquehanna River Rail Bridge overpasses in accordance with the *Standards*. The proposed treatment will include design of the new extensions to include a form liner that emulates the look, color, and texture of the bridges' existing stone; the installation of lighting to improve the safety beneath the bridges, and, to the extent practicable, steps to

- eliminate the water infiltration and mineral seepage in the existing stone material.
7. Amtrak will develop an aesthetic treatment for the retaining wall that is to be constructed in close proximity to Rodgers Tavern. The treatment plan will include consideration of utilizing a stone form liner to emulate the look, color, and texture of the stone in the Rodgers Tavern.
 8. For any proposed retaining wall that has the potential to affect a historic property, Amtrak will design the new wall in accordance with the *Standards*.
 9. Amtrak will develop plans in accordance with the *Standards* in order to relocate the Perryville Interlocking Tower to a new location that is within the NEC right-of-way and is in close proximity to the Perryville Railroad Station.
 10. Amtrak will replace in-kind sections of the existing signature sidewalks on Union Avenue, Otsego Street, and Water Street in Havre de Grace damaged during Project construction.
 11. If the bridge construction staging area occurs on the publicly-owned land along Water Street, Union Avenue, and/or St. Johns Street in Havre de Grace, Amtrak will repair portions of the sites damaged during Project staging or construction, including, as needed, removal of hard pack stone and the replanting of lawn areas, the planting of trees and shoreline buffer areas, and the installation (or re-installation) of Jean S. Roberts Memorial Park and/or David R. Craig Park improvements.

D. Historic Properties Construction Protection Plan

1. Amtrak will prepare and enforce a Historic Properties Construction Protection Plan (Protection Plan) to protect against, monitor for, and manage construction-related physical effects on identified historic properties. The Protection Plan will apply to historic properties located inside, adjacent to, or above the Project limits of disturbance, stockpile locations, construction staging areas, tunneling zones, and any other area where Project activities may take place.
2. At minimum, the Protection Plan will: identify and map all historic properties subject to the Protection Plan; require security fencing; establish vibration thresholds; address potential ground displacements; provide monitoring; and create a publicly- accessible telephone hotline and emergency response procedure for reporting and addressing threats or physical damage to historic properties.
3. Amtrak will develop and distribute the draft Protection Plan with the 90% Project plan sheets and specification documents to the signatories and concurring parties for review and comment following the steps described in Stipulation XI. Amtrak will deliver to the signatories and concurring parties the final Protection Plan with delivery of the 100% Project plan sheets and specification documents.

E. Historic American Buildings Survey (HABS)/Historic American Engineering Record (HAER) Documentation

1. Amtrak will prepare individual Level II HABS/HAER written and photographic documentation for deposit with NPS and MD SHPO for the following historic resources:
 - a) Susquehanna River Rail Bridge: Amtrak will prepare a HAER recordation of this historic property focusing on the bridge, which is both individually eligible for the NRHP and a contributing element of the Havre de Grace Historic District. Photographic documentation will record the complete

- bridge structure and its swing mechanism, setting, and wider railroad corridor within the vicinity of the Susquehanna River. Written documentation will focus on the history of transportation in the region, the role of the Pennsylvania Railroad, and the story behind the final location, design, engineering, and method of construction used for building the existing Susquehanna River Rail Bridge.
- b) Eight Overpass Bridges: Amtrak will prepare HAER recordations of these historic resources focusing on the bridges and their settings. All eight bridges contribute to the significance of the Susquehanna River Rail Bridge; the North Freedom Lane Undergrade Bridge at Milepost 60.51; North Stokes Street Undergrade Bridge at Milepost 60.56; Centennial Lane Undergrade Bridge at Milepost 60.61; and North Adams Street Undergrade Bridge at Milepost 60.69 contribute to the Havre de Grace Historic District; and the Perryville Railroad Station Undergrade Bridge at Milepost 59.39 contributes to the Perryville Railroad Station complex. The photographic documentation will record the bridges, their retaining walls, and the surrounding resources, including the Havre de Grace Historic District and the Perryville Station complex. The written documentation will address the bridges' construction as part of the Pennsylvania Railroad's early 20th century construction campaign; the railroad's overall construction and evolution; the importance of the stone architecture construction and the relationship to locally quarried stone; and the importance of alleys in the physical development of Havre de Grace.
 - c) Perryville Interlocking Tower: Amtrak will prepare a HAER recordation of this resource focusing on the structure and setting of the tower, including the Perryville Station and the Perryville Railroad Station Undergrade Bridge at Milepost 59.39. The written documentation will address the structure's significance as part of the Pennsylvania Railroad's early 20th century building campaign as well as the station complex's architectural significance.
2. Amtrak will consult with the NPS Northeast Region HABS/HAER office on the final scope, content, format, and disposition of each recordation effort. This includes consideration of a procedure for an interim submission of the photographic documentation for NPS review and approval, in order to release the structures for construction activities prior to completion of the remaining recordation package. Amtrak will prepare the photographic documentation using digital images consistent with Level II HABS/HAER photography guidelines contained in Stipulation IV.B.
 3. Where possible, the HABS/HAER written documentation will draw upon original construction documents, historic photographs, and oral interviews with local residents or individuals possessing special knowledge. Potential repositories to consult for information on individual buildings, structures, and railroad resources include, but are not limited to, the Amtrak archive, National Archives, Maryland State Archives, Maryland Historical Society, Pennsylvania State Archives, and Hagley Archives.
 4. As relevant, the content of the HABS/HAER documentation will draw upon research and documentation carried out as part of the interpretive displays (Stipulation V.F.).
 5. Amtrak will initiate each HABS/HAER recordation when funds are committed for activities necessary to advance the Project toward and/or through construction that will affect historic properties and/or contributing elements to historic districts. Amtrak will complete the photographic recordation phase prior to

the initiation of construction activities associated with the historic property or contributing element to be documented. Amtrak will leave each building or structure and its associated parcel of land in an unaltered appearance until the photographic documentation phase is completed.

6. Unless otherwise agreed to by NPS and MD SHPO, Amtrak will ensure that all documentation is completed and accepted by HABS/HAER prior to the commencement of construction and/or demolition activities associated with the historic property or contributing element to be documented.
7. Unless otherwise agreed to by NPS and MD SHPO, Amtrak will provide final copies of each HABS/HAER recordation document to NPS and MD SHPO, and offer copies to FRA, the Maryland State Archives, Maryland Historical Society, City of Havre de Grace, the Town of Perryville, the Historical Society of Cecil County, the Historical Society of Harford County, the Lower Susquehanna Heritage Greenway, the B&O Railroad Museum, and the Pennsylvania Railroad Technical & Historical Society.

F. Interpretive Displays

1. Amtrak will prepare historic interpretive material related to the importance of the transportation history of Havre de Grace and Perryville, including a film that documents the Susquehanna River Rail Bridge in operation. In consultation with the signatories and the concurring parties, Amtrak will first develop a plan that specifies what interpretive material will be developed, what historic themes will be included, and where the material will be located. Possible interpretive themes for the displays include, but are not limited to, the area's transportation history and how it affected the development of the area as a regional commercial center; the convergence of multiple forms of transportation, e.g., ferry, canal, rail, and roadway; the history of the Pennsylvania Railroad and its development of the NEC; the architectural and engineering importance of the Susquehanna River Rail Bridge and the associated overpass bridges; the use of locally quarried Port Deposit granite; and relevant themes associated with the Captain John Smith Chesapeake National Historic Trail, the Star-Spangled Banner National Historic Trail, and the Washington-Rochambeau Revolutionary Route National Historic Trail.
2. To the extent practicable, the content of the interpretive displays will draw upon research and documentation carried out as part of the HABS/HAER recordation (Stipulation V.E.) and archeological studies (Stipulation VI) prescribed in this PA. This includes any oral interviews with local residents or individuals possessing special knowledge.
3. Amtrak will submit draft and final outlines, text copy, and exhibition scripts for the interpretive displays to the signatories and concurring parties for review and comment following the steps described in Stipulation XI.

G. Salvage Bridge Components

1. Prior to demolition activities, Amtrak will engage a qualified professional(s) meeting the Secretary of the Interior's *Professional Qualification Standards for Archeology and Historic Preservation* in the disciplines of Architectural History or Historic Architecture to examine the bridge and identify materials recommended for salvage. Examples of appropriate salvage materials include, but are not limited to: part of a deck truss, the swing span pier top with its ring and pinion gear assembly and turning casters, the top layer of granite from the circular pier, the motor and drive assembly, the control house, the dedication

- plaque embedded in an original bridge pier near the Perryville shoreline, and a large dedication plaque mounted into the face of the current westerly abutment.
2. Amtrak will make a reasonable and good-faith effort to ensure standard care is used in removing the materials identified for salvage, transporting them to storage, and securing them from vandalism, theft, and weather, in accordance with all applicable statutes and regulations. If salvage items are found to possess or are judged likely to be contaminated by hazardous material or waste, Amtrak may withdraw the material without making it available for use and handle and dispose of the same in accordance with applicable statutes and regulations. However, Amtrak will not be required to affirmatively certify the condition of salvaged material as safe or appropriate for any particular use.
 3. Amtrak will hold the salvaged material for a period of 12 months from the time it is placed into storage, and make it available free of charge and during reasonable hours. Amtrak will not be responsible for delivering the salvaged material to a party that accepts ownership. At the end of the retention period, Amtrak may sell or dispose of the remaining unused materials in accordance with applicable statutes and regulations. Nothing herein shall be interpreted to require Amtrak to donate material owned by Amtrak in contravention to internal Amtrak policies and procedures relating to the donation or gifting of Amtrak property.
 4. Amtrak will provide for a means of notifying the public as to the availability of the salvaged material. Amtrak will provide all material for salvage on an “as-is, where-is” basis, and will make no warranty as to condition, suitability, serviceability, or degree of contamination for any intended subsequent use. Amtrak will prepare and deliver a written receipt specifying the terms of acceptance of the salvaged material to all recipients for their review and signature. The receipts will become a part of the official Project record. Recipients will be required to indemnify Amtrak and other signatories of this PA against any and all claims arising from the acquisition and use of received salvaged materials.
 5. Amtrak will consult with the signatories and concurring parties on the materials proposed for salvage and the provisions and procedures for notification to the public of the availability of salvage materials following the steps outlined in Stipulation XI. Amtrak will incorporate the same into its final plans and specifications for the removal and staging/storage of the salvaged materials.

VI. TREATMENT MEASURES FOR ARCHEOLOGICAL RESOURCES

- A. Amtrak, in consultation with the signatories and other consulting parties, will identify and assess Project effects on archeological historic properties according to the stipulations and procedures outlined below. Amtrak will initiate the archeological stipulations and complete the stipulations, including mitigation measures, in accordance with the Project phasing and the deadlines established herein. Amtrak will complete mitigation measures as directed by and under the authority of FRA. Amtrak will ensure that no ground-disturbing activities associated with the Project take place in areas subject to archeological investigation until the required fieldwork is completed and reviewed by the MD SHPO and the location is formally released for ground-disturbing activities to commence.
- B. Define Archeological APE
In consultation with FRA and MD SHPO, Amtrak will define the Project APE for archeology (36 CFR § 800.16(d)). The archeological APE will include the Project’s

limits of disturbance, which consists of the area in which ground disturbance is expected to take place, and can include excavation sites, construction staging areas, material disposal sites, temporary access roads, utility and storm water management sites, and off-site mitigation sites. The archeological APE is subject to change as Project plans advance.

C. Supplemental Phase I Survey

1. At such time that Amtrak commences additional phases of engineering design, and subject to available funding, but no later than when funding is available for final design, Amtrak will conduct a Supplemental Phase IA archeological survey to update the initial Phase IA archeological survey completed in August 2014, and to further refine the archeological context, sensitivity, and predictive models for the location of potential sites within the archeological APE.
2. Amtrak will prepare and submit a technical report containing the results of the Supplemental Phase IA archeological survey, together with proposed recommendations and required work plans for Phase IB testing surveys, if any, to FRA for review. Upon FRA's approval, Amtrak will submit the Phase IA report to MD SHPO and other consulting parties for review and comment following the steps described in Stipulation XI.
3. Amtrak will complete one or more Phase IB survey(s), as appropriate, to identify archeological resources.
4. Amtrak will prepare and submit a technical report(s) containing the results of each Phase IB survey, together with proposed recommendations and required work plans for Phase II survey, if any, to FRA for review. Upon FRA's approval, Amtrak will submit the Phase IB report(s) to MD SHPO and other consulting parties, as appropriate, for review and comment following the steps described in Stipulation XI.

D. Phase II Evaluation

1. Amtrak will complete one or more Phase II survey(s), as appropriate, to evaluate the NRHP eligibility of any intact archeological resources that may be affected by the Project.
2. Amtrak will prepare and submit a technical report(s) containing the results of each Phase II survey, together with proposed NRHP eligibility recommendations, to FRA for review. Upon FRA's approval, Amtrak will submit the Phase II report(s) to MD SHPO and other consulting parties, as requested, for review and comment following the steps described in Stipulation XI. The technical document(s) may be combined with the effects assessment as outlined in Stipulation VI.D.3, below.
3. Amtrak will prepare one or more document(s) containing an assessment of Project effects on archeological historic properties according to the criteria of adverse effects (36 CFR § 800.5), and submit the document(s) to FRA for review. Upon FRA's approval, Amtrak will submit the effects assessment document(s) to MD SHPO and other consulting parties, as appropriate, for review and comment following the steps described in Stipulation XI. If FRA, in consultation with the signatories and other consulting parties, determines that an archeological historic property will be adversely affected by the Project, the signatories and other consulting parties, as appropriate, will consult on strategies to avoid, minimize, or mitigate the adverse effect. Examples include, but are not limited to, avoidance, protection, alternative mitigation, or data recovery. The

effects assessment may be combined with the technical report as outlined in Stipulation VI.D.2, above.

4. Amtrak will memorialize the approach and treatment measures to resolve adverse effects to archeological historic properties in a document submitted to the signatories and other consulting parties, as appropriate, for review and comment following the steps described in Stipulation XI.
5. Upon FRA's approval of the approach and treatment measures memorialized in accordance with Section VI.D.4., above, Amtrak will carry out the approved approach and treatment measures.

E. Phase III Data Recovery

1. If an adverse effect cannot be avoided or alternatively mitigated, Amtrak, in consultation with signatories and other consulting parties, will mitigate the adverse effect through a program of data recovery.
2. Amtrak will prepare and submit one or more plan(s) for conducting Phase III data recoveries to the signatories and other consulting parties, as appropriate, for review and comment following the steps described in Stipulation XI. At a minimum, each data recovery plan will include:
 - a) A list of research questions to be addressed, with a discussion of their relevance and importance;
 - b) Methods to be used for fieldwork and laboratory analysis, with a justification of their cost-effectiveness and how they apply to the particular sites and the research questions;
 - c) A schedule for completing field and laboratory work, and submitting draft and final documents for MD SHPO's review and comment;
 - d) Methods to be used in managing and curating artifacts, data, and other records;
 - e) Procedures for evaluating and treating unanticipated discoveries consistent with the provisions of Stipulation VIII;
 - f) A procedure for documenting the completion of fieldwork and releasing sites for construction activities; and
 - g) Provisions for disseminating the research findings to other consulting parties, professional peers, and the general public.
3. Upon FRA's approval of the approach and treatment measures memorialized in accordance with Section VI.E.2., above, Amtrak will execute the Phase III data recovery plan(s).

F. Curation

Amtrak will curate all materials and records resulting from archeological investigations conducted for the Project in accordance with 36 CFR § 79 at the Maryland Archeological Conservation Laboratory (MAC Lab), unless Amtrak cannot obtain clear title, Deed of Gift, or curation agreement for the collection. Amtrak will notify FRA's Federal Preservation Officer in writing regarding any such curation activities. Amtrak will consult with MD SHPO and FRA regarding the appropriate disposition of any materials or records not proposed for curation at the MAC Lab.

G. Protection of Archeologically-Sensitive Information

Amtrak will submit copies of all final archeological documents stipulated in this PA to FRA and MD SHPO. Interim and final archeological reports and related documentation will be distributed to other consulting parties and qualifying agencies only upon request, and in redacted form, as appropriate, in order to ensure the

security of archeological sites.

VII. PROJECT CHANGES

- A. Amtrak will afford the signatories and other consulting parties the opportunity to review and comment on Project changes that are of a nature that could potentially affect historic properties. Amtrak will submit written documentation, including Project plan sheets or sketches showing the modification, a brief explanation why the change is needed, and a plan for any proposed Section 106 work, to the signatories and other consulting parties for review and comment following the steps described in Stipulation XI.
- B. Historic Architecture
1. As needed, and with assistance from FRA and MD SHPO, Amtrak will refine an APE in consultation with the signatories and other consulting parties. Amtrak will conduct an architectural survey to identify historic properties listed in or eligible for listing in the NRHP, and prepare and submit one or more technical document(s) containing the results of the architectural survey, together with the proposed identification of historic properties and recommendations for next steps, if any, to FRA for review. Upon FRA's approval, Amtrak will submit the document(s) to MD SHPO and other consulting parties, as appropriate, for review and comment following the steps described in Stipulation XI.
 2. Amtrak will prepare one or more document(s), containing a proposed assessment of Project effects on architectural historic properties according to the criteria of adverse effects (36 CFR § 800.5), and submit the document(s) to FRA for review. Upon FRA's approval, Amtrak will submit the effects assessment document(s) to MD SHPO and other consulting parties, as appropriate, for review and comment following the steps described in Stipulation XI. If FRA, in consultation with the signatories and other consulting parties, determines that an architectural historic property will be adversely effected by the Project, then the signatories and other consulting parties will consult on strategies to avoid, minimize, or mitigate the adverse effect.
 3. Amtrak will memorialize the approach and treatment measures to resolve adverse effects to architectural historic properties in one or more document(s) submitted to the signatories and other consulting parties, as appropriate, for review and comment following the steps described in Stipulation XI.
 4. Upon FRA's approval of the approach and treatment measures memorialized in accordance with Section VII.B.3., above, Amtrak will carry out the approach and treatment measures.
- C. Archeology
Project modifications with the potential to impact archeological deposits will be addressed pursuant to Stipulation VI.

VIII. UNANTICIPATED DISCOVERIES

- A. Amtrak will develop an Unanticipated Discoveries Plan (UDP) to be included in construction and bidding documents for contractor/team use in the event of unanticipated discoveries. The plan will incorporate a procedure for interacting with the media, a chain of contact, and other relevant provisions, as needed. Amtrak will submit the UDP to the signatories and concurring parties for review and comment following the steps described in Stipulation XI.

- B. In the event any previously unidentified historic architectural or archeological resource is discovered, Amtrak will require the contractor to halt all work that may affect the resource. For any discovered archeological resources, Amtrak will also halt work in surrounding areas where additional subsurface remains can reasonably be expected to be present. Work in all other areas of the Project may continue.
- C. Amtrak will notify the signatories and other consulting parties, and FRA will notify appropriate federally recognized Native American tribes, if appropriate, within 48 hours of the discovery (36 CFR § 800.13(b)(3)). As needed, FRA will also identify and invite additional consulting parties to confer on unanticipated discoveries.
- D. Amtrak, in consultation with the signatories and other consulting parties, will investigate the discovery site and resource(s) according to the professional standards and guidelines contained in Stipulation IV. Amtrak will prepare and submit a written document containing a proposed determination of NRHP eligibility of the resource, an assessment of project effects on historic properties, if appropriate, and any recommended treatment measures to FRA for review. Upon FRA's approval, Amtrak will submit the determination of NRHP eligibility, effects assessment, and/or recommended treatment measures document, if appropriate, to MD SHPO and other consulting parties, as appropriate, for review and comment. If the potential resource is associated with Native American prehistory or history, FRA will provide the documentation to federally recognized Native American tribes within five working days for their review with a request for comment. The signatories, other consulting parties, and federally recognized Native American tribes, if participating, will respond with any comments within five (5) working days of receipt.
- E. If it is necessary to develop treatment measures in accordance with Stipulation VIII.D., above, Amtrak will carry out the approach and treatment measures after approval by FRA.
- F. Amtrak will ensure construction work within the affected area does not proceed until FRA, in consultation with MD SHPO and federally recognized Native American tribes, as appropriate, determines that either 1) the located resource is not NRHP-eligible or 2) the agreed upon treatment measures for historic properties have been implemented.

IX. TREATMENT OF HUMAN REMAINS

- A. If human remains are encountered during archeological investigations or construction, Amtrak will require the contractor to immediately halt subsurface disturbance in that portion of the Project area and immediately secure and protect the human remains and any associated funerary objects in place in such a way that minimizes further exposure or damage to the remains from the elements, looting, and/or vandalism.
- B. Amtrak will immediately notify the appropriate Police Department to determine if the discovery is subject to a criminal investigation by law enforcement, and notify the signatories within 24 hours of the initial discovery.
- C. If a criminal investigation is not appropriate, Amtrak will apply and implement all relevant laws, procedures, policies, and guidelines contained in Stipulation IV.B

concerning the treatment and repatriation of burial sites, human remains, and funerary objects.

- D. In the event the human remains encountered could be of Native American origin, whether prehistoric or historic, FRA will immediately notify the appropriate federally recognized Native American tribes and the Maryland Commission on Indian Affairs (MCIA), and consult with them and MD SHPO to determine the treatment plan for the Native American human remains and any associated funerary objects.
- E. If the remains are not of Native American origin, Amtrak will, as appropriate, develop a research design/treatment plan for the appropriate treatment of the remains and any associated artifacts, consistent with procedures and guidelines contained in Stipulation IV.B. and submit the design and plan for review and comment by the signatories and other consulting parties following the steps described in Stipulation XI.
- F. Amtrak will ensure the contractor will not proceed with work in the affected area until FRA, in consultation with MD SHPO and federally recognized Native American tribes, as appropriate, determines the development and implementation of an appropriate research design/treatment plan or other recommended mitigation measures are completed. However, work outside the area may continue.

X. EMERGENCY SITUATIONS

- A. Should an emergency situation occur that represents an imminent threat to public health or safety, or creates a hazardous condition and has the potential to affect historic properties, Amtrak will contact the appropriate Police Department, as needed, as soon as possible and notify the signatories and other consulting parties within 24 hours of the condition which created the emergency, the immediate action taken in response to the emergency, the effects of the response to historic properties, and, where appropriate, further plans to address the emergency. This will include any further proposals to avoid, minimize, or mitigate potential adverse effects to historic properties.
- B. The signatories and other consulting parties will have seven days to review and comment on the plan(s) for further action. If FRA, MD SHPO, and other consulting parties do not object to the plan within the review period, then Amtrak will implement the proposed plan(s).
- C. Where possible, Amtrak will ensure that emergency responses allow for future preservation or restoration of historic properties, take into account the *SOI Standards for the Treatment of Historic Properties*, and include on-site monitoring by the appropriate qualified professional as contained in Stipulation IV.
- D. Immediate rescue and salvage operations conducted to preserve life or property are exempt from these and all other provisions of this PA.

XI. DOCUMENT REVIEW

- A. Unless otherwise stated elsewhere in this PA, the signatories, other consulting parties, and/or concurring parties will provide comments on the documents they review to either FRA or Amtrak, as appropriate, and as set forth herein.

- B. The signatories, other consulting parties, and/or concurring parties will have up to 30 calendar days from the date of receipt to review and provide written comments to FRA or Amtrak on documents stipulated in this PA.
- C. FRA and/or Amtrak will consider and incorporate any written comments received within the timeframe, as appropriate, into the documentation.
- D. If the signatories, other consulting parties, and/or concurring parties do not submit written comments to FRA and/or Amtrak within 30 calendar days of receipt of any document, it is understood the non-responding parties have no comments on the submittal.
- E. If the signatories, other consulting parties, and/or concurring parties object to or recommend extensive revisions to submissions stipulated in the PA, FRA and/or Amtrak will work expeditiously to respond to the recommendations and resolve disputes.
- F. If FRA and/or Amtrak cannot resolve the disputes, and if further consultation with the signatories, other consulting parties, and/or concurring parties is deemed unproductive by any party, the parties will adhere to the dispute resolution procedures detailed under Stipulation XV, below.
- G. The signatories, other consulting parties, and/or concurring parties acknowledge the timeframes set forth in this PA will be the maximum allowed under normal circumstances. In exigent circumstances (e.g., concerns over construction suspensions or delays), all parties agree to expedite their respective document review and dispute resolution obligations.

XII. COMMUNICATIONS

Either paper or electronic mail (email) will serve as the official method of correspondence for all communications regarding this PA and its provisions. **Attachment 5** contains a list of signatories, consulting parties, and concurring parties with contact information. Contact information may be updated, as needed, without an amendment to this PA. It is the responsibility of each signatory, consulting party, and/or concurring party to immediately inform FRA and Amtrak of any change in name or contact information for any point of contact. Amtrak will forward this information to the other signatories and consulting parties by email.

XIII. ANTI-DEFICIENCY ACT

FRA's obligations under this PA are subject to the availability of appropriated funds, and the stipulations of this PA are subject to the provisions of the Anti-Deficiency Act (31 U.S.C. § 1341 et seq.). FRA will make reasonable and good faith efforts to secure the necessary funds to implement this PA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs FRA's ability to implement the stipulations of this agreement, or if another federal agency does not assume responsibility as lead federal agency, signatories will consult in accordance with the amendment or termination procedures found in Stipulations XVI and XVII of this PA.

XIV. ADOPTABILITY

In the event that another federal agency not initially a party to the PA receives an application for a license, permit, or funding for the Project as described in this PA, that

agency may fulfill its Section 106 responsibilities by stating in writing it concurs with the terms of this PA and notifying the signatories that it intends to do so. Such an agreement will be evidenced by an amendment to this PA, which must be filed with ACHP, that describes the roles and responsibilities of the new signatory and affirms the party's concurrence with the terms of the PA.

XV. DISPUTE RESOLUTION

- A. In the event any signatory, consulting party, and/or concurring party to this PA objects in writing to any actions proposed or the manner in which the terms of this PA are implemented, FRA will consult with the objecting party and other signatories, other consulting parties, and/or concurring parties as appropriate, within 30 calendar days to resolve the objection. If FRA determines that such objection cannot be resolved, FRA will proceed as set forth herein.
- B. FRA will forward all documentation relevant to the dispute, including FRA's proposed resolution, to the ACHP within 15 calendar days of the determination and request that the ACHP provide FRA with its advice on the resolution of the objection within 30 calendar days of receiving the documentation. Concurrently, FRA will also provide the signatories, other consulting parties, and/or concurring parties with the same documentation for review and comment following the steps described in Stipulation XI. FRA will prepare a written response to the objection, which will constitute FRA's decision regarding the objection, that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories, other consulting parties, and/or concurring parties, and provide them with a copy of the written response. FRA will then proceed according to its decision.
- C. If the ACHP does not provide its advice regarding the dispute within the thirty (30) calendar day time period, FRA may make a decision on the dispute and proceed accordingly. FRA will document its decision in a written response to the objection that takes into account any timely comments regarding the dispute from the signatories, other consulting parties, and/or concurring parties and provide the ACHP, signatories, other consulting parties, and/or concurring parties with a copy of such written response.
- D. Should disputes arise under exigent circumstances (e.g., concerns over construction suspensions or delays), all parties agree to expedite their respective document review and dispute resolution obligations.
- E. The signatories remain responsible for carrying out all other actions subject to the terms of this PA that are not the subject of the dispute.

XVI. AMENDMENTS

Any signatory to this PA may request that it be amended, whereupon that party will immediately consult with the other signatories within 30 calendar days (or another time period agreed to by all signatories) to consider such an amendment. FRA will be responsible for developing and executing any resulting amendment among the signatories in the same manner as the original PA. The amendment will be effective on the date FRA files a copy signed by all signatories with the ACHP.

XVII. TERMINATION

- A. If any signatory to this PA determines its terms will not or cannot be carried out, that party will immediately consult with the other signatories to attempt to develop an amendment per Stipulation XVI. If within 30 calendar days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.
- B. If the PA is terminated, then, prior to work continuing on the Project, FRA must either, 1) execute a new Memorandum of Agreement or PA (36 CFR § 800.6(c) or 800.14(b)) or 2) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. FRA will notify the signatories and other consulting parties as to the course of action it will pursue.

XVIII. MONITORING AND REPORTING

- A. Each year, following the effective date of this PA until it expires or is terminated, Amtrak will provide the signatories, other consulting parties, and/or concurring parties a summary report detailing work undertaken and any tasks completed pursuant to its terms. This includes activities necessary to advance the Project toward and/or through construction. Such a report will include any scheduling changes proposed, problems encountered, and disputes and their resolution in the signatories' efforts to carry out the terms of this PA.
- B. Ten business days before commencing any activity necessary to advance the Project toward and/or through construction, Amtrak will provide FRA notice of the activity and any actions to be taken in accordance with this PA.

XIX. EXECUTION AND EFFECTIVE DATE

This PA will go into effect on the date FRA signs the document, which will be the final signature among all the signatories. Execution of this PA by the signatories, its subsequent filing with the ACHP, and implementation of its terms demonstrate FRA has taken into account the effect of the Project on historic properties and afforded the ACHP an opportunity to comment.

XX. DURATION

This PA will expire when all its stipulations have been completed or in 10 years from the effective date, whichever comes first, unless the signatories agree in writing to an extension using the amendment stipulation (Stipulation XVI) herein.

SIGNATORIES

Federal Railroad Administration
Maryland State Historic Preservation Officer

INVITED SIGNATORY

National Railroad Passenger Corporation

CONCURRING PARTIES (TO BE INVITED)

Maryland Department of Transportation
Maryland Transit Administration
Town of Perryville, Maryland
City of Havre de Grace, Maryland

SIGNATORY

FEDERAL RAILROAD ADMINISTRATION

By: _____
[insert agency official name and title]

Date _____

SIGNATORY

MARYLAND STATE HISTORIC PRESERVATION OFFICER

By: _____
[insert agency official name and title]

Date _____

INVITED SIGNATORY

National Railroad Passenger Corporation

By: _____
[insert agency official name and title]

Date _____

CONCURRING PARTY

Maryland Department of Transportation

By: _____
[insert agency official name and title]

Date _____

CONCURRING PARTY

Maryland Transit Administration

By: _____
[insert agency official name and title]

Date _____

CONCURRING PARTY

Town of Perryville

By: _____
[insert official name and title]

Date _____

CONCURRING PARTY

City of Havre de Grace

By: _____
[insert official name and title]

Date _____