

PROGRAMMATIC AGREEMENT

AMONG

**THE FEDERAL TRANSIT ADMINISTRATION,
THE MARYLAND TRANSIT ADMINISTRATION,
THE NATIONAL PARK SERVICE,**

AND

THE MARYLAND STATE HISTORIC PRESERVATION OFFICER,

REGARDING

**THE PURPLE LINE PROJECT
MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, MARYLAND**

WHEREAS, the Purple Line Project (Undertaking) is a planned 16.2 mile light rail transit line for east-west travel between Bethesda, Montgomery County and New Carrollton, Prince George's County in Maryland (**Attachment A**); and

WHEREAS, because the Federal Transit Administration (FTA) may provide funding to the Maryland Transit Administration (MTA), this is a Federal undertaking subject to Section 106 of the National Historic Preservation Act of 1966, as amended (codified at 16 USC 470f) and its implementing regulations at 36 CFR 800, as amended, hereinafter collectively referred to as "Section 106;" and

WHEREAS, MTA is the Undertaking's project sponsor and FTA is serving as the Undertaking's lead Federal agency pursuant to the National Environmental Policy Act (NEPA, codified as 42 USC 4321 et seq.) and is the Federal agency responsible for compliance with Section 106; and

WHEREAS, FTA shall serve as the lead Agency Official and shall act in cooperation with the National Park Service (NPS) and for the National Capital Planning Commission (NCPC) in fulfilling their collective responsibilities under Section 106; and

WHEREAS, the NPS, the Federal Agency with jurisdiction over the Baltimore-Washington Parkway (Gladys Noon Spellman Parkway) which is part of a unit of the National Park System, has participated in the Section 106 process for the Undertaking; and

WHEREAS, NPS approval is required for the portion of the Undertaking affecting the Baltimore-Washington Parkway (Gladys Noon Spellman Parkway); and

WHEREAS, NCPC review is required for the portion of the Undertaking impacting the Sligo Creek Parkway; and

WHEREAS, NCPC has designated FTA as the lead Federal agency pursuant to 36 CFR 800.2(a)(2) and NCPC has elected not to become a signatory on this agreement (**Attachment B**); and

WHEREAS, after detailed study of various alternatives and their associated impacts, MTA, through coordination with FTA, has identified a Preferred Alternative for detailed engineering and construction; and

WHEREAS, FTA, in consultation with the Maryland State Historic Preservation Officer (MD SHPO), has established the Undertaking's Area of Potential Effects (APE) for purposes of the Section 106 analysis, as defined at 36 CFR 800.16(d), to encompass the geographic areas within which the Undertaking may directly or indirectly cause alterations in the character or use of historic properties, as illustrated in Figure 11 of **Attachment C**, recognizing that the APE may require modification as more detailed engineering for the Undertaking is developed; and

WHEREAS, FTA, in consultation with the MD SHPO, has identified twenty-two historic properties that are eligible for or listed in the National Register of Historic Places (National Register) within the Undertaking's APE, illustrated in **Attachment C**; and

WHEREAS, FTA, in consultation with the MD SHPO, has determined that the Undertaking will have adverse effects on the following three historic properties listed in or eligible for the National Register: the Metropolitan Branch-B&O Railroad (M: 37-16), Talbot Avenue Bridge over the B&O Railroad (Bridge M-85; M: 36-30), and the Falkland Apartments (M: 36-12); and

WHEREAS, FTA, in consultation with the MD SHPO, has determined that the Undertaking will have no effect or no adverse effect on the remaining 19 historic properties described in **Attachment C**; and

WHEREAS, this Programmatic Agreement (PA) includes active measures to ensure the avoidance of adverse effects for the following historic properties listed in or eligible for the National Register: the Columbia Country Club (M: 35-140), the University of Maryland, College Park (PG: 66-35), the Rossborough Inn (PG: 66-22), the Baltimore-Washington Parkway (PG: 69-26), and Sligo Creek Parkway (M: 32-15 PG: 65-25); and

WHEREAS, FTA, in consultation with the MD SHPO, has completed identification and evaluation of archeological resources within the Undertaking's APE, as documented in the following reports: *Phase IA Archeological Assessment Survey of the Purple Line Locally Preferred Alternative from Bethesda, Montgomery County to New Carrollton, Prince George's County, MD* (Mikolic et al. 2011) and *Phase IB Archeological Survey of Light Rail Alignment Areas Associated with the Purple Line Project, Montgomery and Prince George's Counties, Maryland* (Proper et al. 2012); and

WHEREAS, based on the results of those studies, FTA, the MD SHPO, and the NPS agree that there is one archeological site, that it is located within the Baltimore-Washington Parkway, the Area K Domestic Site (18PR1032), that it may be eligible for the National Register, that it is within the Undertaking's APE, illustrated in **Attachment C**, that the Undertaking will not affect this site, and that this PA includes provisions to avoid and protect the resource; and

WHEREAS, it is understood that this PA is based upon review of preliminary engineering, which will be refined as the Undertaking design advances and reviewed at certain points by the signatory parties to this PA and other consulting parties during Undertaking design; and

WHEREAS, FTA, MTA, the NPS, and the MD SHPO acknowledge that as a result of modifications to the Undertaking or the addition of ancillary actions to the Undertaking, there may be effects on additional previously identified historic properties within the APE or additional cultural resources or archeologically sensitive areas outside the APE; therefore, this PA sets forth the measures that will be implemented to identify and consider any further effects to historic properties; and

WHEREAS, FTA, in coordination with MTA, has consulted with the MD SHPO, pursuant to the requirements of Section 106; and FTA, MTA, and the MD SHPO determined that it is appropriate to enter into this PA, pursuant to 36 CFR 800.14(b); and

WHEREAS, FTA has identified and invited the following parties (herein referred to as “consulting parties”) to comment and consult on the Undertaking as part of the Section 106 process: Anacostia Trails Heritage Area, Inc., Columbia Country Club, Falklands Chase, Friends of Sligo Creek, Hawkins Lane Historic District, Heritage Tourism Alliance of Montgomery County, Historic Takoma, Inc., Hyattsville Preservation Association, Inc., Maryland-National Capital Park and Planning Commission, Montgomery County, Maryland-National Capital Park and Planning Commission, Prince George's County, Montgomery County Historic Preservation Commission, Montgomery Preservation, Inc., National Institutes of Health, Office of Communications and Public Liaison, North College Park Citizens Association, Old Town College Park Preservation Association, Peerless Rockville Historic Preservation, Ltd., Prince George's County Historical and Cultural Trust, Prince George's County Historical Society, Prince George's Heritage, Inc., Redevelopment Authority of Prince George's County, Riverdale Historical Society, Rockville Historic District Commission, Silver Spring Historical Society, University Hills Civic Association, University of Maryland, Tuscarora Nation, Shawnee Tribe, Saint Regis Mohawk Tribe, Delaware Tribe of Indians, Onondaga Nation, Oneida Indian Nation, Eastern Shawnee Tribe, The Delaware Nation, and Absentee-Shawnee Tribe of Oklahoma; and

WHEREAS, FTA has consulted with the NPS, NCPC, the MD SHPO, the University of Maryland, the Columbia Country Club, the Anacostia Trails Heritage Area, and the Absentee-Shawnee Tribe of Oklahoma regarding the effects of the Undertaking on historic properties; and

WHEREAS, during the implementation of this PA, FTA, MTA, and the MD SHPO may identify other parties that have an interest in the Undertaking's effects on historic properties and invite them to participate as consulting parties in the consultation process specified in this PA; and

WHEREAS, the Undertaking will cross parkland under the authority of the NPS and the MTA must obtain an NPS Special Use permit to access NPS parklands, and the NPS has been invited to be a signatory to this PA; and

WHEREAS, MTA has participated in consultation, has responsibilities for implementing stipulations under this PA, pursuant to 36 CFR 800.6(c) (2), and has been invited to be a signatory to this PA; and

WHEREAS, FTA notified the Advisory Council on Historic Preservation (ACHP) of the Undertaking's adverse effect on August 1, 2013, and invited the ACHP to participate in the Section 106 process for the Undertaking; and the ACHP declined in writing on August 14, 2013, to participate in consultation (**Attachment D**); and

WHEREAS, FTA and MTA sought and considered the views of the public on this Undertaking through the public involvement process described in the Final Environmental Impact Statement (FEIS) including public workshops and meetings, a website, mass mailings, and public comments thereon, resulting in this PA being developed with public participation during the Section 106 process; and

WHEREAS, the public will be notified as to the execution and effective dates of this PA through the issuance of FTA Record of Decision for the Undertaking; and

WHEREAS, MTA's responsibilities under this PA will be carried out by MTA directly, or by any designee authorized by contract to act on behalf of MTA; and

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

NOW, THEREFORE, FTA, MTA, the MD SHPO, and the NPS agree that upon FTA's decision to proceed with further design and construction of the Undertaking, FTA and MTA shall implement the following stipulations to take into account the effects of the Undertaking on historic properties and that these stipulations shall govern the Undertaking and all its parts until this PA expires or is terminated.

STIPULATIONS

FTA and MTA shall implement the following stipulations:

I. PURPOSE

This PA sets forth the process by which FTA and the NPS, with the assistance of MTA, will meet their responsibilities under Section 106 for the Undertaking. The PA establishes procedures for ongoing consultation among FTA, MTA, the MD SHPO, the NPS, and the consulting parties to consider and resolve the Undertaking's effects on historic properties during the design and construction phases of the Undertaking. The stipulations below set forth measures for avoidance, minimization, and resolution of adverse effects on historic properties, and for design review and public interpretation; in addition, the stipulations specify how the signatory parties and the other consulting parties will be involved in specified review.

II. RESPONSIBILITIES OF THE SIGNATORIES

A. Signatory Parties

FTA, MTA, the MD SHPO, and the NPS are the signatory parties (herein "signatory" or "signatory parties") to this PA. The signatory parties shall participate in the coordination process as specified in subsequent stipulations of the PA.

B. Federal Transit Administration

FTA shall include the obligations set forth in this PA as part of its Record of Decision and a condition of FTA approval of any grant issued for design and construction of the Undertaking.

C. Maryland Transit Administration

MTA shall implement the terms of this PA during design, construction, and operation of the Undertaking.

MTA shall establish a Cultural Resources Management Team (CRMT) for the design and construction phases of the Undertaking to assist MTA in implementing the provisions of this PA.

1. The CRMT shall be comprised of a team of personnel meeting the qualifications specified in Stipulation III.A and shall carry out all cultural resources work pursuant to this PA in accordance with the relevant documents in Stipulation III.B.
2. A member of the CRMT will be on-site when there is a potential for historic properties (including both built historic properties and archeological resources) to be affected by the construction and will take responsibility to monitor all construction activities that may affect historic and archeological resources, when warranted, or when requested by the NPS for NPS historic and archeological resources.

3. The CRMT will train appropriate members of the on-site contractor staff regarding the stipulations outlined in this PA and any documents that pertain to the protection of historic resources prior to the commencement of work and at regular intervals not to exceed six months. A requirement to comply with the provisions of the PA in cooperation with MTA and the CRMT will be included in all design and construction contracts related to the Undertaking. A copy of this training (presentation and handouts) will be provided to the consulting parties for review and comment prior to implementation.

D. National Park Service

1. Consultation on Further Design. The NPS shall review and concur with design drawings and provide comments to MTA per Stipulation X for the portion of the Undertaking that intersects the Baltimore-Washington Parkway (PG: 69-26) as described in Stipulation V.E. In addition, the NPS shall review and approve per Stipulation X design drawings for replacement of the Baltimore-Washington Parkway bridges and related elements on the property.
2. Use of NPS Parklands.
 - a. NPS permits. MTA shall obtain from the NPS, Special Use permits to cross parkland and access and use these areas, and any other NPS permits that may be necessary, such as for archeological resources.
 - b. MTA shall restore these areas to their pre-construction condition or a mutually agreed-upon condition if pre-construction condition is not possible due to Undertaking elements, pursuant to the terms and conditions in the relevant NPS permit(s).

III. PROFESSIONAL STANDARDS

A. Qualifications

MTA shall ensure that all cultural resources work performed pursuant to this PA is carried out by or under the direct supervision of personnel meeting *The Secretary of the Interior's Professional Qualifications Standards* (48 FR 44716) (hereinafter cited as "qualifications") with experiences and background in History, Architectural History, Historic Architecture, and Archeology, as appropriate. These personnel shall perform or directly supervise all cultural resources work pursuant to this PA.

B. Standards and Guidelines

MTA shall complete all cultural resources investigations and preservation work executed as part of this PA according to the following accepted professional standards and guidelines:

1. *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716; 1983 and successors);
2. *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994);
3. *Collections and Conservation Standards, Technical Update No. 1 of the Standards and Guidelines for Archeological Investigations in Maryland* (Maryland Historical Trust 2005);

4. *Standards and Guidelines for Architectural and Historical Investigations in Maryland* (Maryland Historical Trust 2000);
5. *General Guidelines for Compliance-Generated Determinations of Eligibility and Standards and Guidelines for Architectural and Historical Investigations in Maryland* (Maryland Historical Trust, 2002);
6. *Advisory Council on Historic Preservation—Section 106 Archeology Guidance* (ACHP 2007);
7. *Recommended Approach for Consultation on Recovery of Significant Information for Archeological Sites*, ACHP 2007 (64 FR 27085-27087);
8. *Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects*, ACHP 2007; and
9. *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR 68).

C. Curation

1. With the exception of materials recovered from NPS property, all materials and records resulting from archeological investigations conducted for the Undertaking will be curated in accordance with 36 CFR 79 at the Maryland Archeological Conservation Laboratory (MAC Lab), unless clear title, Deed of Gift, or Federal curation agreement for the collection cannot be obtained. MTA shall consult with the MD SHPO regarding the appropriate disposition of any materials or records not proposed for curation at the MAC Lab.
2. All artifacts, specimens, and samples recovered from NPS property as a result of investigations conducted pursuant to this PA are the property of the NPS and will be documented, curated, and conserved, as necessary, according to the standards found in 36 CFR 79, *Curation of Federally-Owned and Administered Archaeological Collections*; the *National Park Service Museum Handbook, Part 1*; and to the satisfaction of the NPS, and the requirements of the NPS's Regional Archeology Program for the storage of objects at the Museum Resource Center. MTA will provide the artifacts, specimens, and samples to the NPS upon completion of any analysis performed as part of this PA.

IV. BUILT HISTORIC PROPERTIES STIPULATIONS

FTA has determined through the Section 106 process that the Undertaking will have adverse effects on three historic properties due to construction activities and/or the siting of Undertaking - related infrastructure. It is possible that additional, previously unidentified historic properties may be identified within the Undertaking's APE in the future or in the area of any new Undertaking elements (see Stipulation IV.A) and that these historic properties may be affected by the Undertaking. Accordingly, this PA sets forth the following measures that will be implemented for all built historic properties within the Undertaking's APE to not only resolve any adverse effects, but also to avoid adverse effects through sensitive design and positive protections.

A. Identification of Additional Built Historic Properties and Assessment of Undertaking Effects

If additional built historic properties not previously identified in the Section 106 process are identified in the Undertaking's APE during design or construction of the Undertaking, or if new Undertaking elements are added to the Undertaking that result in an adverse effect, MTA shall consult with FTA, the MD SHPO, the NPS, and the other consulting parties to evaluate eligibility and effects, if needed, in accordance with the process outlined in Stipulation IX for ancillary activities and design modifications.

B. Construction Protection Plans

To avoid Undertaking-related construction damage to any known or unknown built historic property, MTA, in consultation with FTA, the MD SHPO, and other relevant consulting parties that have an interest in the affected properties, shall develop and implement Construction Protection Plans (CPP) for built historic properties six months prior to construction; these plans will include best practices and contractor requirements that will avoid, minimize, and mitigate adverse effects. A list of procedures will be included in the CPP, which will be developed prior to construction of the Undertaking. MTA shall provide the NPS a draft version of the CPP for review and comment on activities within NPS properties. MTA will incorporate NPS comments into the CPP and include NPS-specific construction practices. MTA shall include all historic properties that have the potential to be affected by construction-related activities in CPP(s). MTA shall implement such plans in conjunction with construction sequencing.

V. AVOIDANCE OF ADVERSE EFFECTS TO COLUMBIA COUNTRY CLUB (M: 35-140), UNIVERSITY OF MARYLAND, COLLEGE PARK (PG: 66-35), ROSSBOROUGH INN (PG: 66-22), SLIGO CREEK PARKWAY (M: 32-15 PG: 65-25), BALTIMORE-WASHINGTON PARKWAY (PG: 69-26), AND AREA K DOMESTIC SITE (18PR1032)

Throughout the final design process, FTA and MTA, in coordination with the NPS, and the other consulting parties, shall monitor the development of design drawings to avoid adverse effects to the Columbia Country Club; University of Maryland, College Park; Rossborough Inn; Sligo Creek Parkway; Baltimore-Washington Parkway; and Area K Domestic Site. Context sensitive design specifications for historic properties will be developed in accordance with Stipulation V.A and in consultation with the MD SHPO, the NPS, and other consulting parties that have an interest. Context sensitive design may be used to avoid adverse effects. Consultation and monitoring of the design drawings shall follow the review process outlined in Stipulations V.B and X.

MTA shall implement the following measures to avoid adverse effects on the properties listed in this section through the use of sensitive design and positive protection measures.

A. Guiding Principles of Design

MTA shall provide to the consulting parties designs for new construction, in those areas where elements of the Undertaking will be visible to the Columbia Country Club; University of Maryland, College Park; Rossborough Inn; Sligo Creek Parkway; and Baltimore-Washington Parkway. These designs will be sensitive to and compatible with the historic and architectural qualities of those nearby historic properties. MTA shall develop designs that are responsive to the recommended approaches to new construction set forth in the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR 68).

MTA shall consult with the MD SHPO, the NPS, and other consulting parties that have an interest in the affected property, on design specifications to address any permanent Undertaking elements that may affect the historic setting of the Baltimore-Washington Parkway. NPS concurrence is required on those design specifications in regards to the Baltimore-Washington Parkway.

Likewise, MTA shall consult with the MD SHPO, and other consulting parties that have an interest in the affected properties, on design specifications to address any permanent Undertaking elements that may affect the historic setting of the Columbia Country Club; University of Maryland, College Park; Sligo Creek Parkway; and Rossborough Inn. Such elements may include, but are not limited to: stations, traction power substations, central instrument houses, retaining walls, and landscaping.

In the review of the proposed designs, the signatory parties and other consulting parties that have an interest in the affected properties shall consider design components related to compatibility with the historic character of the adjacent historic properties. Design components include, but are not limited to materials; scale; ornamentation; massing; bridge-facing treatments and other components; and overhead contact systems and components including but not limited to appearance and location of catenaries and poles. The signatory parties and other consulting parties shall review and comment on the submissions and shall be governed by the process and timeframes set forth in Stipulation X.

B. Design Review

MTA shall submit design drawings of the Undertaking in the vicinity of historic properties (including site plan, elevations, and specifications, where applicable) complete to 60% or equivalent (semi-final review) and 90% or equivalent (final review) to the MD SHPO and the NPS for NPS resources and as otherwise appropriate, and provide opportunities for review and comment from consulting parties that have an interest in the affected properties. The purpose of the review is to assess the compatibility of the proposed designs with the approaches to new construction recommended in the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR 68), in order to avoid or minimize permanent adverse effects to historic properties. MTA shall carefully consider the comments provided by the other signatory parties and the other consulting parties and incorporate suggested modifications, as appropriate. Review and comment on such submissions shall follow the process set forth in Stipulation X. NPS concurrence is required if this pertains to the Baltimore-Washington Parkway. MTA shall provide opportunities for public input in the design development process by soliciting comments through community meetings and ongoing outreach efforts in accordance with processes and schedules established as part of those meetings and efforts.

C. Columbia Country Club (M: 35-140)

The Columbia Country Club has reviewed and considered the impact of the preliminary plans for the Preferred Alternative. In coordination with the Columbia Country Club, MTA has incorporated the following design elements:

1. Implement a slight northerly shift of the transitway alignment and use a terraced retaining wall partially on Columbia Country Club property to preserve holes, mature trees, and landscaping on the south side of the transitway;

2. Reconstruct and lengthen existing cart underpasses beneath the county-owned right-of-way;
3. Develop and implement a Construction Work Plan specifying a temporary work access road and work area; and
4. Restore the temporary access road and work areas at the conclusion of construction.

FTA has determined, in accordance with 36 CFR 800, that the Undertaking will have “no adverse effect” on the Columbia Country Club as a historic property. MTA shall continue to consult with the MD SHPO, the Columbia Country Club, and other consulting parties that have an interest regarding the Undertaking design elements that may affect the historic setting of the Columbia Country Club historic property.

D. University of Maryland, College Park (PG: 66-35), and Rossborough Inn (PG: 66-22)

1. Design: MTA shall assess the compatibility of the design of permanent Undertaking elements with the historic, architectural, and scenic landscape qualities of the University of Maryland, College Park Historic District. MTA shall consider the scale, massing, color, and materials, and guidance provided in the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR 68). MTA shall consult with the MD SHPO, the University of Maryland, and other consulting parties that have an interest regarding the location and design of catenary poles and light fixtures; the location and design of station facilities; and the roadway, sidewalk, and bike path materials. MTA shall utilize context sensitive design practices to select materials that are consistent with existing materials and enhance the aesthetic and historic qualities of the campus. MTA will identify the historic properties and establish and mark a buffer area in the design drawings and in the field to protect the historic properties. MTA shall submit the design drawings to the MD SHPO, the University of Maryland, and other consulting parties that have an interest in this property for review and comment in accordance with the design review process outlined in Stipulations V.B and X.
2. Landscape Plan: MTA shall develop a Landscape Plan in consultation with the MD SHPO, the University of Maryland, and other consulting parties that have an interest in this property. The Landscape Plan will be developed as a measure to minimize the visual impact of the Undertaking on the historic district. Measures shall be taken to minimize views of the catenary poles and wires, and to reduce the visual intrusion of the Undertaking through fields and open space. The design of catenary poles, roadways, and pedestrian pathways shall be designed in such a fashion that trees and other vegetation can be utilized to the maximum extent possible. The Landscape Plan shall specify the location, type and size of plant materials. MTA shall submit the plans to the MD SHPO, the University of Maryland and other consulting parties that have an interest, for review and comment in accordance with the design review process outlined in Stipulations V.B and X.
3. FTA has determined, in accordance with 36 CFR 800, that the Undertaking will have “no adverse effect” on the University of Maryland as a historic property. MTA shall consult with the MD SHPO, the University of Maryland, and other consulting parties that have an interest regarding the Undertaking design elements in the vicinity of the University of Maryland historic property.

E. Baltimore-Washington Parkway (PG: 69-26)

1. The Undertaking requires temporary use of lands from the NPS, and MTA's use of land from the Baltimore-Washington Parkway is contingent on compliance with Section 4(f) of the Department of Transportation Act, 49 USC. 303 (Section 4(f)) and its implementing regulations codified at 23 CFR 774. Moreover, any temporary use will require and be pursuant to an NPS Special Use permit.
2. MTA shall locate the Preferred Alternative directly south of and parallel to Riverdale Road (MD 410) where it will cross under the Baltimore-Washington Parkway. The Parkway is also a National Register of Historic Places-listed historic property. The Undertaking will permanently incorporate land and temporarily impact land within the boundaries of the parkway. The Undertaking involves the removal and replacement of two non-historic bridge structures within the Baltimore-Washington Parkway. MTA shall utilize context sensitive design practices and consult with the NPS, select materials that are consistent with existing materials, and enhance the aesthetic and historic qualities of the parkway in a manner that NPS approves.

MTA shall implement minimization commitments agreed to by the NPS to address temporary and permanent impacts related to the replacement of the bridge structures and historic landscape components. MTA shall identify the historic properties and sensitive resources on the design drawings and establish a buffer area in the drawings and in the field to protect the historic property, historic landscape components, and sensitive resources. The commitments include, but are not limited to installation of hard fencing at the dripline to protect trees, landscaping of disturbed land, invasive species management, and planting plans. MTA must also adhere to the April 2006 NPS, National Capital Region Guidelines for Tree Preservation (**Attachment G**). MTA shall fund, develop and implement maintenance of traffic as agreed to by the NPS during construction for the replacement of bridge structures and enter into a land exchange agreement described in the "Baltimore-Washington Parkway Minimization Measures" (**Attachment E**).

3. FTA has determined, in accordance with 36 CFR 800, that the Undertaking will have "no adverse effect" on the Baltimore-Washington Parkway as a historic property. MTA shall consult with the MD SHPO, the NPS and other consulting parties that have an interest regarding the Undertaking design elements in the vicinity of the Baltimore-Washington Parkway historic property.

F. Sligo Creek Parkway (M: 32-15 PG: 65-25)

1. MTA will replace guardrail, signs, and any other existing structures in areas it disturbs with new structures designed to match the existing elements of the Sligo Creek Parkway. Likewise, MTA will restore plantings in cleared areas of the Sligo Creek Parkway.
2. Context sensitive design will be used to avoid adverse effects on this property. Consultation and monitoring of the design drawings for the Undertaking in the vicinity of the Sligo Creek Parkway will follow the review process outlined in Stipulations V.B and X. As part of the context-sensitive design process, MTA will provide an opportunity for the MD SHPO to review design drawings for the Undertaking in the vicinity of the Sligo Creek Parkway.

G. Area K Domestic Site (18PR1032)

FTA identified the Area K Domestic Site (18PR1032) within the Undertaking's APE; the site's eligibility for the National Register remains unevaluated although it is within a National Register property, the Baltimore-Washington Parkway. The site is located on NPS parkland within the median of the Baltimore-Washington Parkway. The Undertaking as currently designed will not affect this archeological site. MTA shall avoid site 18PR1032 during ancillary activities. MTA will identify the site, and establish and mark a buffer area in the design plans and in the field to protect the site. Should ancillary activities or design changes be made to the Undertaking that might impact site 18PR1032, MTA shall consult with the MD SHPO, the NPS, and other consulting parties that have an interest in this property, in accordance with Stipulation IX. MTA will need to acquire an NPS Special Use permit in order to access this site and MTA will carry out additional requirements pursuant to the Archaeological Resources Protection Act of 1979 (ARPA). In order to avoid disturbance to surface features and subsurface deposits of the Area K Domestic Site, MTA shall install hard site fencing as approved by the NPS around the defined site boundaries to include (where feasible) a twenty (20) foot buffer. This fencing shall be installed prior to any construction activity adjacent to the site, and shall remain in place until all construction-related activity has been completed. MTA shall carry out the minimization commitments described in the "Baltimore-Washington Parkway Minimization Measures" (**Attachment E**).

VI. RECORDATION OF THE FALKLAND APARTMENTS (M: 36-12) AND TALBOT AVENUE BRIDGE OVER THE B&O RAILROAD (M: 36-30)

MTA shall complete recordation plans to document and photograph the Falkland Apartments and the Talbot Avenue Bridge. Talbot Avenue Bridge is individually eligible for the National Register and contributes to the significance of the Metropolitan Branch-B&O Railroad.

- A.** MTA shall develop the draft recordation plans and provide to the MD SHPO for review and comment per Stipulation X.
- B.** As part of the recordation plan development, MTA shall consult with the NPS's Historic American Buildings Survey (HABS)/Historic American Engineering Record (HAER) staff to determine the appropriate repository for this documentation. If HABS/HAER does not want to include the documentation in its holdings, MTA shall submit the documentation to the MD SHPO and any other appropriate repository that may be identified in the Interpretive Plan (see Stipulation VII).
- C.** All work submitted to HABS/HAER shall adhere to the guidelines set forth in "HABS/HAER Photographs: Specifications and Guidelines" (U.S. Department of the Interior, 2001); "HABS/HAER Standards" (U.S. Department of the Interior, 1990); "HABS Historical Reports" (U.S. Department of the Interior, October 2000); and "Historical American Engineering Record Guidelines for Historical Reports" (U.S. Department of the Interior, 2008, updated 2010).
- D.** All written, graphic and photographic documentation submitted to the MD SHPO must adhere to the "Standards and Guidelines for Architectural and Historical Investigations in Maryland" (Maryland Historical Trust, 2000) and must include the Maryland Inventory of Historic Properties (MIHP) number associated with the historic property and photographic documentation that complies with current MD SHPO guidelines.

- E. MTA shall complete, submit and obtain acceptance by HABS/HAER and the MD SHPO, as applicable, of all documentation prior to construction commencing within viewsheds of the historic properties being recorded and/or prior to demolition of the affected historic property. Review and comment of all recordation products shall follow the process set forth in Stipulation X.

VII. PUBLIC INTERPRETATION

As part of the design of the Undertaking, MTA shall execute historically-themed interpretive work at station locations as part of a consistent system-wide Interpretive Plan. The interpretive work may include panels, signage, artwork, historic images, and associated web applications; and the related documentation may be included on the Undertaking website.

A. Interpretive Plan

MTA shall consult with the signatory parties and other consulting parties to determine the scope and content of interpretive efforts and to identify potential partnering opportunities with participating agencies or organizations. MTA shall develop a brief Interpretive Plan after this consultation and distribute the plan to consulting parties for review and comment prior to executing the final document. Content pertaining to NPS resources including the Baltimore-Washington Parkway and the Area K Domestic Site (18PR1032) requires NPS permission and approval. Review of the Interpretive Plan shall follow the process set forth in Stipulation X. MTA shall initiate development of the Interpretive Plan within six months of the execution of this PA. Timeframes for the completion of specific interpretive work will be outlined in the Interpretive Plan.

B. Built Historic Properties Web-Based Map

MTA shall develop a web-based map and database of built historic properties that are located within the Undertaking's APE. Content pertaining to NPS resources including the Baltimore-Washington Parkway and the Area K Domestic Site (18PR1032) requires NPS permission and approval. The web-based map shall enable MTA to administer, through a secure administrative interface/portal, historic property data and web content such as detailed historic information, geographic location, documentation, and photographs; and to present this information in a web map to signatories, consulting parties, stakeholders, and the public. The web-based map will be designed for display on the web browser on a desktop computer and will be implemented for display on mobile devices. MTA shall initiate development within six months of the execution of this PA and maintain the application and content for the duration of this PA. MTA shall send notices to the MD SHPO and the other consulting parties when the web-based map is activated and available to the public.

VIII. UNANTICIPATED DISCOVERIES FOR ARCHEOLOGICAL PROPERTIES INCLUDING HUMAN REMAINS

MTA, in coordination with FTA, along with the MD SHPO, shall implement the Unanticipated Discoveries Plan for non-human archeological resources and human remains, specified in **Attachment F**, including ARPA, in the event that any unanticipated archeological resources and/or human remains are encountered during construction of the Undertaking. NPS staff listed in Stipulation XIII.A will be immediately notified of discoveries occurring on NPS property and FTA and MTA will be notified on the same business day. Should the Undertaking uncover Native American human remains on Federal property, FTA shall comply with the requirements of the Native American Graves Repatriation Act (NAGPRA, 25 USC 3001). Archeologists executing

work on sites with unanticipated discoveries will meet the qualifications for Archeology as described in Stipulation III.A.

FTA, MTA, the NPS, and the MD SHPO acknowledge that extraordinary costs will be incurred if construction were to be halted or delayed once underway. Accordingly, the parties will implement the approved Unanticipated Discoveries Plan expeditiously in circumstances requiring its use.

IX. DESIGN DEVELOPMENT, ALIGNMENT MODIFICATIONS AND ANCILLARY ACTIVITIES

The Undertaking may result in unforeseen effects on other historic properties and archeological sites due to changes made during design development, alignment modifications, or as a result of associated ancillary activities including, but not limited to, construction staging areas, stormwater management facilities, wetland mitigation areas, reforestation areas, environmental stewardship activities, or other actions. Should such activities be added for which cultural resources studies or assessments have not been completed, MTA shall consult with the MD SHPO, and also the NPS if within the Baltimore-Washington Parkway, and other consulting parties that have an interest in the affected properties, and implement all required cultural resources studies in accordance with the applicable professional standards in Stipulation III and with the following procedures:

A. Identification

MTA and the CRMT shall review any additions or changes to the Undertaking and implement identification investigations as necessary to identify any historic properties that may be impacted by the additions or changes to the Undertaking . MTA shall provide all completed information to the MD SHPO, FTA, the NPS, and other consulting parties that have an interest in the affected properties under this PA for review and comment. NPS concurrence is required if this pertains to the Baltimore-Washington Parkway. If the MD SHPO does not provide written comments within 30 calendar days of receipt, MTA may assume MD SHPO acceptance of the results.

B. Evaluation

MTA shall evaluate all cultural resources identified in the areas inventoried under Stipulation IX.A in accordance with 36 CFR 800.4(c) to determine their eligibility for the National Register. MTA shall provide the results of any such evaluation efforts to the MD SHPO, FTA, and other consulting parties that have an interest in the affected properties, for review and comment. NPS concurrence is required if this pertains to the Baltimore-Washington Parkway. If the MD SHPO does not provide written comments within 30 calendar days of receipt, MTA may assume MD SHPO acceptance of the results.

C. Treatment

Should any property eligible for inclusion in the National Register be identified under Stipulation IX.A, MTA shall make a reasonable and good faith effort to avoid adversely impacting the resources by realigning or modifying the Undertaking. If adverse effects are unavoidable, MTA, FTA, the MD SHPO, and other consulting parties that have an interest in the affected properties shall consult in accordance with 36 CFR 800.6 to develop and implement appropriate treatment options. NPS concurrence is required if this affects the Baltimore-Washington Parkway. MTA shall perform cultural resources work in accordance with the relevant professional standards in Stipulation III.

X. DOCUMENT AND DESIGN REVIEW

During the implementation of this PA, MTA, in coordination with FTA, shall provide the MD SHPO, the NPS, and the other consulting parties with the opportunity to review and comment on appropriate documents, reports, and design plans as specified in the stipulations throughout the PA. NPS concurrence is required if any of these pertain to the Baltimore-Washington Parkway. In general, review periods will encompass a timeframe not to exceed 30 calendar days from receipt of the item for review, unless otherwise specified in the PA.

- A.** The MD SHPO and the NPS shall provide comments to MTA regarding any plan or document submitted pursuant to this PA, as promptly as possible, but not to exceed 30 calendar days of the receipt of such revisions.
- B.** If the MD SHPO does not submit comments in writing within 30 calendar days of the receipt of any such submissions, MTA may assume MD SHPO acceptance of the submitted document.
- C.** If the MD SHPO, the NPS, or another consulting party objects within 30 calendar days of the receipt of any submissions, then FTA, MTA, and the MD SHPO shall consult expeditiously in an effort to resolve the objection.
- D.** If FTA and MTA cannot resolve MD SHPO, the NPS, and/or the other consulting parties' objections, and if further consultation with the MD SHPO and the NPS is deemed unproductive by any party, then the parties shall adhere to the dispute resolution procedures detailed under Stipulation XII.
- E.** FTA, MTA, the MD SHPO, and the NPS acknowledge that the timeframes set forth in this stipulation will be the maximum allowable under normal circumstances. In exigent circumstances (such as when construction activities have been suspended or delayed pending resolution of the matter), each party agrees to expedite their respective document review and dispute resolution obligations.

XI. ONGOING COORDINATION AND OVERSIGHT

A. Ongoing coordination

MTA and the MD SHPO shall regularly consult to review implementation of the terms of this PA. MTA shall schedule formal coordination meetings and invite FTA, MD SHPO, the NPS, and the other consulting parties, as needed throughout the duration of the PA. At a minimum, MTA shall hold an annual meeting with the signatory parties and other consulting parties for the duration the PA, as long as MTA is still actively performing work under the PA stipulations.

B. Annual Report

Beginning January 30, 2015, and continuing annually each January 30 until the Undertaking is completed or terminated, MTA shall produce an annual report and submit it to the signatory parties and the other consulting parties. The report will provide information concerning the status of implementing the various stipulations of this PA during the prior calendar year, identify any problems or unexpected issues encountered during the year, and address any changes MTA recommends in the implementation of the PA. MTA shall provide the report via e-mail, the Undertaking website, or other agreed-upon methods of distribution.

C. Annual Review of the Programmatic Agreement

MTA and the MD SHPO shall review the effectiveness of this PA to determine whether to revise the PA during each annual reporting period. MTA shall recommend any proposed PA revisions to FTA, the MD SHPO, and the NPS in accordance with Stipulation XIV.

D. Monitoring

FTA and MD SHPO shall monitor activities carried out pursuant to this PA. MTA shall cooperate with the signatory parties in carrying out their monitoring efforts.

XII. DISPUTE RESOLUTION

A. Objections by the Signatories

Should any of the signatories to this PA object in writing to FTA within 30 days to any plans or actions proposed pursuant to this PA, FTA shall first consult with the objecting party to resolve the objection. If FTA determines that such objection cannot be resolved through such consultation, FTA shall within a 30-day time period:

1. Forward all documentation relevant to the objection, including FTA's proposed resolution, to the ACHP. Prior to reaching a final decision on the dispute, FTA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatory parties, and other consulting parties, and provide them with a copy of this written response. FTA shall then proceed according to its final decision.
2. If the ACHP does not provide its advice regarding the objection within the 30-day time period, FTA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FTA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.
3. FTA's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remains unchanged.

B. Objections by Consulting Parties and the Public

At any time during the implementation of this PA, should a consulting party or member of the public raise an objection pertaining to this agreement or the effect of the Undertaking on historic properties, MTA shall consult with FTA, the objector, and the signatory parties to this agreement, as needed. After considering these discussions, MTA shall account for and resolve the objection in an appropriate manner.

XIII. OTHER

A. Contact Information

For purposes of notices and consulting pursuant to this PA, the following contact information should be used for the signatory agencies:

MTA
John Newton
Maryland Transit Administration
6 St. Paul Street
Baltimore, MD 21202-1614

FTA
Daniel Koenig, Environmental Protection Specialist
Federal Transit Administration, DC Metro Office
1990 K Street NW, Suite 510
Washington, DC 20006

MD SHPO
J. Rodney Little
State Historic Preservation Officer
Maryland Historical Trust
100 Community Place
Crownsville, MD 21032-2023

National Capital Parks East
Superintendent
202-690-5127
1900 Anacostia Drive SE
Washington, DC 20020

B. Emergency Situations

If an emergency situation that represents an immediate threat to public health, safety, life or property creating the potential to affect a historic property should occur during the duration of this PA, the regulations set forth in 36 CFR 800.12 shall be followed. MTA shall notify FTA and the MD SHPO of the condition that has created the situation and the measures to be taken to respond to the emergency or hazardous condition, and immediately notify the NPS if it pertains to the Baltimore-Washington Parkway. FTA, the MD SHPO, and the NPS may submit comments to MTA within seven days of the notification. If MTA determines that circumstances do not permit seven days for comment, MTA shall notify FTA, the MD SHPO, and the NPS and invite any comments in the determined and stated time available. MTA shall consider these comments in developing a response to the treatment of historic properties in relation to the emergency.

C. ANTI-DEFICIENCY ACT – FEDERAL PARTIES

The obligations of Federal agencies under this PA are pursuant to 31 USC 1341(a)(1); therefore nothing in this PA shall be construed as binding the United States to expend in any one fiscal year any sum in excess of appropriations made by Congress for this purpose, or to involve the United States in any contract or obligation for the further expenditure of money in excess of such appropriations.

XIV. AMENDMENTS

Any signatory to this PA may propose to FTA that the PA be amended, whereupon FTA shall consult with all signatories and consulting parties to consider such an amendment. This PA will be amended when agreed to in writing by all signatories. FTA or its designee shall provide a copy

of the amended PA to all consulting parties within thirty (30) days of execution by the signatories.

XV. TERMINATION

If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XIV. If within thirty (30) 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. If the PA is terminated, MTA and FTA must comply with subpart B of 36 CFR 800 with regard to individual undertakings of the program covered by the PA, pursuant to 36 CFR 800.14(b)(2)(v), prior to work continuing on the Undertaking. MTA and FTA shall notify the signatories as to the course of action it will pursue.

XVI. DURATION

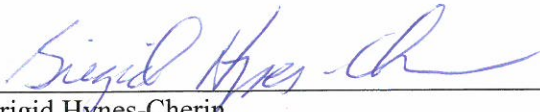
This PA shall be null and void if its terms are not carried out within ten (10) years from the date of execution, unless the signatory parties agree to amend it in accordance with Stipulation XIV. If FTA and MTA have not fulfilled the terms of the PA prior to its expiration, the signatory parties shall consult to reconsider the terms of the PA and amend it according to Stipulation XIV or terminate it in accordance with Stipulation XV.

XVII. EFFECTIVE DATE OF AGREEMENT


The PA shall become effective when executed by the last of the Signatories.

Execution of the PA by the FTA, MTA, MD SHPO, and the NPS, and implementation of its terms provide evidence that the FTA has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties and that the FTA and the NPS have taken into account the potential effects of the Undertaking on historic properties.

FEDERAL TRANSIT ADMINISTRATION

By:  Date: 3-14-14
Brigid Hynes-Cherin
Regional Administrator

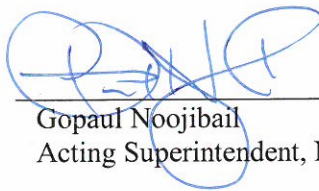
MARYLAND TRANSIT ADMINISTRATION

By:  Date: 3-12-14
Robert L. Smith
Administrator

MARYLAND STATE HISTORIC PRESERVATION OFFICER

By:  Date: 3-13-14
J. Rodney Little
State Historic Preservation Officer

NATIONAL PARK SERVICE

By:  Date: 3/12/14
Gopaul Noojibail
Acting Superintendent, National Capital Parks East

ATTACHMENTS

- A Undertaking Location Map
- B National Capital Planning Commission Correspondence
- C Historic Properties within the Purple Line Area of Potential Effects (APE)—Prince George's and Montgomery Counties, Maryland
- D Advisory Council on Historic Preservation Correspondence
- E Baltimore-Washington Parkway Minimization Measures
- F Unanticipated Discoveries for Archeological Properties including Human Remains
- G National Park Service, National Capital Region, Guidelines for Tree Preservation