PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL RAILROAD ADMINSTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE CONNECTICUT STATE HISTORIC PRESERVATION OFFICE,
THE MASSACHUSETTS STATE HISTORIC PRESERVATION OFFICE,
AND
THE CONNECTICUT DEPARTMENT OF TRANSPORTATION
REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT,
AS IT PERTAINS TO THE NEW HAVEN – HARTFORD - SPRINGFIELD HIGH-SPEED INTERCITY PASSENGER RAIL PROJECT

1. WHEREAS, the Connecticut Department of Transportation (CTDOT), an agency of the State of Connecticut, proposes to construct the New Haven – Hartford - Springfield High-Speed Intercity Passenger Rail Project (NHHS Project or Undertaking) on the railroad right of way known commonly as the "Springfield Line" between a southern terminus in New Haven, Connecticut and a northern terminus in Springfield, Massachusetts (NHHS Corridor); and

2. WHEREAS, CTDOT has received a grant from the Federal Railroad Administration (FRA) through the High-Speed Intercity Passenger Rail Program funded in part through the American Recovery and Reinvestment Act (ARRA), to construct several phases of the NHHS Project; and

3. WHEREAS, FRA is the lead federal agency for compliance with the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act as amended through 1992 (NHPA) (hereafter referred to as "Section 106") 16 U.S.C. § 470f, and its implementing regulations at 36 CFR Part 800 for this Undertaking; and

4. WHEREAS, the purpose of this Programmatic Agreement (PA) is to provide consistency in consultation procedures, documentation standards, and federal agency oversight in compliance with Section 106 for the NHHS Project Phases and, when appropriate, site specific projects within each Phase, each of which would be subject to an individualized consultation process; and

5. WHEREAS, the Springfield Line is owned by the National Railroad Passenger Corporation (Amtrak); and

6. WHEREAS, for purposes of funding and implementation the NHHS Project has been divided into five (5) Phases of construction; and

7. WHEREAS, FRA, in cooperation with CTDOT and the Federal Transit Administration (FTA), is preparing a Tier 1 Service Environmental Assessment (Tier 1 EA)/Environmental Impact Evaluation (EIE) in accordance with the requirements of NEPA and the Connecticut Environmental Policy Act (CEPA) to address the potential impact of the Undertaking on a variety of human and natural resources; and

8. WHEREAS, CTDOT will prepare, at the direction of FRA, additional environmental documentation on subsequent Phases of the identified Undertaking, in accordance with NEPA, including any cultural resource studies required under Section 106; and

9. WHEREAS, FRA has a statutory obligation, as a federal agency, to fulfill the requirements of Section 106, and FRA, in consultation and cooperation with CTDOT, shall ensure that the measures in this Programmatic Agreement are carried out; and

10. WHEREAS, FRA authorizes CTDOT to initiate consultation with the Connecticut State Historic Preservation Officer (CTSHPO) and the Massachusetts State Historic Preservation Officer (MASHPO) pursuant to 36 CFR § 800.14(b)(1)(iii) for the Undertaking covered by this PA; and

11. WHEREAS, the MASHPO has consulted with FRA and CTDOT concerning the potential effects of the Undertaking on the historic properties within Massachusetts; and

12. WHEREAS, the CTSHPO at the Connecticut Department of Economic and Community Development has consulted with FRA and CTDOT concerning the potential effects of the Undertaking on the historic properties within Connecticut; and

13. WHEREAS FRA, CTSHPO, and MASHPO have agreed to treat the NHHS Corridor Historic New Haven-Hartford-Springfield Rail Line Historic District (hereafter, Historic Line) as eligible for listing to the National Register of Historic Places (NRHP) as a National Register of Historic Places District; and

14. WHEREAS CTSHPO and MASHPO for purposes of this PA agree to consult only on historic properties within their respective states; and

15. WHEREAS FTA was a Cooperating Agency on the EA/EIE and wishes to participate in this PA as a Signatory; and

16. WHEREAS, the Advisory Council on Historic Preservation (ACHP) was invited to participate as a Concurring Party and declined; and

17. WHEREAS, the Massachusetts Department of Transportation was invited to participate as a concurring party and declined; and

18. WHEREAS, FRA has determined in consultation with the CTSHPO, and MASHPO that the Undertaking will have an effect on historic properties included on or eligible for inclusion on the NRHP; and

19. WHEREAS, the contemplated Undertaking consists of a 62-mile long railroad corridor covering two states, FRA has determined that a phased process for compliance with Section 106, as provided for in 36 CFR § 800.4(b)(2), is appropriate for the Undertaking such that completion of the identification of historic properties, determination of adverse effects on historic properties, if any, and consultation concerning measures to avoid, minimize, or

mitigate any such effects if needed, will be carried out as part of the planning for and prior to any notice to proceed to construction of any Phase or site specific project implementation; and

20. WHEREAS, FRA has determined that each of the five (5) independent Phases of the proposed Undertaking (see map - Attachment A, incorporated herein by reference) include site specific projects with individually defined Areas of Potential Effect (APE) (Stipulation VI.A) that contain rail lines, associated structures, maintenance and ancillary facilities, construction easements, and staging areas, each of which is subject to Section 106 review and may have an effect upon historic properties included in or eligible for inclusion in the NRHP. The specific Phases are:

- Phase 1 (Meriden-Newington): 10.2 miles of track between Meriden and Newington will be upgraded by construction of a second track, installation of new signal and power cables and rehabilitation of bridges and culverts.

- Phase 2 (New Haven-Hartford): The infrastructure and Wallingford, Meriden, Berlin and Hartford stations between New Haven and Hartford will be upgraded. The work includes installation of double track, new signal and power cables, at-grade crossing improvements, rehabilitation of bridges and culverts and improvements at the Springfield Station or the Amtrak-owned Sweeney Yard site for use as a temporary layover facility.

- Phase 3A (Hartford-Windsor): The work includes installation of double track, at-grade crossing improvements and rehabilitation of bridges and culverts. In addition, new signal and power cables will be installed between Hartford and Springfield in order to complete installation of the cables along the entire NHHS Corridor.

- Phase 3B (Windsor-Springfield): The remaining improvements between Windsor and Springfield will be completed, including stations at Windsor, Windsor Locks and Springfield, and improvements to facilitate shuttle bus connections between Bradley International Airport and the Windsor Locks Station. The work includes installation of double track, at-grade crossing improvements, rehabilitation of bridges and culverts and construction of a permanent layover and light maintenance facility in the Springfield area.

- Phase 4 (Regional Rail Stations): CTDOT intends to apply for FTA funding to add four (4) new regional rail stations at Enfield, West Hartford, Newington and North Haven, as well as an additional platform at the existing New Haven State Street Station.

21. WHEREAS, pursuant to the requirements of CEPA and NEPA, CTDOT and FRA conducted a public and agency involvement program as part of the program environmental review process for the Tier 1 EA/EIE. As part of this outreach,

information was provided to federal, state, and local agency representatives; elected officials; property owners; interested persons; and interested organizations; and

22. WHEREAS, FRA and CTDOT prepared a list (Attachment F, incorporated herein by reference) of federally-recognized Native American tribes and groups for Section 106 consultation for the Tier 1 EA/EIE, and FRA initiated consultation with the identified federally-recognized Native American tribes providing information about the proposed site specific projects and requesting information about any traditional cultural properties that could be affected by the Undertaking; and

23. WHEREAS, FRA and CTDOT will continue to consult with federally-recognized Native American tribes, concerning properties of traditional religious and cultural significance, and the Mohegan Indian Tribe has requested to be and will be a Concurring Party (in accordance with 36 CFR§ 800.6 (3)) under this PA; and

24. WHEREAS FRA, FTA, CTDOT, CTSHPO and MASHPO are Signatories pursuant to 36 CFR § 800.6(c)(1) and have authority to execute, amend, or terminate this PA; and

25. WHEREAS, Amtrak operates passenger rail service within the NHHS Corridor and conducts routine maintenance activities that may affect historic bridges, culverts, and other contributing resources to the National Register eligible NHHS Corridor Historic District and is a Concurring Party to this PA (in accordance with 36 CFR § 800.6 (3)); and

26. WHEREAS, all of the signatories to this PA agree to implement the procedures and measures described herein for the Undertaking; and

NOW, THEREFORE, the signatories agree that the proposed Undertaking covered by this PA shall be implemented in accordance with the following stipulations in order to consider the effect of each site specific project of the Undertaking on historic properties and that these stipulations shall govern compliance of the proposed NHHS Project with Section 106 until this PA expires or is terminated.

STIPULATIONS

I. APPLICABILITY

A. Unless this PA is amended or terminated pursuant to Stipulation XVII, this PA, including all associated Attachments incorporated herein by reference, shall apply to this Undertaking.

B. Except as provided for in Stipulation IV below, this PA shall not apply to effects of this Undertaking that occur on or affect tribal lands as defined in Section 301(14) of the NHPA. While no use of tribal land is anticipated, if such site specific projects occur, the lead federal agency will follow appropriate tribal consultation procedures in accordance with 36 CFR Part 800 with regard to those effects.

C. In the event that CTDOT applies for additional federal funding or approvals for a Phase or site specific project from another agency that is not party to this PA and the Undertaking, as described herein remains unchanged, such funding or approving agency may choose to comply with Section 106 by agreeing in writing to the terms of this PA and notifying and consulting with FRA, FTA, CTSHPO, MASHPO and notifying the ACHP. Any necessary modifications will be considered in accordance with Stipulation XVII.B of this PA.

II. ROLES AND RESPONSIBILITIES

A. FRA

As the lead federal agency, FRA has primary responsibility pursuant to 36 CFR § 800.2(a)(2) to ensure that the provisions of this PA are carried out. FRA will conduct government-to-government consultation with federally-recognized Native American tribes, execute Memoranda of Agreement (MOAs) between consulting and interested parties for each of the Undertaking Phases or, if appropriate site specific projects, and participate in the resolution of disputes. FRA is responsible for all determinations of eligibility for listing on the NRHP and findings of adverse effect for all Phases or site specific projects of the Undertaking. Consistent with the requirements of 36 CFR §§ 800.2(a) and 800.2(c)(4), FRA remains legally responsible for ensuring that the terms of this PA are carried out and for all findings and determinations made pursuant to this PA.

B. FTA

Pursuant to 36 CFR § 800.2(a)(2) and as a Cooperating Agency in the EA/EIE FTA may consider funding certain site specific projects within the NHHS Project. If FTA provides funding for any of the Phases or site specific projects in the future, the PA may be amended pursuant to Stipulation XVII. B to reflect FTA's additional responsibility as a funding source. FTA is responsible for providing FRA and CTDOT with documentation for all FTA-funded site specific projects as required to define the APE (Stipulation VI.A).

C. CTDOT

FRA has delegated to CTDOT responsibility for the implementation of the following provisions of this PA (in accordance with 36 CFR § 800.2 (a)): Consult with other consulting parties and the public; conduct Section 106 reviews in a timely manner; delineate and change the APE after receiving FRA or FTA concurrence for such change and inform the other signatories of the change; prepare documentation for CTSHPO, MASHPO and FRA including determinations of eligibility and effect; circulate comments from signatories; maintain documentation of the Section 106 compliance for each site specific project within the Undertaking; develop and implement a MOA, as necessary, for each Phase or appropriate site specific project within the Undertaking; invite local agencies, non-federally recognized Native American tribes, interested non-governmental organizations, and individuals to participate in the development of each MOA to agree upon means to avoid, minimize, and/or

mitigate adverse effects to historic properties; develop an archaeological treatment plan and/or a built environment treatment plan, as necessary, to be used for each Phase, or if appropriate site specific project; implement the treatment plans; and ensure project information is available to consulting parties and where appropriate, the public in concert with the CEPA/NEPA process for each Phase.

D. CTSHPO and MASHPO

CTSHPO and MASHPO shall be responsible for reviewing project documentation responding back to CTDOT in a timely manner and participating in consultation as set forth in this PA for the State of Connecticut and the Commonwealth of Massachusetts, respectively (as referenced in Attachment D).

E. Amtrak

Amtrak is responsible for identifying routine maintenance activities within the NHHS corridor that the signatories to this PA agree have no potential to affect historic properties. Such activities are further defined in Attachment G. Amtrak retains all responsibilities pursuant to FRA grant requirements for assisting FRA in compliance with Section 106 of the NHPA and 36 CFR Part 800.

III. PROFESSIONAL QUALIFICATIONS STANDARDS

All actions prescribed by this PA that involve the identification, evaluation, analysis, recording, treatment, monitoring, or disposition of historic properties, or that involve reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons who meet, at a minimum, the Secretary of the Interior's Professional Qualifications Standards of September 29, 1983 (48 FR §§ 44738-44739 and Appendix A to 36 CFR Part 61) in the appropriate discipline. Hereinafter, such persons shall be referred to as Qualified Individuals (QIs). CTDOT shall ensure that the work outlined in this PA is conducted by staff meeting these qualifications standards. However, nothing in this stipulation may be interpreted to preclude FRA or CTDOT or any agent or contractor thereof from using the services for persons who are not QIs, as long as their activities are overseen by QIs.

IV. ON-GOING CONSULTATION WITH NATIVE AMERICAN TRIBES

A. FRA

1. As the lead federal agency with responsibility for Section 106 compliance, FRA is responsible for all government-to-government consultation with federally-recognized Native American tribes. A list of federally-recognized Native American tribes contacted can be found in Attachment F, incorporated herein by reference.

2. FRA initiated government-to-government consultation by letter to all federally-recognized Native American tribes that could be affected by the Undertaking. Tribal representatives

have also been contacted by telephone, and FRA will maintain a record of those contacts and conversations.

3. FRA shall ensure that on-going consultation with federally-recognized Native American tribes continues early in the NHHS Project development process for each site specific project in the Undertaking to identify cultural, confidentiality, or other concerns including those about historic properties, and to allow adequate time for consideration of such concerns whenever they may be expressed.

4. Federally-recognized Native American tribes were provided a thirty (30) calendar day opportunity to comment on this PA.

5. In accordance with 36 CFR § 800.2(c)(2), federally-recognized Native American tribes may be identified as consulting parties for a Phase or individual site specific projects within this Undertaking and in subsequent MOAs that are prepared for site specific projects within this Undertaking as described further in Stipulation VIII.A.

6. Consultation with federally-recognized Native American tribes shall continue throughout the development of subsequent site specific projects within this Undertaking, regardless of whether such tribes have chosen to concur with this PA or whether they responded within thirty (30) days to the consultation letter sent by FRA attempting to initiate such consultations at the outset of this Undertaking.

7. FRA, with assistance from CTDOT, shall identify federally- recognized Native American tribes who will participate in a Phase or site specific project MOAs as a consulting party and shall consider future written requests to participate as consulting parties in a Phase or site specific project MOAs.

B. CTDOT

1. CTDOT may consult informally with the federally-recognized Native American tribes and will coordinate such consultation with the FRA or FTA, as appropriate (in accordance with ACHP memo July 1, 2011).

C. Consultation for each site specific project within the Undertaking

1. CTDOT shall invite federally-recognized Native American tribes that attach religious and cultural significance to historic properties that may be affected by a Phase or site specific project to participate in informal informational meetings for each site specific project. Such meetings are intended to provide project updates and to identify potential consulting parties for a MOA.

2. FRA shall consult on a government-to-government basis with federally-recognized Native American tribes identified as consulting parties that attach religious and cultural significance to historic properties that may be affected by a Phase or site specific project at key milestones

in the Section 106 and NEPA processes to gain input from tribal governments. CTDOT shall consult with all other involved non-federally-recognized Native American groups. The tribal consultation includes the following Native American consultation points:

i. During the identification of archaeological sites, federally-recognized Native American tribes may be invited to confirm the historic or cultural properties identified.

ii. During the assessment of adverse effects site records of historic properties adversely affected may be provided to federally-recognized Native American tribes for review.

iii. During the resolution of adverse effects federally-recognized Native American tribes may be consulted on (a) the development and finalization of treatment plans for archaeological and/or built environment resources and (b) the development and execution of MOAs, as appropriate.

iv. During the MOA and treatment plan implementation process federally-recognized Native American tribes may be consulted on (a) the need to provide tribal monitors at the direction of CTDOT in consultation with FRA and (b) the review and comment on the Annual Programmatic Agreement Report, including input on the treatment plan(s) and MOA implementation.

V. PARTICIPATION OF OTHER CONSULTING PARTIES, INTERESTED PARTIES, AND THE PUBLIC

A. Interested Parties and Public Involvement

Public involvement in planning and implementation of site specific projects covered by this PA shall be governed by FRA's and CTDOT's environmental compliance procedures, as set forth by CTDOT's environmental planning methods, and any advice and guidance documents. Consistent with Section 106, the public and interested parties will have an opportunity to comment and have concerns taken into account on findings identified in Section 106 survey and effects documents via attendance at public meetings where they can submit comments on the information presented, as well as access the Section 106 documents. Informational public meetings specific to historic properties and the effects of the site specific project and treatment of these properties may be held in communities within each Phase at the direction of CTDOT in consultation with FRA. Interest groups and interested individuals will be invited to comment on the treatments proposed and those with demonstrated interest in the site specific project will be invited to participate as consulting parties to the individual Phase or when appropriate site specific project MOAs.

Public involvement and the release of information hereunder shall be consistent with 36 CFR §§ 800.2(d)(1-2), 800.3(e), and 800.11(c)(1 and 3), and the Federal Freedom of Information Act of 1974, 5 U.S.C. § 552, the Connecticut Freedom of Information Act, Chapter 14 of the Connecticut General Statutes, and the implementing regulation applicable to the U.S. Department of Transportation, at 49 CFR Part 7.

B. Consulting Parties

Consulting parties shall participate in site specific projects covered by this PA in accordance with 36 CFR §§ 800.2(c)(3) through (5) and 800.3(f). Consulting parties may include other federal, state, regional, or local agencies and/or invited local organizations or interested parties that may have responsibilities for historic properties and may want to review reports and findings for a site specific project within their jurisdiction.

CTDOT shall submit to CTSHPO and/or MASHPO a list of consulting parties for each site specific project and a summary of coordination efforts and comments received. CTSHPO and/or MASHPO shall submit comments, including recommendations for additional parties to CTDOT within thirty (30) days. CTDOT shall revise and update this information as necessary based on CTSHPO's and/or MASHPO's comments, and re-submit them to CTSHPO and/or MASHPO as part of the reports to be prepared under Stipulation VI. CTDOT and FRA shall also consider interest groups' and individuals' written requests to participate as consulting parties in the development of measures to avoid, minimize, and mitigate adverse effects to historic properties.

VI. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

A. Area of Potential Effects

The APE for each site specific project will be determined by CTDOT in accordance with the APE Delineation Guidelines (Attachment C, incorporated herein by reference). As described in Attachment C, throughout the design process, CTDOT will determine if revisions to a site specific project require modifications to the APE. If an APE requires revisions, CTDOT is responsible for informing the signatories, consulting federally-recognized Native American tribes, and other consulting parties within fifteen (15) days of identification of the needed changes.

B. Identification of Historic Properties

1. The signatories to this PA along with the concurring parties agree that CTDOT will have the responsibility to identify historic properties and prepare documentation in accordance with Attachment D, incorporated herein by reference. As appropriate, the methods set forth in Attachment D may be modified for the specific needs of the Undertaking or site specific project in consultation with the signatories and in accordance with QI review and current professional standards. Findings of eligibility shall be made by CTDOT based on NRHP criteria (36 CFR § 60.4) and evaluated in accordance with provisions of 36 CFR § 800.4(c). The finding shall be transmitted for FRA review and approval. Evaluation methods and criteria shall be consistent with the Secretary of the Interior's Standards and Guidelines for Evaluation (48 FR §§ 44729-44738 and 36 CFR Part 63) and shall be completed by QIs qualified in the appropriate discipline of archaeology or architectural history.

2. The Inventory of Historic and Archaeological Assets of the Commonwealth of Massachusetts contains highly sensitive archaeological site locational information, including human burials, and disclosure may be limited consistent with 36 CFR §§ 800.6(a)(5) and; 800.11(c);

Massachusetts General Laws Chapter 9, sections 26A(1) and (5)) and other applicable federal and state laws. Any NHHS Project documents intended for public review should not include sensitive archaeological site locational information. Any documentation prepared with such information should be prominently labeled "Confidential. Not for Public Release" and the distribution strictly controlled by the party in possession of the documentation. The parties shall consult with the MASHPO prior to disseminating this information.

3. Historic properties shall be identified to the extent possible within the APE for each of the five (5) Phases and when appropriate site specific projects within the Undertaking that comprise the NHHS Project and will be documented in individual technical reports as described in Attachment D, incorporated herein by reference. The content, methodology, level of effort, and documentation requirements for historic property evaluations in the technical report shall follow federal and state guidelines and instructions, and are provided in Attachment D, incorporated herein by reference. The identification effort and ineligible properties shall be documented in separate technical reports for archaeological properties and historic architectural properties, the drafts of which will be submitted for review by the signatories and other consulting parties including tribal historic preservation officers (THPOs) and tribal representatives who have expressed an interest in the Phase or site specific project.

   i. Archaeological properties include precontact and historic period archaeological sites, properties identified as per 36 CFR § 800.4(a)(4), objects and districts. Evaluations shall be made by QIs fully qualified in the discipline of archaeology. Archaeological properties within the APE shall be documented in the technical report. The content, methodology, level of effort, and documentation requirements for archaeological evaluations in the technical report are provided in detail in Attachment D, incorporated herein by reference. A list of archaeological resources exempt from evaluation is provided in Attachment E, incorporated herein by reference. Any archaeological investigations that may be required for Phases or site specific projects of the NHHS Project in Massachusetts shall be conducted under a State Archaeologist's permit (950 CMR 70). A State Archaeologist's permit application shall be submitted to the MASHPO by a qualified professional archaeologist (QI) retained by the project proponent. The goal of the investigation is to locate and identify any significant archaeological resources that could be affected by the NHHS Project, well in advance of any NHHS Project construction. The results of the survey will be used in consultation with signatories of a MOA for a Phase and/or site specific project in order to avoid, minimize, or mitigate adverse effects to identified significant archaeological resources. This requirement shall be incorporated into all archaeological treatment plans proposed for Phases of the NHHS Project or Phase site specific project in Massachusetts.

   ii. Historic architectural properties include historic buildings, structures, objects, sites, landscapes and districts. Evaluations shall be made by QIs fully qualified in the discipline of architectural history. Historic architectural properties within the APE that are identified by QIs as historic properties shall be documented in the technical report. Historic architectural properties evaluated as ineligible for the NRHP by QIs shall be documented in the technical report. The content, methodology, level of effort, and

documentation requirements for historic architectural evaluations in the technical report are provided in detail in Attachment D, incorporated herein by reference. A list of historic architectural property types exempt from evaluation is provided in Attachment E, incorporated herein by reference.

4. Other categories of properties that do not warrant evaluation, including those that are minor, fragmentary, or do not meet age or integrity requirements, are exempt from evaluation in the technical report, and are identified in Attachment E, incorporated herein by reference.

5. A property less than 50 years old with potential exceptional significance or a property greater than 50 years old with characteristics indicating potential eligibility for the NRHP that is determined by a QI as ineligible for the NRHP that is not among the exempt property types identified in Attachment E, incorporated herein by reference, shall be evaluated and documented in the technical report if it meets one of the following conditions:

   i. The property was identified as significant in a state, regional, or local survey of historic properties.

   ii. The property was designated under a state, regional, or local ordinance with criteria for evaluating properties with historic or architectural significance.

   iii. The property was identified by CTSHPO, MASHPO, THPO, or any party identified as a result of Stipulations IV and V.

   iv. The property would be acquired, destroyed, demolished, or substantially altered as a result of the site specific project.

C. Evaluation of Historic Properties

1. Upon review and concurrence of the findings by FRA, technical reports prepared in accordance with Attachment D, incorporated herein by reference, will be submitted by CTDOT to the signatories and identified consulting parties (including federally-recognized Native American tribes) upon request and would include documentation of all properties in the APE that are listed in the NRHP, previously determined eligible for the NRHP, found eligible for the NRHP by QIs, or that appear ineligible for the NRHP but meet one of the conditions in B.5 of this stipulation. Known archaeological properties that cannot be evaluated prior to approval of a site specific project will be presumed NRHP eligible. Where archaeological testing to determine NRHP eligibility is feasible, Phase or site specific project MOAs may, as determined appropriate by CTDOT in consultation with FRA, include a provision for treatment plans that include archaeological testing or use of a combined archaeological testing and data recovery program.

2. CTDOT shall submit its findings (identified as a result of Stipulations IV.C. and V.B.) in the technical reports to the signatories and consulting parties, including federally-recognized Native American tribes, identified as a result of Stipulations IV.C and V.B, who shall have thirty (30) days to review the technical report findings and provide their recommendations for changes to the findings based on National Register criteria (36 CFR § 60.4). If no

objection is made within the thirty (30)-day period, consistent with Stipulation VI.D, the findings for those historic properties shall become final.

3. If, after the submission of the final technical report, there are changes to the APE that include additional properties not exempt from evaluation per Attachment D or when information is received that FRA determines requires further analysis, that there may be additional historic properties within the APE, a supplemental technical report will be prepared, and distributed following review by FRA, to CTSHPO, MASHPO and all parties who received the final technical report for a fifteen (15)-day review and comment period. If no objection is made within the fifteen (15)-day period, consistent with Stipulation VI.D., the findings for those historic properties in the supplemental technical report shall become final.

D. Eligibility Disagreements

Should a disagreement arise regarding the NRHP eligibility of a property in the APE for a site specific project, FRA shall forward the Determination of Eligibility documentation to the Keeper of the National Register (Keeper) for resolution in accordance with 36 CFR § 800.4(c)(2) if:

1. CTSHPO, MASHPO or a federal agency with jurisdiction over the involved lands objects to the Keeper in writing within thirty (30) days to a Finding of Eligibility; or

2. A Native American tribe or group that ascribes traditional religious and cultural significance to a property objects to the Keeper in writing within thirty (30) days to a Finding of Eligibility regarding that property; or

3. FRA is not able to resolve that objection through consultation with the CTSHPO or MASHPO and the objecting party (identified in D.1 and D.2 of this stipulation above) as provided for in Stipulation XVII.A.

Should a member of the public disagree with any NRHP eligibility determinations, CTDOT shall inform FRA and any affected signatories and take the appropriate objection into account. CTDOT shall consult for no more than thirty (30) days with the objecting party and, with any or all of the other signatories. CTDOT shall document such consultation efforts and submit the findings in writing to FRA for review. FRA's decision regarding resolution of the objection from a member of the public will be final.

E. Phased Identification

In accordance with 36 CFR § 800.4(b)(2), phased identification may occur in situations where identification of historic properties cannot be completed. In these cases, subsequent MOAs will provide a provision for the development and implementation of a post-review identification and evaluation effort as applicable to the Phase and/or site specific project of the Undertaking.

VII. ASSESSMENT OF ADVERSE EFFECTS

A. If historic properties are identified within the Undertaking, CTDOT shall assess adverse effects in accordance with 36 CFR § 800.5 and document its assessment in a technical report, providing it to FRA for review, for each site specific project where historic properties were identified within the APE. The technical report shall describe the assessment of potential adverse effects to historic properties that would result from the construction of the site specific project or operation of the NHHS Project, and identify mitigation measures that would eliminate or minimize effects to be incorporated into the design and construction documents of the Undertaking. Following FRA review and concurrence, CTDOT shall distribute the technical report to the signatories, and other consulting parties, including federally-recognized Native American tribes, identified as a result of Stipulations IV.C and V.B, who shall have a thirty (30)-day review and comment period. CTDOT shall ensure that comments received within that thirty (30)-day period are considered prior to finalizing the technical report for submission to the SHPO for final review and concurrence. The CTSHPO or MASHPO shall have an additional thirty (30) days for review and concurrence with the final technical report.

B. Pursuant to 36 CFR § 800.10 and Section 110 (f) of the NHPA as amended through 1992, FRA will notify and invite the Secretary of the Interior (represented by the National Park Service regional office's program coordinator) to comment when any Phase or site specific project may adversely affect a National Historic Landmark.

C. Consistent with 36 CFR. § 800.5(b) and (d)(1), FRA may determine that there is no adverse effect on historic properties within the APE when the effects of the site specific project would not meet the Criteria of Adverse Effect set forth in 36 CFR § 800.5(a)(1), when the site specific project is modified to avoid adverse effects, or if conditions agreed upon by the SHPO to avoid adverse effects are imposed, such as subsequent review of plans for rehabilitation by the CTSHPO/MASHPO and/or THPO to ensure consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 68) and applicable guidelines is not necessary. Any conditions would be documented by the written concurrence of the consulting parties. CTDOT will submit all such written concurrence documents to FRA, which is responsible for ensuring compliance with all conditions to avoid adverse effects.

VIII. TREATMENT OF HISTORIC PROPERTIES

A. Memoranda of Agreement

A MOA will be developed by CTDOT for each Phase and/or, when appropriate, site specific project that FRA determines with SHPO concurrence would have an adverse effect to historic properties and/or when phased identification is necessary.

1. The signatories to this PA concur that the potential cumulative effects of the site specific projects on the Historic Line would be resolved through the implementation of the NHHS Corridor Level treatment plan presented in Attachment B, incorporated herein by reference.

Potential cumulative effects include, but are not limited to, the construction of elevated platforms and pedestrian bridges at multiple historic passenger stations that affect the integrity of setting of the Historic Line. Individual MOAs will be implemented to resolve adverse effects, if any, to specific individual contributing historic resources to the Historic Line or other historic properties within each NHHS Project Phases' site specific projects' APE.

2. Each MOA will include avoidance, minimization, and protective measures for eligible properties identified in the technical reports such as preservation-in-place; processes for addressing project design changes or refinements after the technical reports for each Phase or site specific project are completed, and a process for efficiently addressing unanticipated, discoveries in the post-review period.

3. FRA will notify the ACHP of any findings of adverse effect and invite the ACHP to participate in the development of the MOAs pursuant to 36 CFR § 800.6(a)(1)(i)(c), as appropriate.

4. Should Native American tribes or groups decline to participate as signatories to a site specific project or Phase specific MOA, they will not be provided documentation regarding treatment that is called for in that site specific MOA. Native American tribes and groups will continue to receive information on subsequent site specific project or Phase specific MOAs as part of the NEPA process and may request to consult at any time on a Phase or a site specific project, or request additional coordination with CTDOT or FRA.

5. Pursuant to 36 CFR §§ 800.11(e) through (g), views of the public will be considered and included where appropriate in individual Phase or, when appropriate, site specific project MOAs.

6. Upon review, concurrence, and execution of any such MOA, Section 106 review will be considered concluded for that Phase or, when appropriate, that site specific project; though coordination and compliance efforts will continue according to the terms of this PA and the subject MOA.

B. Individual Treatment Plans

1. A treatment plan will be developed by CTDOT for each Phase or site specific project as necessary, in consultation with FRA, when National Register listed or eligible archaeological properties, historic buildings or structures will be adversely affected by a Phase or site specific project. The treatment plan will include, respectively:

   i. For the built environment the treatment plan: detailed descriptions of treatment measures for eligible buildings, structures, objects, landscapes and districts that will be affected by a Phase or site specific project. It will also include descriptions of measures to be taken to protect historic properties and to avoid further adverse effects to historic properties. In

accordance with 36 CFR § 800.5(a)(1), it will take into account the cumulative and foreseeable effects of the NHHS Project on historic architectural properties.

ii. For archaeological properties: detailed descriptions of protection measures for archaeological resources and resources of importance to federally recognized Native American tribes or Native American groups because of cultural affinity will be provided. This report could include but is not limited to the establishment of archaeologically sensitive areas, use of preconstruction archaeological excavation, preservation-in-place, avoidance, minimization, monitoring during construction where appropriate, procedures to be followed when unanticipated discoveries are encountered, processes for evaluation and data recovery of discoveries, responsibilities and coordination with federally recognized Native American tribes, Native American groups, compliance with the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) as appropriate, 25 U.S.C. § 3001 et seq., compliance, and curation of recovered materials.

2. Each treatment plan will address historic properties adversely affected and set forth means to avoid, protect, or develop treatment measures to minimize the site specific project's effects where CTDOT, in consultation with the appropriate agencies, CTSHPO and/or MASHPO, and other MOA signatories, determines that adverse effects cannot be avoided. The treatment plans will conform to the principles of the Council's Treatment of Archaeological Properties: A Handbook Parts I and II, the "Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation" (48 Fed. Reg. 44716-44742 (September 29, 1983)), and appropriate CTSHPO and MASHPO Guidelines. CTDOT will take into consideration the concerns of the consulting parties in determining the measures to be implemented.

3. Each treatment plan will include, but not be limited to, the content outlined in Attachment B, incorporated herein by reference, for treatment plans. The consultative procedure through which a treatment plan is developed will address the adverse effect of any site specific project on historic properties and indicate that the treatment plan will be incorporated into a MOA.

C. Treatment Plan Reviews

1. Signatory Review

CTDOT shall provide the treatment plans to FRA for review and approval, prior to providing them to MOA signatories and MOA concurring parties for the thirty (30)-day review and comment period. Based on comments received from FRA, treatment plans will be revised by CTDOT and resubmitted to FRA, MOA signatories and MOA concurring parties for a final thirty (30)-day review. If FRA, MOA signatories and/or MOA concurring parties fail to comment within thirty (30)-days of receiving the treatment plan, CTDOT may assume concurrence of the other parties and proceed with the implementation of the treatment plan. CTDOT and FRA will make a good faith effort to identify major alterations to treatment plans that substantively affect mitigation measures and seek additional consultation with the other MOA signatories before approving revised treatment plans. Where warranted, such good faith efforts shall include submittal of the draft revised treatment plan to the MOA signatories a minimum of fifteen (15) calendar days prior to the anticipated approval of the

revisions. Disputes will be resolved in accordance with the Dispute Resolution clause in Stipulation XVII.A.

2. Public Participation

CTDOT shall take reasonable steps to provide opportunities for members of the public to express their views on the treatment plans. Opportunities for public input may include the distribution of treatment plans consistent with 36 CFR §§ 800.2(d)(1-2), 800.3(e), and 800.11(c)(1) and (3). Where appropriate, CTDOT will hold informational meetings with the public to explain the treatment plans and obtain comment. Any public comments received will be considered and incorporated into the treatment plans as appropriate.

D. Treatment Plan Implementation

1. Upon execution of each MOA and prior to the commencement of construction activities, each related treatment plan will be implemented. Depending upon the nature of the treatment, the treatment may not be completed until after the site specific project, Phase, or the Undertaking is completed. Termination of the site specific project after initiation of the treatment plans will require completion of any work in progress, and amendment of each treatment plan as described below. Each MOA will outline appropriate reporting processes for the treatment plans.

2. Dispute Resolution

The parties participating in the development and implementation of the treatment plans will come to agreement on the treatment prescribed in and the implementation of the treatment plan in the MOA. If the parties are unable to come to agreement on the treatment of adverse effects in the MOA, the procedures outlined in Stipulation XVII.A will be followed to resolve the dispute.

IX. CHANGES IN ANCILLARY AREA/CONSTRUCTION RIGHT-OF-WAY

CTDOT will notify the MOA signatories and consulting parties of changes in the size or location of the construction right-of-way that result in changes to the APE, or effects to historic properties (see Attachment C, incorporated herein by reference) as appropriate. If any changes result in the use of unsurveyed areas, CTDOT will ensure that these areas are surveyed in order to locate any potentially significant cultural resources and that those resources are evaluated for NRHP eligibility. CTDOT will consult with the MOA signatories and consulting parties regarding any newly identified historic properties that cannot be avoided. Protective and/or mitigation measures will be developed and the treatment plans will be amended and implemented in accordance with Stipulation VIII. All such changes will be documented in the Annual Programmatic Agreement Report.

X. CONSTRUCTION APPROVAL

Upon the completion of the pre-construction activities prescribed in the treatment plans and after treatment plan implementation where adverse impacts would occur, and in accordance with the provisions of the applicable MOA, or where no historic properties were identified, CTDOT may (subject to Amtrak's approval as owner of the Springfield Line) authorize construction within portions of the APE. If concurrence of the approval to proceed cannot be reached among the signatories, the dispute will be resolved in accordance with Stipulation XVII.A.

XI. DISCOVERIES, UNANTICIPATED ADVERSE EFFECTS, UNANTICIPATED DAMAGE

In accordance with 36 CFR § 800.13(a)(2), if a previously undiscovered archaeological, historical, or cultural property is encountered during construction, or previously known properties will be affected or have been affected in an unanticipated adverse manner, CTDOT will implement the following procedures:

A. CTDOT shall ensure that all operations for the portion of the site specific project with the potential to affect an historic property are immediately ceased and will contact FRA and affected MOA signatories, if appropriate, upon discovery of an unanticipated resource ;

B. CTDOT shall make a preliminary determination of the National Register eligibility of the historic property and the potential for the site specific project to adversely affect the resource and shall forward that finding to FRA who will make the final eligibility determination. If adverse effects to the resource can be avoided, no consultation with MOA signatories and consulting parties is necessary. If adverse effects cannot be avoided, CTDOT will consult with the MOA signatories and propose treatment measures to minimize the effects;

C. CTDOT shall notify federally-recognized Native American tribes of any discoveries that have the potential to adversely affect properties of religious or cultural significance to them. After being notified of such discoveries, the Native American tribes can request further consultation on the site specific project by notifying CTDOT, in writing or other documented means within three (3) business days. For interested Native American groups that are not federally-recognized, CTDOT shall notify them of any discoveries that have the potential to adversely affect properties of religious or cultural significance to them. After reviewing such discoveries, such interested Native American groups can request further consultation on the site specific project by notifying CTDOT in writing within three (3) business days;

D. CTDOT shall implement the avoidance, minimization, or treatment plan and advise FRA and other signatories of the satisfactory completion of the approved work. Once the approved work is completed, the activities that were halted to address the discovery of resources may resume;

E. Any treatment to damaged properties will follow the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 68). If CTDOT determines damaged property should be repaired after construction is completed, then stabilization measures that will prevent and not cause further damage will be undertaken;

F. If a National Historic Landmark is affected, CTDOT shall include the Secretary of the Interior represented by the National Park Service regional office's program coordinator and the ACHP in the notification process.

XII. CONFIDENTIALITY

All parties to this PA shall ensure that shared data, including data concerning the precise location and nature of historic properties and properties of religious and cultural significance are protected from public disclosure to the greatest extent permitted by law, consistent with applicable confidentiality requirements and federal records management requirements (Stipulation XV.B.) including conformance to Section 304 of the NHPA, as amended, and the regulations implementing the NHPA, specifically 36 CFR § 800.11(c) and Section 9 of the Archaeological Resource Protection Act as amended 1988 (ARPA) and Executive Order on Sacred Sites 13007 FR 61-104 dated May 24, 1996.

XIII. HUMAN REMAINS

A. Notification and Treatment

1. If human remains are discovered during construction activities, all construction will cease within 100 feet in all directions of the human remains and CTDOT will immediately notify the appropriate parties in accordance with the site specific project's treatment plan. Human remains and grave goods will be treated in accordance with the treatment plan.

2. Federal agencies party to this PA will be responsible for curation of all records and other archaeological items resulting from identification and data recovery efforts on federal lands within the agency's jurisdiction. This includes ensuring that the disposition of any human remains and associated funerary objects of Native American origin encountered on federal land during any action subject to this PA complies with § 3(c)(d) of the National American Graves Protection and Repatriation Act (NAGPRA), and its implementing regulations codified at 43 CFR § 10.

3. Any human remains and funerary objects discovered on non-federal land within the State of Connecticut during the implementation of the terms of this PA and during the implementation of the Undertaking itself will be treated by CTDOT in accordance with the requirements of Connecticut General Statutes Section 10-388.

4. Within the Massachusetts portions of the NHHS Project impact area, identified human remains shall be protected and treated consistently with the Massachusetts Unmarked Burial Law (Massachusetts General Laws, Chapter 38, § 6; Chapter 9,§§ 26A and 27C; and Chapter 7, § 38A; all as amended). Any non-Native American human remains shall be treated in accordance with the Massachusetts Historical Commission "Policy and Guidelines for Non-Native Human Remains Which are Over 100 Years Old or Older."

5. All human remains shall be treated in a manner consistent with the ACHP "Policy Statement regarding Treatment of Human Burial Sites, Human Remains and Funerary Objects" (February 23, 2007; http//www.achp.gov/docs/hrpolicy0207.pdf).

B. Final Disposition of Human Remains

FRA and CTDOT will ensure that every effort is taken to avoid disturbing known human burial sites within Connecticut and Massachusetts. Where avoidance is not possible, and in consultation with appropriate tribal representatives and if applicable, federal land management agencies with jurisdiction, burials will be removed prior to construction and treated in accordance with applicable federal and state laws and as outlined in the treatment plan developed for each site specific project within the Undertaking.

XIV. CURATION

A. Collections from Federal Lands

Federal agencies party to this PA will ensure curation of all records and other archaeological items resulting from identification and data recovery efforts on federal lands is completed in accordance with 36 CFR Part 79, and if the archaeological materials are determined to be of Native American origin, the agencies will follow NAGPRA regulations and procedures set forth in 43 CFR Part 10. CTDOT shall ensure that documentation of the curation of these materials is prepared and provided to the affected parties to this PA within ten (10) days of receiving the archaeological materials.

B. Collections from Private Lands

Private landowners, including Amtrak, will be encouraged by FRA and/or CTDOT to curate archaeological materials recovered from their lands in accordance with 36 CFR Part 79 and the provisions of 43 CFR Part 10. Materials from private lands to be returned to the private landowners after completion of the site specific project shall be maintained in accordance with 36 CFR Part 79, and 43 CFR Part 10 if the archaeological materials are determined to be of Native American origin, until all necessary analysis has been completed. CTDOT shall document the return of materials to private landowners or alternate curation facilities and submit copies of this documentation to the affected parties to this PA.

C. State Lands

CTDOT will ensure that all cultural materials discovered on state lands will be curated in accordance with 36 CFR Part 79, and if the archaeological materials are determined to be of Native American origin, the provisions of 43 CFR Part 10. CTDOT will encourage state land agencies to consult with Native American tribes and groups, affiliated with the cultural materials, on repatriation. Appropriate treatment and disposition may occur through onsite reburial of the cultural materials recovered from state lands. In the event that the state agencies and consulting tribes cannot agree, FRA will ensure that all cultural materials

discovered on state lands will be curated in accordance with the Phase and, when appropriate, the site specific project MOA and treatment plan.

XV. DOCUMENTATION STANDARDS

A. All documentation that supports the findings and determinations made under this PA shall be consistent with 36 CFR § 800.11 and shall be in accordance with requirements and its subsequent revisions or editions and with attachments of this PA. Documentation shall be submitted to CTDOT and prepared by QIs who, at a minimum, meet the Secretary of the Interior's Professional Qualifications Standards of September 29, 1983 (48 FR §§ 44738-44739 and Appendix A to 36 CFR Part 61). CTDOT shall review the documentation for adequacy, and transmit all documentation cited herein as stipulated by this PA.

B. All documentation prepared under this PA shall be kept on file at CTDOT and FRA and made available to the public without the inclusion of culturally sensitive information that may jeopardize confidentiality as stipulated by this PA, consistent with applicable confidentiality requirements and federal records management requirements.

XVI. AUTHORITIES

Compliance with the provisions of this PA does not relieve FRA or other federal agencies of any other responsibilities not described in this PA to comply with other legal requirements, including those imposed by NAGPRA (25 U.S.C. § 3001 November 16, 1990 and 43 CFR Part 10), the ARPA as amended in 1988 (16 U.S.C. §§ 470 aa-47011), and NEPA as amended 1982 (42 U.S.C. §§ 4321-4347), and applicable Executive Orders.

XVII. ADMINISTRATIVE STIPULATIONS

A. Dispute Resolution

1. Notwithstanding the process outlined in Stipulation VI.D, should any signatory to this PA object within thirty (30) days to any action proposed or any document provided for review pursuant to this PA, FRA shall consult with the objecting signatory to resolve the objection. If FRA determines that the objection cannot be resolved within fifteen (15) days, FRA shall forward all documentation relevant to the dispute, including FRA's proposed resolution, to the ACHP with copies to all signatories and consulting parties for the Undertaking. ACHP shall provide FRA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FRA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the signatories and consulting parties, including federally-recognized Native American tribes, and provide them with a copy of this written response. FRA will then implement any action determined by this dispute resolution process and proceed according to its final decision.

   If ACHP does not provide its advice regarding the dispute within thirty (30) days, FRA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final

decision, FRA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and consulting parties for the Undertaking, and provide them and ACHP with a copy of such written response.

B. Amendment

1. Any signatory to this PA may request, in writing, that it be amended, whereupon the signatories will consult to consider such amendment. This PA may be amended only upon written concurrence of all signatory parties to this PA.

2. To address changes in the treatment of specific historic or archaeological properties affected by the Undertaking, CTDOT may propose revisions to the treatment plans or MOAs, as appropriate, rather than to this PA. Upon concurrence of the signatories, CTDOT and FRA may revise the treatment plans to incorporate the agreed upon changes without executing a formal amendment to this PA. A MOA may be amended only upon written concurrence of all signatory parties.

3. Revisions to an attachment to this PA would be implemented through consultation between signatories and include any necessary revisions to the PA itself that may result from modification of an attachment.

C. Review and Reporting

1. The signatories and consulting parties, including federally-recognized Native American tribes, may review activities carried out by CTDOT pursuant to this PA. CTDOT shall facilitate this review by compiling specific categories of information to document the effectiveness of this PA and by making this information available in the form of a written Annual Programmatic Agreement Report. Categories of information shall include, but are not limited to, a summary of actions taken under this PA, including all findings and determinations, public objections, and inadvertent effects or foreclosures. The range and type of information included by CTDOT in the written report and the manner in which this information is organized and presented must be such that it facilitates the ability of the reviewing parties to assess accurately the degree to which the PA and its manner of implementation constitute an efficient and effective program under 36 CFR Part 800.

2. CTDOT shall prepare the written report of these findings annually following execution of this PA. CTDOT shall submit the annual reports to FRA, CTSHPO, and MASHPO no later than three (3) months following the end of the State fiscal year until all treatment is completed. There will be a thirty (30)-day period to review and comment on the report. The Annual Programmatic Agreement Report will be finalized within thirty (30) days of receipt of comments.

3. CTDOT shall provide that the report herein prescribed is available for public inspection. The report, and any subsequent MOAs, will be sent to the signatories and consulting parties to

this PA and to federally-recognized Native American tribes, and will be made available for public comment, upon request.

D. Termination

FRA, FTA CTSHPO, MASHPO, or CTDOT may terminate this PA by providing thirty (30) days written notice to the other signatories. The signatories shall consult during the 30-day period prior to termination to seek agreement on amendments or other actions that would avoid termination. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with that agreement. In the event of termination, then FRA shall either consult in accordance with 36 CFR § 800.14(b) to develop a new agreement or request the comments of the ACHP pursuant to 36 CFR Part 800. Beginning with the date of termination, FRA shall ensure that until and unless a new agreement is executed for the actions covered by this PA, such site specific projects shall be reviewed individually in accordance with 36 CFR §§ 800.4-800.6.

E. Duration of this Programmatic Agreement

In the event that the terms of this PA are not carried out within ten (10) years, this PA shall be assessed by the signatories to determine if it is still needed and working effectively, or whether it should be terminated. If the PA is effective and its duration needs to be extended, the signatories can decide to extend the duration of the PA. If the signatories determine that the PA is effective, but needs revisions, revisions will be made. In the event the signatories determine that the PA is not effective and cannot be amended to address concerns, the PA shall be considered null and void, memorialized in a letter to the signatories from FRA. If FRA or another federal agency party to this PA chooses to continue with the Undertaking, it shall re-initiate review of the Undertaking in accordance with 36 CFR Part 800.

Notwithstanding the foregoing, the terms and conditions of this PA shall apply to the routine maintenance activities outlined in Attachment G until any of the signatories give written notice to each other and Amtrak that they wish to terminate or reevaluate this PA or revisit the applicability of Attachment G.

F. Nothing herein shall be interpreted as requiring Amtrak to make or accept any changes to the Springfield Line without its express approval.

G. Execution and Implementation of the Programmatic Agreement

This PA and its incorporated attachments shall take effect following execution by the signatories. Subsequent attachments will take effect on the date they are incorporated into a MOA according to the procedures set forth in the Stipulations herein.

Amendments to this PA shall take effect on the dates they are fully executed by FRA, FTA CTSHPO, MASHPO, and CTDOT.

Execution of this PA by FRA, FTA, CTDOT, CTSHPO, and MASHPO and implementation of its terms evidence that FRA has taken into account the effects of this Undertaking on historic properties.

SIGNATORY PARTIES

Federal Railroad Administration
Federal Transit Administration
Commissioner Connecticut Department of Transportation
Connecticut State Historic Preservation Officer
Massachusetts State Historic Preservation Officer

CONCURRING PARTIES

National Railroad Passenger Corporation (Amtrak)
Tribal Historic Preservation Officer, Mohegan Indian Tribe

SIGNATORY PARTIES

Federal Railroad Administration

By: _____ Date: 8/9/12

Paul Nissenbaum
Associate Administrator, Railroad Policy and Development

SIGNATORY PARTY

Federal Transit Administration

By: _____ Date: 8/1/12
Mary Beth Mello
Regional Administrator

By: _____ Date: 8/1/12
Wendy Lee
Regional Counsel

SIGNATORY PARTY

Commissioner Connecticut Department of Transportation

By: James Redeker Date: 7/24/12

SIGNATORY PARTY

Connecticut State Historic Preservation Officer

By: David T Ford Date: 8·2·2012
Authorized signatory for Christopher Bergstrom (SHPO)

SIGNATORY PARTY

Massachusetts State Historic Preservation Officer

By: Brona Simon Date: July 26, 2012

CONCURRING PARTY

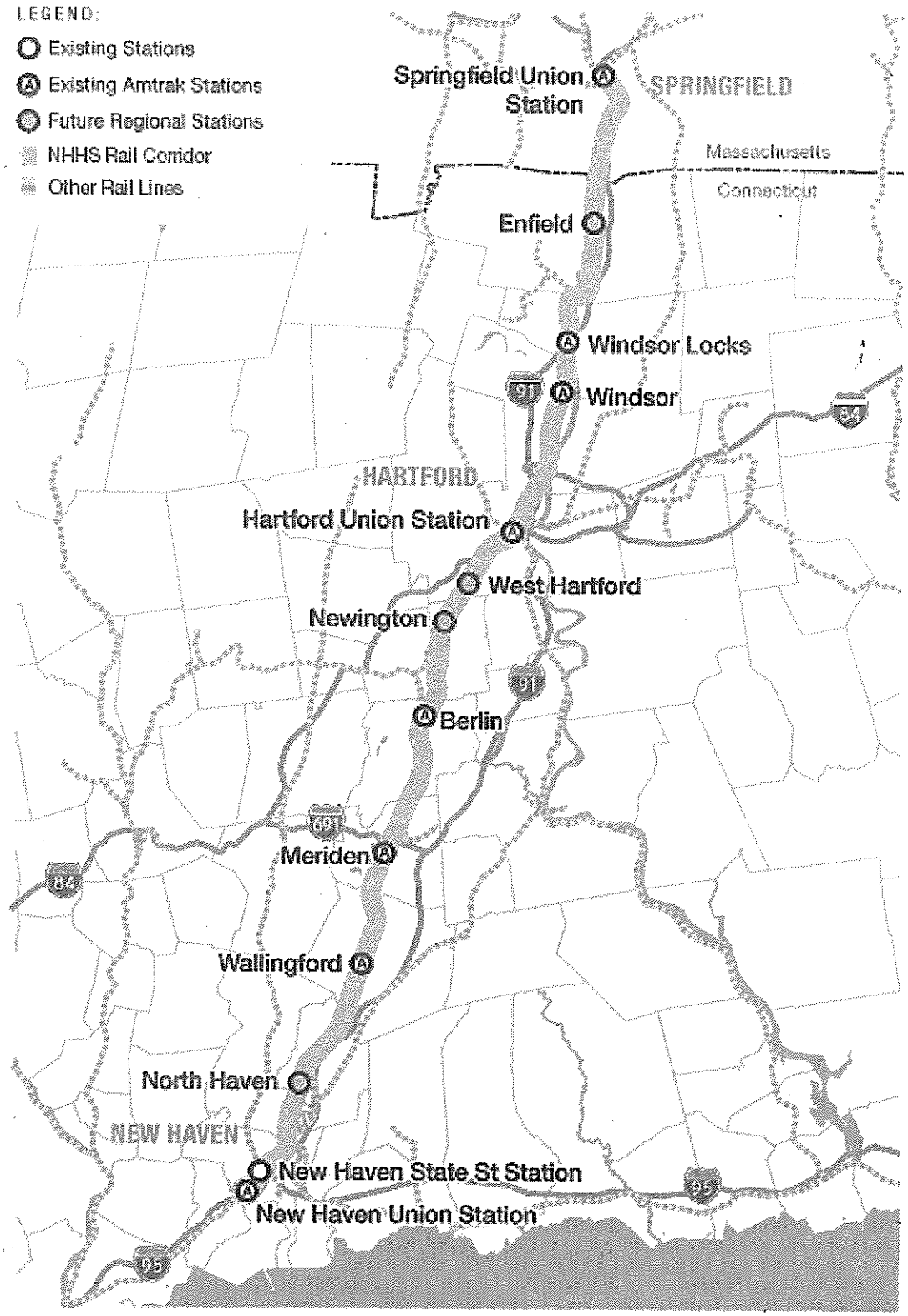
National Railroad Passenger Corporation (Amtrak)

By: _____ Date: 8/2/12
Joseph H. Boardman

APPROVED AS TO FORM:

BY: Michael Stern
Counsel for National Railroad
Passenger Corporation

ATTACHMENT A
PROJECT AREA MAP



ATTACHMENT B
Historic New Haven – Hartford – Springfield Rail Line Historic District
Corridor Level Treatment Plan

The Federal Railroad Administration (FRA) in consulation with the signatories to this Programmatic Agreement (PA) has determined that the Historic New Haven – Hartford – Springfield Rail Line (Historic Line) between the southern and northern termini of the New Haven-Hartford-Springfield Corridor (NHHS Corridor) is eligible for listing in the National Register of Historic Places (NRHP) (36 CFR § 60.4) under Criteria A and C as an historic district.

The signatories to this PA concur that the Undertaking and the five (5) individual Phases that constitute the NHHS Project may potentially have adverse effects on the historic properties within the NHHS Corridor.

The signatories to this PA concur that treatments for these potential adverse effects, as described in this Treatment Plan, will satisfy the Massachusetts State Historic Preservation Officer's (MASHPO) potential concerns within the Commonwealth of Massachusetts and the Connecticut State Historic Preservation Officer's (CTSHPO) potential concerns with adverse effects to historic properties within the State of Connecticut.

If an action associated with the replacement of multiple masonry bridges and culverts, or alterations to historic stations along the Historic Line is determined to have an adverse effect or an adverse cummulative effect on the Historic Line or property, the following measures will be implemented by the Connecticut Department of Transportation (CTDOT) for work in the State of Connecticut, or Massachusetts Department of Transportation should it accept NHHS project funding from CTDOT, to treat defined adverse effects:

1. To provide citizens with an opportunity to learn about the historic significance of the Historic Line, as well as the architectural and engineering importance of the extant resources, CTDOT will construct and install museum-quality publicly-accessible educational signage/exhibits at all affected station house locations within the NHHS Corridor. Installation of the signage/exhibits will be concurrent with planned site specific project work on or at such station.

    A. Within six months of the execution of this PA, CTDOT will submit to CTSHPO and MASHPO a draft Corridor Exhibit Design Guide that ensures a cohesive style and format for the NHHS Project interpretive and educational exhibits. CTSHPO and MASHPO will have 30 calendar days to provide comments on the draft. CTDOT will take the comments of CTSHPO and MASHPO into account before finalizing the Corridor Exhibit Design Guide.

    B. CTSHPO and MASHPO will review and approve of all individual educational exhibits through all phases of the design. Designs will be consistent with the final

Corridor Exhibit Design Guide. CTSHPO will review signage and exhibits for Connecticut Phases of NHHS; MASHPO will review all Massachusetts signs and exhibits. Installation of the exhibits will be concurrent with the completion of the proposed site specific project construction work at each station location. Any dispute will be arbitrated by FRA.

2. If the site specific project will have an adverse effect on any historic passenger station within the NHHS corridor, CTDOT will consult with the appropriate SHPO and complete an Historic American Building Survey (HABS) documentation on that station in accordance with 48 FR §§ 44731-44734 of September 29, 1983. If HABS-level documentation of individual stations has been completed within the 10 years previous to the execution of the PA, no additional documentation will be required. HABS-level documentation older than 10 years in age will be updated to provide a detailed record of the stations prior to alterations if alterations occurred in the last ten years prior to execution of this PA. Copies of the HABS-level documentation will be provided to CTSHPO, MASHPO, and the Library of Congress within one year of the completion of the site specific project.

3. If it is determined that the site specific project will have an adverse effect to the Farmington River Bridge, prior to any physical alteration of the structure, CTDOT will complete an Historic American Engineering Record (HAER) documentation of the bridge. Draft HAER documentation will be submitted to CTSHPO for review and CTSHPO will have 30 calendar days from receipt of the draft document to respond with comments and requests for amendments to the documentation. CTDOT will consider CTSHPO's comments in preparation of the final HAER documentation and will submit individual hard copies of the documentation to the Library of Congress and CTSHPO within one year of the completion of the site specific project.

4. Prior to the physical alteration of historic bridges (except the Farmington River Bridge) and culverts listed in the NHHS EA/EIE as contributing resources to the Historic Line and where the alterations are not specifically exempted from review (Attachment E), CTDOT will prepare historic documentation consistent with CTSHPO and MASHPO standards for the affected structures. The documentation will be prepared as stand alone reports for site specific project within the larger Undertaking whether funded currently or subsequent to the execution of this PA. Draft historic documentation files will be submitted to CTSHPO and MASHPO as appropriate for review and the agencies will have 30 calendar days to respond with comments and requests for amendments. If no response is recieved within 30 days of the draft submittal, CTDOT will submit two hard copies of finalized documentation reports to CTSHPO and/or MASHPO as it may be.

5. CTDOT, in consultation with CTSHPO, will identify at least one and no more than five vacant historic industrial properties adjacent to the Historic Line in Connecticut that may be eligible for Federal or State Historic Preservation Tax Credits. CTDOT will provide appropriate public notice of this funding opportunity.

6. CTDOT will seek Amtrak permission to donate historic engineering materials associated with the Historic New Haven Hartford Springfield Rail Line Historic District within Connecticut that may be removed, altered, or demolished as part of the NHHS improvements, along with historic whistle posts and "Type G" signals within the State of Connecticut portion of the NHHS Corridor that will be removed as part of the NHHS site specific projects to at least three of the following historic railroad preservation groups. CTDOT will fund the reasonable costs of removal and transport of these historic features to the recipients if the donations are accepted.

Rail-related recipients

Berkshire Scenic Railway Museum
10 Willow Creek Road
P.O. Box 2195
Lenox, MA 01240

Connecticut Eastern Railroad Museum
P.O. Box 665
Willimantic, CT 06226-0665

Connecticut Trolley Museum
PO Box 360
East Windsor, CT 06088

Danbury Railway Museum
PO Box 90
Danbury, CT 06813-0090

Old Colony and Fall River Railroad Museum
PO Box 3455
Fall River, MA 02720

Railroad Museum of New England
PO Box 400
Thomaston, CT 06787-0400

The Shore Line Trolley Museum
17 River Street
East Haven, CT 06512

The Valley Railroad Company [Essex Steam Train]
One Railroad Avenue
P.O. Box 452
Essex, CT 06426

Vernon Depot Park
Vernon Parks and Recreation Department
14 Park Place
Vernon, CT 06066

ATTACHMENT C

AREA OF POTENTIAL EFFECTS DELINEATION

In accordance with Stipulation VI.A. of this PA, CTDOT shall establish the Area of Potential Effects (APE) for site specific projects covered by this PA. CTDOT, using Qualified Investigators (QIs), would be responsible for describing and establishing the APE and will sign any maps or plans that define or redefine an APE.

As defined in 36 CFR § 800.16(d), an APE is "the geographic area or areas within which an undertaking [site specific project] may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking [site specific project] and may be different for different kinds of effects caused by the undertaking [site specific project]."

Different APEs may be established for archaeological properties and historic architectural properties:

Archaeological Properties

For archaeological properties, an APE is typically established based on a site specific project's potential for direct effects from ground-disturbing activities. On occasion, archaeological sites may also have qualities that could be affected indirectly.

The APE for archaeological properties is the area of ground proposed to be disturbed during construction of the site specific project, including grading, cut-and-fill, easements, staging areas, utility relocation, borrow pits, and biological mitigation areas, if any.

Traditional cultural properties and cultural landscapes are more likely to be subject to indirect, as well as direct effects; thus, in order to include the potential for such effects, the APE for such properties is usually broader than the archaeological APE. For instance, the first row of potential properties beyond the right-of-way may be subject to such effects and thus included in an indirect APE when warranted.

Historic Architectural Properties

The APE for historic architectural properties includes all properties that contain buildings, structures or objects more than 50 years of age at the time the intensive survey is completed by the QIs, as follows:

1. Properties within the proposed right-of-way;
2. Properties where historic materials or associated landscape features would be demolished, moved, or altered by construction;
3. Properties near the site specific project where railroad materials, features, and activities *HAVE NOT* been part of their historic setting and where the introduction of visual or

audible elements may affect the use or characteristics of those properties that would be the basis for their eligibility for listing in the NRHP; and

4. Properties near the site specific project that were either used by a railroad, served by a railroad, or where railroad materials, features, and activities *HAVE* long been part of their historic setting, but only in such cases where the site specific project would result in a substantial change from the historic use, access, or noise and vibration levels that were present 50 years ago, or during the period of significance of a property, if different.

For the NHHS Project, a key phrase in the APE definition in Section 106 of the National Historic Preservation Act (hereafter referred to as "Section 106") regulations contained within 36 CFR § 800.16(d) is "may...cause alterations in the character or use of historic properties" because many of the site specific projects involve the construction of additional, relocated, and/or high speed rail alongside existing railroads. In such cases, potential historic properties near the proposed site specific project historically had railroad features, materials, and activities within their setting that contributed to their character, or may even have been used by or served by the railroad. For example:

- The character and use of an historic railroad passenger or freight depot or railroad bridge *would not change* unless it would be put out of service, destroyed, altered, or moved for the site specific project;
- The character and use of an industrial building next to existing railroad tracks *would not change*, unless freight railroad service was an important association and the spur lines or loading areas would be removed by the site specific project;
- The character and use of buildings *would not change* if they would be separated from the site specific project by an existing railroad; however,
- The character of a non-railroad or non-industrial building *would likely change* if the building is visually sensitive and the proposed site specific project introduces an elevated grade separation or other large building or structure;
- The use of a non-railroad or non-industrial building *would likely change* if the building is sensitive to noise, like a school, museum or library, and the frequency of noise or vibration events from passing trains is increased over historic-era railroad events.

When delineating the APE, the QIs shall follow the identification methodology in Stipulation VI.B., which is different for archaeological properties and historic architectural properties. The QIs shall take into account the nature of the proposed site specific project and whether or not it has the potential to affect the characteristics that might qualify the property for eligibility to the NRHP. Whenever an individual Phase is revised (e.g., design changes, utility relocation, or additional off-site mitigation areas), the QIs will determine if changes require modifying the APE. If an APE needs modifications, CTDOT upon consultation with FRA, is responsible for informing consulting parties in a timely manner of needed changes. The APE should be revised commensurate with the nature and scope of the changed potential effects.

ATTACHMENT D

NHHS DOCUMENTATION AND FORMAT GUIDELINES

PURPOSE

The purpose of the NHHS Project program method for evaluation of cultural resources is to describe, in greater detail, how FRA and CTDOT will implement the Section 106 process for each NHHS Phase and ensure that the identification and evaluation of cultural resources is conducted in accordance with the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation (Standards and Guidelines) (48 CFR § 44716-44742)* and 36 CFR § 800.4. The Historic Properties Surveys conducted in the State of Connecticut will adhere to the professional guidance provided in CTSHPO's *Environmental Review Primer for Connecticut's Historic Properties* or *Environmental Review Primer for Connecticut's Archaeological Resources* of 1987, as appropriate. Historic Properties Surveys that include archaeological investigations in the Commonwealth of Massachusetts shall be conducted under a State Archaeologist's Permit (950 CMR § 70).

The historic properties that should be identified include any precontact or historic district, site, building, structure, or object included in or eligible for inclusion on the NRHP maintained by the Secretary of Interior. This includes artifacts, records, and remains which are related to such district, site, building, structure, or object (16 U.S.C. § 470(w)(5)), and includes properties of traditional religious and cultural significance to a Native American tribe or organization that meet the NRHP criteria (36 CFR § 60.4). Properties eligible for inclusion in the NRHP can be properties that are formally determined to be eligible in accordance with regulations of the Secretary of Interior and all other properties that meet the NRHP criteria (36 CFR § 60.4). The level of identification needed varies depending on the nature of the property or property type, the nature of the agency's authority, and the nature of the proposed site specific project's possible effects on the property. Properties that the QIs may find exempt from evaluation are described in Stipulation VI.B.4 and Attachment E.

METHODOLOGY FOR IDENTIFICATION OF HISTORIC PROPERTIES

The APE would be delineated as described in Stipulation VI.A and Attachment C, using the best professional judgment of the QIs and taking into account historic property sensitivity and the effects that would occur from construction and operation of the site specific project. An APE map showing the most current engineering available for the site specific projects and the boundary delineated by QIs would be submitted to CTSHPO for site specific projects with the potential to affect historic properties in Connecticut, and to MASHPO for site specific projects with the potential to affect historic properties in Massachusetts. The APE maps will be sent along with the Technical Report to CTSHPO or MASHPO, depending on the location of the properties covered by the TR and APE maps.. The APE maps would be on an aerial base at a scale of 1"=250' in urban areas and 1"=400' in rural areas and indicate whether the site specific project is at-grade, elevated, or in tunnel configuration.

In consultation with the CTSHPO, MASHPO and other parties to the Section 106 process, including federally recognized Native American tribes, FRA and CTDOT will identify resources, determine eligibility, and treat any adverse effects, as outlined in 36 CFR § 800 and in conformance with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation September 29, 1983 (48 FR § 44716, as amended) as enumerated below:

- To identify known locations of historic properties within the APE, review the records for previously recorded archaeological properties and historic architectural properties at MASHPO and CTSHPO. Review previous survey technical reports conducted within the APE for historic contexts, bibliography, and determination of significance of sites. Review historic USGS maps. Review properties listed in the NRHP and the respective State Registers of Historic Places.
- Review survey findings conducted by local governments, historical societies, or historic preservation organizations, local historic landmark or monument designations, and any other inventories that may help identify or establish the significance of historic properties.
- Review subdivision maps, assessor maps, county/city directories, utility records, building permits, photographs, newspapers, diaries/journals, architectural drawings, agency records, residential- and commercial-building records, oral histories, thesis/dissertations, and preferred local and credible history studies. Research should be conducted with the appropriate agencies, knowledgeable individuals, local and regional historical societies, archives, and libraries.
- Develop relevant historic themes and contexts for the identification and evaluation efforts of historic properties within the APE. Use National Register Bulletin No. 15 as in effect at the time the Phase is commenced for guidance.
- Employ standard archaeological inventory methods. Conduct presence/absence testing, if necessary, in areas where subsurface remains may be present. Areas of archaeological sensitivity delineated in the EA/EIE will be subject to subsurface testing unless site specific project designs are altered to avoid potential disturbance of resources in these areas. For resources that cannot be avoided conduct test excavations to determine resource significance in accordance with the site specific project research design.
- Consult with interested Native American tribe(s) and other cultural groups to identify and evaluate any potential Traditional Cultural Properties and cultural landscapes that could be affected by the site specific project following the methods outlined in the National Register Bulletin 38 as in effect at the time the Phase is commenced and the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR § 68), respectively.
- Perform an intensive survey to identify, record, and evaluate archaeological and architectural properties adjacent to the proposed alignment, stations and support facilities built within the time period identified to document and inventory all historic buildings, structures, objects, districts, and cultural landscapes in sufficient detail to permit evaluation for the NRHP (per Section 106), the Connecticut State Register of

Historic Places (CSRHP)) (per Connecticut General Statutes § 10-409), and the Massachusetts State Register of Historic Places (9 MGL§ 26). Use field maps at 1" = 250' (in urban areas) or 1"-400' (in rural areas) scale that have delineated parcel boundaries, APE boundaries, Assessor Parcel Numbers (APNs), street names, prominent natural and man-made features, and previously recorded sites. Documentation and evaluation efforts will follow the guidelines of National Register Bulletin No. 15 as in effect at the time the Phase is commenced. Private spaces (i.e., building interiors), suburban backyards, and restricted areas will not be surveyed. Surveys will occur from public vantage points, and if access is infeasible, then the property will be evaluated solely on available information or right-of-entry will be coordinated by CTDOT.

TECHNICAL REPORTS

- After completion of the archaeological and historic architectural research, inventories and evaluations, and tribal consultations, prepare reports to document the findings and identification effort, and if any historic properties are identified for a site specific project, prepare a report to analyze the effects of the site specific project. Technical reports will be submitted to CTSHPO for site specific projects with the potential to affect historic properties in the State of Connecticut. Technical reports will be submitted to MASHPO for site specific projects with the potential to affect historic properties in the Commonwealth of Massachusetts. All submittals to CTSHPO will be in both hard copy and electronic Portable Document File (PDF) formats. Pursuant to 36 CFR § 800.3(c)(4), the CTSHPO shall review and comment on all adequately documented site specific project submittals within 30 calendar days of receipt. All technical reports submitted to MASHPO shall be in paper format and shall be delivered to MASHPO's office by U.S. Mail, or by a delivery service, or by hand. Plans and specifications submitted to the MASHPO shall measure no larger than 11" x 17" paper format (unless another format is specified in consultation). Pursuant to 36 CFR § 800.3(c)(4), the MASHPO shall review and comment on all adequately documented site specific project submittals within 30 calendar days of receipt.

ATTACHMENT E

PROPERTIES EXEMPT FROM EVALUATION

Section 106 regulations require a "reasonable and good faith effort" to identify historic properties (36 CFR § 800.4(b)(1)). The procedures in this attachment concentrate CTDOT's efforts on properties that have the potential to be historic properties. A property should be evaluated only if QIs reasonably determine that the property has a demonstrable potential for historic significance. Evidence of potential for historic significance consists of the property's association with significant historic events or individuals (NRHP Criteria A or B); engineering, artistic, design, or aesthetic value (NRHP Criterion C); information value (NRHP Criterion D) (36 CFR § 60.4); the presence of community concerns; or inclusion as a potential contributing element within a larger property requiring evaluation, such as an historic or cultural landscape, traditional cultural property, or historic district. This attachment defines categories of properties that do not warrant evaluation unless deemed otherwise in the professional judgment of QIs. These properties still need to be identified within reports. Exempted properties do not require evaluation.

ARCHAEOLOGICAL PROPERTIES (PRECONTACT AND HISTORIC) EXEMPT FROM EVALUATION

The following properties are exempt from evaluation, based on the professional judgment of QIs qualified in the area of archaeology:

- Isolated precontact finds consisting of fewer than three items per 100 square meters;
- Isolated historic finds consisting of fewer than three artifacts per 100 square meters (e.g., several fragments from a single glass bottle are one artifact);
- Refuse scatters less than 50 years old (scatters containing no material that can be dated with certainty as older than 50 years old);
- Features less than 50 years old (those known to be less than 50 years old through map research, inscribed dates, etc.);
- Isolated refuse dumps and scatters over 50 years old that lack specific associations;
- Foundations and mapped locations of buildings or structures more than 50 years old with few or no associated artifacts or ecofacts, and with no potential for subsurface archaeological deposits; or
- Building and structural ruins and foundations less than 50 years old.

QIs qualified in archaeology shall apply professional judgment as to the level of identification effort, in consultation with consulting Native American tribe(s) where appropriate. This exemption process does not include archaeological sites, traditional cultural properties, or other cultural remains or features that may qualify as contributing elements of districts or landscapes.

HISTORIC ARCHITECTURAL PROPERTIES EXEMPT FROM EVALUATION

QIs qualified in the disciplines of history or architectural history may find the following types of historic architectural properties exempt from evaluation and documentation:

1. Properties less than 50 years old at the time of the intensive survey unless they may have achieved exceptional significance in accordance with National Register Bulletin 22 as in effect at the time the Phase is commenced.
2. Properties moved within the past 50 years unless they are among the exceptions noted in "Criteria Consideration B: Moved Properties" of National Register Bulletin 15 as in effect at the time the Phase is commenced.

The historical architectural property types listed below may be exempt from evaluation and may not require documentation, based on the professional judgment of QIs qualified in the disciplines of history or architectural history.

Railroad Related Features:

- Railroad maintenance facilities.
- Railroad communication and signaling systems.
- Switching and crossing equipment with the exception of Tower S.S. 214 and Tower S.S. 274, which have been determined to contribute to the significance of the Historic Line.
- Railroad structures such as grade separations, pedestrian overcrossings and underpasses.
- Railroad fencing and other right-of-way features.
- Access roads for railroads.
- Railroad maintenance materials (e.g., ties, track, ballast, etc.).
- Railroad grades converted to other uses, such as roads, levees, or bicycle/pedestrian paths.

Water Conveyance and Control Features:

- Natural bodies or water providing a water source, conveyance, or drainage.
- Modified natural waterways.
- Concrete-lined canals less than 50 years old and fragments of abandoned canals.
- Roadside drainage ditches and secondary agricultural ditches.
- Flood storage basins.
- Reservoirs and artificial ponds.
- Levees and weirs.
- Gates, valves, pumps, and other flow control devices.
- Pipelines and associated control devices.
- Water supply and waste disposal systems.

Recent Transportation or Pedestrian Facilities:

- Light rail systems, including shelters, benches, and platforms.
- Bus shelters and benches.
- Airstrips and helicopter landing pads.
- Vista points and rest stops.
- Toll booths.

- Truck scales and inspection stations.
- City streets, alleys, and park strips.
- Sidewalks, curbs, berms, and gutters.
- Bike paths, off-road vehicle trails, equestrian trails, and hiking trails.
- Parking lot and driveways.

Highway and Roadside Features:

- Isolated segments or bypassed or abandoned roads.
- Curbs, gutters, and walkways.
- Highway fencing, soundwalls, guard rails, and barriers.
- Cattle crossing guards.
- Roadside, median, and interchange landscaping and associated irrigation systems.
- Street furniture and decorations.
- Signs and reflectors.
- Parking meters.
- Street lighting and controls.
- Traffic lights and controls.
- Highway operation control, maintenance, and monitoring equipment.
- Telecommunications services, including towers, poles, dishes, antennas, boxes, lines, cables, transformers, and transmission facilities.
- Utility services, including towers, poles, boxes, pipes, lines, cables, and transformers .
- Oil and gas pipelines and associated control devices.

Adjacent Features:

- Prefabricated buildings less than 50 years old not associated with permanent buildings or an historic district.
- Fences, walls, gates, and gateposts.
- Isolated rock walls and stone fences.
- Telephone booths, call boxes, mailboxes, and newspaper receptacles.
- Fire hydrants and alarms.
- Non-Rail Markers.
- Signs and billboards.
- Fragments of bypassed or demolished bridges.
- Temporary roadside structures, such as seasonal vendors' stands.
- Pastures, fields, crops, and orchards.
- Corrals, animal pens, and dog runs.
- Open space, including parks and recreational facilities.

Movable or Minor Objects:

- Movable vehicles.
- Stationary vehicles less than 50 years old or moved within the last 50 years.

- Agricultural, industrial, and commercial equipment and machinery.
- Sculpture, statuary, and decorative elements less than 50 years old or moved within the last 50 years.

These exemptions do not apply to properties 50 years old or older that could be important, nor do they apply to properties that may contribute to the significance of larger historic properties such as districts or landscapes.

ATTACHMENT F

Native American Tribes consulted with

Kathleen Knowles
Tribal Historic Preservation Officer
Mashantucket Pequot Tribal Nation

James Quinn
Tribal Historic Preservation Officer
The Mohegan Tribe

John Brown
Tribal Historic Preservation Officer
Narragansett Indian Tribe

Bettina Washington
Tribal Historic Preservation Officer
Wampanoag Tribe of Gay Head (Aquinnah)

Sherry White
Tribal Historic Preservation Officer
Stockbridge-Munsee Community Band of Mohican Indians

ATTACHMENT G

Exemptions from Review for Routine Maintenance Activities within the New Haven – Hartford – Springfield Historic Railroad District

PURPOSE

Section 106 regulations require a "reasonable and good faith effort" to identify historic properties (36 CFR § 800.4(b)(1)). The procedures in this Attachment G concentrate Amtrak's and FRA's efforts in the review of routine maintenance activities within the NHHS Rail Line Historic District on those actions that may reasonably be anticipated to have potential effects to historic properties. This Attachment G defines categories of maintenance activities that are assumed not to require review. The decision of whether a property meets the definitions in paragraphs 1 through 8 below and therefore is assumed not to require review, shall be made as a collaborative effort between FRA and Amtrak. In determining the applicability of paragraphs 1 through 8 below, Amtrak shall consult with FRA in a manner consistent with the then existing procedures as agreed to by both FRA and Amtrak. Amtrak shall be responsible for providing FRA with the appropriate supporting documentation. The following are exempted activities are assumed not to require further review:

1. Maintenance of railroad structures within an Historic District where no substantial ground disturbance is required and the affected structures:
   a. Are not individually listed or eligible for individual listing in the NRHP; or
   b. Have not been determined to be a contributing resource to a NRHP listed or eligible Historic District.

2. Repairs to historic properties where such repairs are undertaken in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part~~s~~ 68).

3. Replacement of structural elements or other components of historic bridges, culverts, or structures where the affected elements or components do not contribute to the historic significance of the structure AND;
   a. Where the replacement requires only minimal alterations to historic fabric of the structure; and
   b. Where the alterations to the appearance of the historic structure are not visible from the public right of way.

4. Replacement of ties or rail where there are no changes in vertical or horizontal geometry.

5. Repointing of masonry joints in bridges, culverts, or buildings where the color, texture, aggregate of the grout and the rake of the joint matches the existing color, texture, aggregate of the grout or the rake of the joint.

6. Repairs to historic stone masonry culverts that are not individually listed in the NRHP or have not been previously determined to be individually eligible for listing in the NRHP AND where the exterior appearance of the culvert, including existing stone masonry wing walls and headwalls, is unaffected.

7. Replacement of existing security cameras on or adjacent to historic properties where no substantial visual alterations to the building or structure result from the replacement.

8. Removal or replacement of signals, signal foundations, handhole/manhole structures, railroad communication and signal poles and lines, signal houses, bungalows, grade crossing elements, power stations, and control devices that are not individually listed in the NRHP, have not been previously determined to be individually eligible for listing in the NRHP, or have not been determined to be a contributing resource to a NRHP listed or eligible Historic District, AND where the removal or replacement is required to provide safe, reliable rail infrastructure.