

**DRAFT PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION
THE NATIONAL PARK SERVICE
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
THE MARYLAND DEPARTMENT OF TRANSPORTATION,
STATE HIGHWAY ADMINISTRATION
THE MARYLAND STATE HISTORIC PRESERVATION OFFICER
THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER
AND TBC - THE BORING COMPANY
REGARDING THE PROPOSED WASHINGTON, DC TO BALTIMORE,
LOOP PROJECT**

WHEREAS, the U.S. Department of Transportation, Federal Highway Administration (FHWA) plans to approve The Maryland Department of Transportation State Highway Administration (MDOT SHA) and TBC - The Boring Companies (TBC) Project pursuant to the requirements for FHWA approval of rights-of-way use agreements in 23 U.S.C. § 111 and 23 CFR § 1.23(c); and

WHEREAS, TBC, a private entity, proposes to design, construct, and operate a Loop System (Project) comprising 2 parallel tunnels 14 feet apart for 35.3 miles beneath U.S. Route 50 and the Baltimore-Washington Parkway between Washington, District of Columbia (DC) and Baltimore, Maryland (see map, Attachment A), using the design/build method of project delivery; and

WHEREAS, MDOT SHA and TBC in coordination with FHWA , are preparing an Environmental Assessment (EA) for the Project in accordance with the National Environmental Policy Act of 1969 (42 USC 4321 et. seq.) (NEPA), and Council on Environmental Quality NEPA regulations (40 CFR 1500-1508); and

WHEREAS, FHWA has been designated the lead agency for purposes of ensuring that the Project complies with Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108), as amended, and codified in its implementing regulations, 36 CFR Part 800, as amended (August 5, 2004); and

WHEREAS, Generally, FRA has jurisdiction over the safety of railroads and may prescribe regulations, issue orders or waivers, or take other forms of regulatory action, as necessary for railroad safety. At this time, FRA has not determined that the Loop Technology falls under FRA's safety jurisdiction. In the future, if FRA makes such a determination, TBC may be required to seek and obtain FRA regulatory approval(s) before commencing operations; and

WHEREAS, The National Park Service (NPS) agrees FHWA is the lead federal agency for purposes of ensuring that the Project complies with Section 106 of the NHPA, and has agreed to participate in this PA as an Invited Signatory. NPS has determined that the Project may affect historic properties on the Baltimore-Washington Parkway, and intends to use this Programmatic Agreement (PA) to comply with 36 CFR Part 800, 54 U.S.C. § 100902, 36 CFR Part 14; and

WHEREAS, TBC, a private company and proponent of the project, is responsible for submitting all technical documentation requested by FHWA to MD SHA, and will have roles and

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responsibilities in the implementation of this PA per stipulation I(B) below and is an Invited signatory; and

WHEREAS, MDOT SHA is the state project sponsor responsible for facilitating the NEPA process by transmitting technical information and environmental documents provided by TBC to FHWA for approval. MDOT SHA is not receiving Federal-Aid funds, licenses, permits or other Federal approvals for the project. MDOT SHA does not make any obligation herein which anticipates the expenditure of funds. Any obligations which may be deemed to arise under this PA are subject to the availability of appropriated funds, and the stipulations of this PA. MDOT SHA will continue that process throughout the implementation of this PA per stipulation I(C) below and is an Invited signatory; and

WHEREAS, FHWA has elected to phase the identification, evaluation, and effects assessment of historic properties as provided in 36 CFR 800.4(b)(2), and 36 CFR 800.5(a)(3), but will ensure the process is completed in a timely manner prior to construction, to allow opportunities to avoid, minimize, or mitigate for any potential adverse effects to historic properties, as stipulated under this PA; and

WHEREAS, FHWA has initiated consultation pursuant to 36 CFR 800.3(c) with the Maryland State Historic Preservation Office (MDSHPO), by letter dated March 23rd, 2018 and the Washington, District of Columbia Historic Preservation Office (DCHPO) (collectively referred to as SHPO), by letter dated March 23rd, 2018, and FHWA will continue to consult with the appropriate SHPO under the terms of this PA in order to identify and evaluate historic properties' eligibility for inclusion in the National Register of Historic Places (NRHP), assess the effects of the Project on historic properties, and, if necessary, resolve adverse effects to historic properties; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1)(i)(C), the FHWA, by letter dated March 26, 2018, initiated Section 106 consultation with the Advisory Council on Historic Preservation (ACHP) and the ACHP has chosen to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii); and

WHEREAS, the parties listed in Attachment B accepted FHWA's invitation to become consulting parties on the Project; and

WHEREAS, FHWA initiated Section 106 consultation with Federally-recognized Native American tribes (Tribes) by letter dated May 29, 2018 and provided the Tribes with information about the Project (The Delaware Nation, The Delaware Tribe of Indians, Oneida Indian Nation, Onondaga Nation, The Absentee-Shawnee, Eastern Shawnee, Saint Regis Mohawk, Seneca-Cayuga, Shawnee, and Tuscarora Tribes). FHWA has also contacted Tribal representatives by telephone. The Delaware Nation, The Delaware Tribe of Indians, Oneida Indian Nation, and the Onondaga Nation have requested to become Section 106 consulting parties on the Project. The Absentee-Shawnee, Eastern Shawnee, Saint Regis Mohawk, Seneca-Cayuga, Shawnee, and Tuscarora Tribes declined to participate or did not respond to the initiation letter and phone calls; and

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WHEREAS, The Public has been notified of the project via the federal register notice of availability of the draft NEPA document and virtual information presentation that will be available to the public in 2019.

NOW, THEREFORE, FHWA, NPS, ACHP, MDOT SHA, SHPO, and TBC (hereinafter “Signatories”) agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

FHWA, with the assistance of MDOT SHA and TBC, will ensure that the following measures are carried out:

I. ROLES AND RESPONSIBILITIES

- A. FHWA, as the lead federal agency, has the legal responsibility pursuant to 36 CFR 800.2(a)(2) to ensure that the provisions of this PA are carried out. FHWA is responsible for all determinations of eligibility and assessments of effect for the undertaking consistent with the requirements of 36 CFR 800.2(a) and 800.2(c)(4). FHWA will conduct government-to-government consultation with Tribes as described in Stipulation III.
- B. TBC is responsible for assisting FHWA in carrying out its responsibilities described in this PA including providing MDOT SHA with all technical documentation and information requested by FHWA.
- C. MDOT SHA is responsible for transmitting all technical documentation and information from TBC to FHWA. MDOT SHA can make no claims as to the accuracy, completeness or adequacy of the TBC’s submittals.
- D. SHPO are responsible for reviewing project documentation in a timely manner and participating in consultation as set forth in this PA.
- E. ACHP is responsible for providing technical assistance, participating in dispute resolutions, if needed, and monitoring the effectiveness of this PA.
- F. NPS is responsible for reviewing project documentation and participating in consultation as set forth in this PA.

II. PROFESSIONAL QUALIFICATIONS AND STANDARDS

- A. All actions required under 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, will be carried out by or under the direct supervision of TBC or their consultants who meet, at a minimum, the Secretary of the Interior’s Professional Qualifications Standards (48 FR 44738-44739) (Appendix A to 36 CFR 61) in the appropriate discipline.

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- B. When preparing all archaeological studies resulting from this PA, the preparer will take into account the ACHP's publications, *Section 106 Archaeological Guidance* (2009) and *Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites* (1999), as well as state-specific archaeological guidelines on best practices and procedures, as applicable, such as: *Standards and Guidelines for Archaeological Investigations in Maryland* (Shaffer and Cole 1994), and *Guidelines for Archaeological Investigations in the District of Columbia* (1998, as amended).
- C. When preparing all architectural studies resulting from this PA, the preparer will take into account guidelines on specific architectural projects issued by the U.S. Department of the Interior National Park Service (such as the Bulletin entitled *How to Complete the National Register Registration Form*) and state-specific guidelines on best practices and procedures, as applicable, such as: *Standards and Guidelines for Architectural and Historic Investigations in Maryland* (MHT 2000), and *How to Complete a DC State Historic Preservation Office Determination of Eligibility* (DOE) Form.

III. CONSULTATION WITH NATIVE AMERICAN TRIBES

FHWA is responsible for all government-to-government consultation with Tribes. FHWA shall consult on a government-to-government basis with Tribes identified as consulting parties that attach religious and cultural significance to historic properties that may be affected by the undertaking at key milestones in the Section 106 process to gain input from Tribal governments. Key milestones in the Section 106 process include at a minimum: when defining the Area of Potential Effect, Identification of Historic Properties, Assessment of Effect, and Resolution of Effects.

IV. PARTICIPATION OF CONSULTING PARTIES AND THE PUBLIC

A. Consulting Parties

- 1. Consulting parties were identified by FHWA in consultation with the SHPO pursuant to 36 CFR 800.3(c-f) and were invited to participate in this Section 106 process for this undertaking via letters dated March and April 2018, and subsequent phone call April 25th, 2018.
- 2. Other individuals, organizations, and agencies with an interest in the undertaking may request to participate as a consulting party in the Section 106 process in writing to FHWA. FHWA will evaluate such request on a case-by-case basis in consultation with MDSHPO and DCSHPO. Consulting parties' participation shall be governed by 36 CFR 800.3(f)(3).

B. Public Involvement

- 1. Public Involvement in the Section 106 process will be governed by FHWA's environmental compliance procedures (23 CFR Part 771).
- 2. FHWA, and TBC will identify historic properties and disclose effects to the extent allowable under 36 CFR 800.2(d)(1-2), 800.3(e), and 800.11(c)(1 and 3). The public

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will have an opportunity to comment and provide input on findings identified in Section 106 identification and effects documents on the Project website (www.dcbaltimoreloop.com). Public involvement and the release of information hereunder shall also be consistent with the Freedom of Information Act and the U.S. Department of Transportation's implementing regulations at 49 CFR. Part 7.

3. FHWA will take into account the views of the public when reviewing assessment of effects to historic properties, as described further in Stipulation VI.

V. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

- A. FHWA, and TBC, in consultation with SHPO, will identify the Area of Potential Effect (APE) for the Project, and any subsequent modifications, consistent with 36 CFR 800.4 and 36 CFR 800.16(d). If revisions to the Project require modifications to the APE, TBC will notify MDOT SHA who will in turn notify FHWA. If FHWA agrees modification of the APE is necessary, it will notify the Signatories, Tribes, and other consulting parties within 15 calendar days of receiving notification.
- B. FHWA and TBC are responsible for the identification and evaluation of historic properties potentially eligible for the NRHP and re-evaluation of historic properties already listed on the NRHP if necessary and/or requested by the SHPO. TBC will submit draft technical reports documenting the identification and evaluation results to MDOT SHA who will in turn submit them to FHWA for review and approval. TBC will also submit historic property eligibility recommendations to MDOT SHA who will in turn submit them to FHWA and, after review and approval, FHWA will submit determinations of eligibility to the appropriate SHPO. The appropriate SHPO will have 30 calendar days following the submission of the eligibility determinations to concur, comment, or disagree. If the appropriate SHPO fails to respond within such 30-calendar day period, such SHPO will be deemed to have accepted the FHWA eligibility determination.
- C. Per stipulation IV(B)(2), the Public, other Signatories, and consulting parties will have the ability to review and comment on the identification and evaluation of historic properties.
- D. If MDSHPO and/or DCHPO disagrees with a determination of eligibility and FHWA cannot resolve the dispute through additional consultation, FHWA will forward the determination of eligibility and supporting documentation to the Keeper of the NRHP (Keeper) for resolution in accordance with 36 CFR 800.4(c)(2).

VI. ASSESSMENT OF ADVERSE EFFECTS

- A. TBC and FHWA, in coordination with the appropriate federal and state agencies including SHPO, shall make every reasonable effort to avoid or minimize adverse effect to historic properties when developing this Project.
- B. TBC will assess effects consistent with 36 CFR 800.5, and submit a draft Findings of Effect report (FOE) to MDOT SHA who will in turn submit it to FHWA for review and approval.

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The draft FOE will assess the potential adverse effects to historic properties that would result from the Project, and identify avoidance, and minimization, measures that would eliminate or minimize effects and that can be implemented during design and construction of the Project. To support approval of the FOE, FHWA can impose conditions, such as subsequent review of plans for rehabilitation by the relevant SHPO to ensure consistency with the Secretary's Standards for the Treatment of Historic Properties (36 CFR Part 68) and applicable guidelines, to avoid adverse effects.

- C. After review and approval, FHWA will submit the FOE to the Signatories, consulting parties, Tribes, and the public for review and comment. Any comments on the FOE must be made to FHWA in writing within 30 calendar days.
- D. Where FHWA proposes a finding of "No Adverse Effect" with conditions, it shall include in its submittal to the SHPO, other signatories and consulting parties those condition that would avoid adverse effects to historic properties. The SHPO, the other signatories, Tribes, and consulting parties shall have thirty (30) calendar days to review the finding and proposed conditions. Any comments on the FOE must be made to FHWA in writing or email.
 - 1. Upon the SHPO's concurrence and the other Signatories and consulting parties do not disagree with this finding and the proposed conditions, then no further consultation is required for this Project. FHWA will notify all the Signatories and the consulting parties of the SHPO's concurrence and the conclusion of the Section 106 consultation.
 - 2. In the case if a Signatory or consulting party disagrees with the finding made within the 30-day review period, the FHWA shall notify the Signatories and the consulting parties. FHWA, the Signatories, and the consulting parties shall consult to seek ways to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall follow the procedures in the Dispute Resolution clause of this Agreement (Stipulation XIV).
- E. Where FHWA cannot avoid adverse effects to historic properties and proposes a find of "Adverse Effect" pursuant with 36 CFR 800.5(a)(1), it shall include in its submittal to the SHPO, the other Signatories, and the consulting parties all documentation required under 36 CFR 800.11(e). The SHPO, the other signatories, and consulting parties shall have thirty (30) calendar days to review the finding. Any comments on the FOE must be made to FHWA in writing or email. FHWA will share the SHPO's concurrence and other comments received during this review period with all the Signatories and consulting parties. FHWA will continue consultation with the Signatories and other consulting parties as set forth in Stipulation VII.
 - 1. In the case if a Signatory or consulting party disagrees with the finding made within the 30-day review period, the FHWA shall notify the Signatories and the consulting parties. FHWA, the Signatories, and the consulting parties shall consult to seek ways to resolve the objection. If the FHWA determines that the objection cannot be

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resolved, the FHWA shall follow the procedures in the Dispute resolution clause of this Agreement (Stipulation XIV).

VII. RESOLUTION OF ADVERSE EFFECTS

- A. If FHWA determines that historic properties will be adversely affected, they will notify the SHPO, Signatories, consulting parties, and the public, and consult on strategies and treatment measures to avoid, minimize, or mitigate the adverse effect. FHWA will memorialize strategies and treatment measures the Signatories, Tribes, and other consulting parties provisionally agree to in a draft Memorandum of Agreement (MOA). The MOA may include avoidance, minimization, protective measures, and/or mitigation for the properties affected. Such measures may be identified in the FOE and may include but not be limited to data recovery, preservation-in-place, and processes for addressing project design changes or refinements and unanticipated discoveries.
- B. FHWA will submit a draft MOA to the Signatories, Tribes, and consulting parties, as appropriate, for a 30-day review and comment period, and will revise the MOA in accordance with comments received to the maximum extent feasible. The ACHP will participate in the development of the MOA pursuant to 36 CFR 800.6(a)(1)(i)(c).
- C. Upon execution of the MOA, FHWA will have complied with Section 106 for the Project and will carry out the strategies and treatment measures identified in the MOA.
- D. Consistent with 36 CFR 800.6(a)(4), FHWA will make information regarding the proposed resolution of adverse effects available to the public in accordance with Stipulation VII. B.

VIII. CURATION

All artifacts, specimens, and samples recovered from the Project on NPS land will be documented, curated, and conserved, as necessary, according to the standards found in 36 CFR 79 by TBC. All artifacts, specimens, and samples recovered from lands in Maryland and the District of Columbia will be documented, curated, and conserved, as necessary, according to SHPO policy and guidelines by TBC.

IX. UNANTICIPATED / POST REVIEW DISCOVERIES

- A. If a previously undiscovered archaeological, historical, or cultural property is encountered during construction, or previously known properties are affected in an unanticipated adverse manner, TBC will immediately (1) notify MDOT SHA who will in turn immediately notify FHWA and (2) cease all activities within 100 feet of the discovery or previously known property to be potentially affected in an unanticipated manner to avoid or minimize further harm to the property. Activities may not resume until FHWA, in consultation with the Signatories and/or Tribes, if necessary, can determine an undiscovered resource's NRHP eligibility, identify the effects of the post review discovery and determine if adverse effects can be avoided by implementing a treatment plan that alters the construction methods or the installation of protective measures. If FHWA determines that adverse effects to the new

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discoveries or newly affected historic properties will occur or has occurred, a Project-specific MOA will be negotiated in accordance with 36 CFR 800.13. Where an MOA already exists, FHWA may initiate an amendment, as appropriate.

- B. FHWA will notify Tribes within 72 hours of any previously undiscovered archaeological, historical, or cultural property that may be of religious or cultural significance to the Tribe following the process outlined in Stipulation VIII.A.
- C. TBC will implement the approved treatment plan or Project specific MOA and advise FHWA and other Signatories, and Tribes, as appropriate, of the satisfactory completion of the approved work. Once the approved work in the treatment plan is completed and approved by FHWA the activities that were halted to specifically address the discovery situation may resume. Other project activities not associated with the discovery may still be carried out concurrently subject to the terms of this PA. Any cultural resource data including written documentation collected from these discoveries and/or inadvertent effects will be curated in accordance with Stipulation VIII.

X. HUMAN REMAINS

- A. If human remains are inadvertently discovered during construction, TBC will cease construction within 100 feet of the discovery and secure and protect the remains from harm. TBC will immediately notify, in writing, the appropriate local law enforcement office, the DC Chief Medical Examiner, Maryland's County State Attorney, State Archaeologist, FHWA, and the Signatories. All human remains will be handled in accordance with applicable Maryland or District of Columbia statute(s).
- B. If human remains are discovered during construction, they will be handled in accordance with either the Maryland burial law (Article 27, §§ 265 and 267 Title 10 Subtitle 4 Parts 10-401 through 10-404 of the Annotated Code of Maryland), District of Columbia statute DC ST § 5-1406 and/or the Native American Graves Protection and Repatriation Act NAGPRA, as appropriate. The relevant medical examiner will make the official ruling on the nature of the remains, being either forensic or archaeological. If human remains are determined to be archaeological and Native American, FHWA will immediately notify the appropriate Tribes and consult with them and the appropriate SHPO to determine a treatment plan for their avoidance, recovery or reburial. If the human remains are determined to be non-Native American, consultation with the relevant SHPO and Signatories will be required to determine a plan of action. No human remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
- C. TBC and FHWA will follow the guidelines outlined in the ACHP's *Policy Statement Regarding Treatment of Human Burial Sites, Human Remains and Funerary Objects* adopted on February 23, 2007.

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XI. CONFIDENTIALITY

- A. Information about historic properties, and potential historic properties, are subject to the provisions of Section 304 of the NHPA. Section 304 allows FHWA to withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if FHWA determines that disclosure may 1) cause a significant invasion of privacy; 2) risk harm to the historic resource; or 3) impede the use of a traditional religious site by practitioners.
- B. FHWA will ensure that all actions and documentation prescribed by this PA are, where necessary, consistent with the requirement of Section 304 of the NHPA and Section 9 of the Archaeological Resource Protection Act and Executive Order on Sacred Sites 13007 FR 61-104 dated May 24, 1996.

XII. DOCUMENTATION STANDARDS

- A. All documentation prepared by TBC that supports the findings and determinations made under this PA will be consistent with 36 CFR 800.11(d) and (e), and be in accordance with Stipulation II of this PA. FHWA will review the documentation for adequacy, and transmit all documentation cited herein as stipulated by this PA.
- B. Any technical reports prepared pursuant to this PA will be consistent with the federal standards entitled *Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 Fed. Reg. 44716-44742 (September 29, 1983)), the *Guidelines for Preparing Identification and Evaluation Reports for Submission Pursuant to Sections 106 and 110, National Historic Preservation Act*, and state-level guidelines for the completion of cultural resource reports, as applicable.
- C. All documentation prepared under this PA will be kept on file at FHWA Headquarters. FHWA will make documentation available to the public consistent with this PA and without the inclusion of culturally sensitive information, consistent with applicable confidentiality requirements, this PA, and Federal law.

XIII. UPDATES AND REPORTING

During the term of this PA, FHWA shall annually, January 1st, provide the Signatories and consulting parties a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's efforts to carry out the terms of this PA.

XIV. DISPUTE RESOLUTION

- A. Should any Signatory to this PA object to any action proposed or any document provided for review pursuant to this PA, FHWA will consult with the objecting Signatory to resolve the objection. If FHWA determines that the objection cannot be resolved within 30 days:

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1. FHWA will forward all documentation relevant to the dispute to ACHP, including FHWA's proposed resolution, in accordance with 36 CFR 800.2(b)(2).
 2. Upon receipt of adequate documentation ACHP will review and advise FHWA on the resolution of the objection within 15 days. FHWA will take into account any comments provided by ACHP and/or the Signatories in reaching a final decision regarding the dispute.
 3. If ACHP does not provide comments regarding the dispute within 15 days after receipt of adequate documentation, FHWA may render a decision regarding the dispute. FHWA will notify all Signatories of its decision.
- B. At any time during the implementation of this PA, if a consulting party or member of the public raise a timely and substantive objection related to historic preservation and pertaining to actions taken pursuant to this PA, FHWA will immediately notify the Signatories and take the objection into account by consulting with the objector to resolve the objection. When FHWA responds to an objection, it will notify the Signatories and consulting parties of the objection and how it was resolved. FHWA may request the assistance of a Signatory or a consulting party to resolve the objection.
- C. While a dispute remains unsettled, FHWA's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remains unchanged.

XV. AMENDMENTS

This PA may be amended by the Signatories following consultation with all the consulting parties, pursuant to a written amendment executed by all the Signatories. The amendment will be effective on the date it has been fully executed by all the Signatories. Once executed, FHWA will provide copies to all consulting parties.

XVI. TERMINATION

Any Signatory may terminate this PA by providing written notice to the other Signatories. Termination will not be effective until 30 days after the Signatories receive the written notice. During this 30-day period, the Signatories will consult to seek agreement on amendments or other actions to avoid termination. Should such consultation result in an agreement or an alternative to termination, the Signatories will amend this PA in accordance with Stipulation XV. If any Signatory terminates its participation in this PA, this PA will be deemed terminated in its entirety. In the event of termination, FHWA will either consult in accordance with 36 CFR 800.14(b) to develop a new Agreement or request the comments of ACHP pursuant to 36 CFR 800.7. FHWA shall notify the Signatories as to the course of action it will pursue.

XVII. EFFECTIVE DATE

This PA is effective on the date that it has been signed by all the Signatories and may be executed in counterparts. Once executed, this PA will evidence, pursuant to 36 CFR 800.6(c), that this PA

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is an agreement for the purposes of Section 106 and will govern the Project and all its parts.

XVIII. DURATION

- A. This PA will automatically expire if its terms are not carried out within 10 years from its effective date. FHWA will consult with the Signatories six months prior to the expiration of this PA about the need to extend the duration and/or amend this PA. Extension of the duration or amendment of this PA will be done in accordance with Stipulation XV.
- B. Upon completion of the Stipulations set forth above, TBC will provide a letter (with attachments) to MDOT SHA who in turn will provide it FHWA. FHWA will provide a copy to each of the Signatories. If FHWA concurs that the Stipulations are complete, it will notify the Signatories in writing that this PA is closed, at which time the Signatories will have no further obligations hereunder.

XIX. Coordination with Other Federal Reviews

If another federal agency not initially a party to or subject to this PA receives an application for funding/license/permit for the Undertaking as described in this PA, that agency may fulfill its Section 106 responsibilities by stating in writing it concurs with the terms of this PA and notifying the FHWA, SHPO, and the ACHP that it intends to do so, and adherence to the terms of this PA.

Execution of this PA by the FHWA, NPS, ACHP, MDOT SHA, MDSHPO, DCSHPO, and TBC and implementation of its terms evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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Signatory

Gregory Murrill
Division Administrator, Maryland
Federal Highway Administration

Date

DRAFT

AGREEMENT REGARDING THE PROPOSED LOOP TUNNEL PROJECT

Invited Signatory

Peter May
Associate Regional Director for Lands and Planning
National Park Service

Date

DRAFT

AGREEMENT REGARDING THE PROPOSED LOOP TUNNEL PROJECT

Signatory

John M. Fowler
Executive Director
Advisory Council on Historic Preservation

Date

DRAFT

AGREEMENT REGARDING THE PROPOSED LOOP TUNNEL PROJECT

Signatory

Elizabeth Hughes
Director/State Historic Preservation Officer
Maryland Historical Trust

Date

DRAFT

AGREEMENT REGARDING THE PROPOSED LOOP TUNNEL PROJECT

Signatory

David Maloney
State Historic Preservation Officer
D.C. State Historic Preservation Office

Date

DRAFT

AGREEMENT REGARDING THE PROPOSED LOOP TUNNEL PROJECT

Invited Signatory

Gregory Slater
Administrator
Maryland Department of Transportation State Highway Administration

Date

DRAFT

AGREEMENT REGARDING THE PROPOSED LOOP TUNNEL PROJECT

Invited Signatory

Steve Davis
Director
TBC - The Boring Company

Date

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ATTACHMENT A

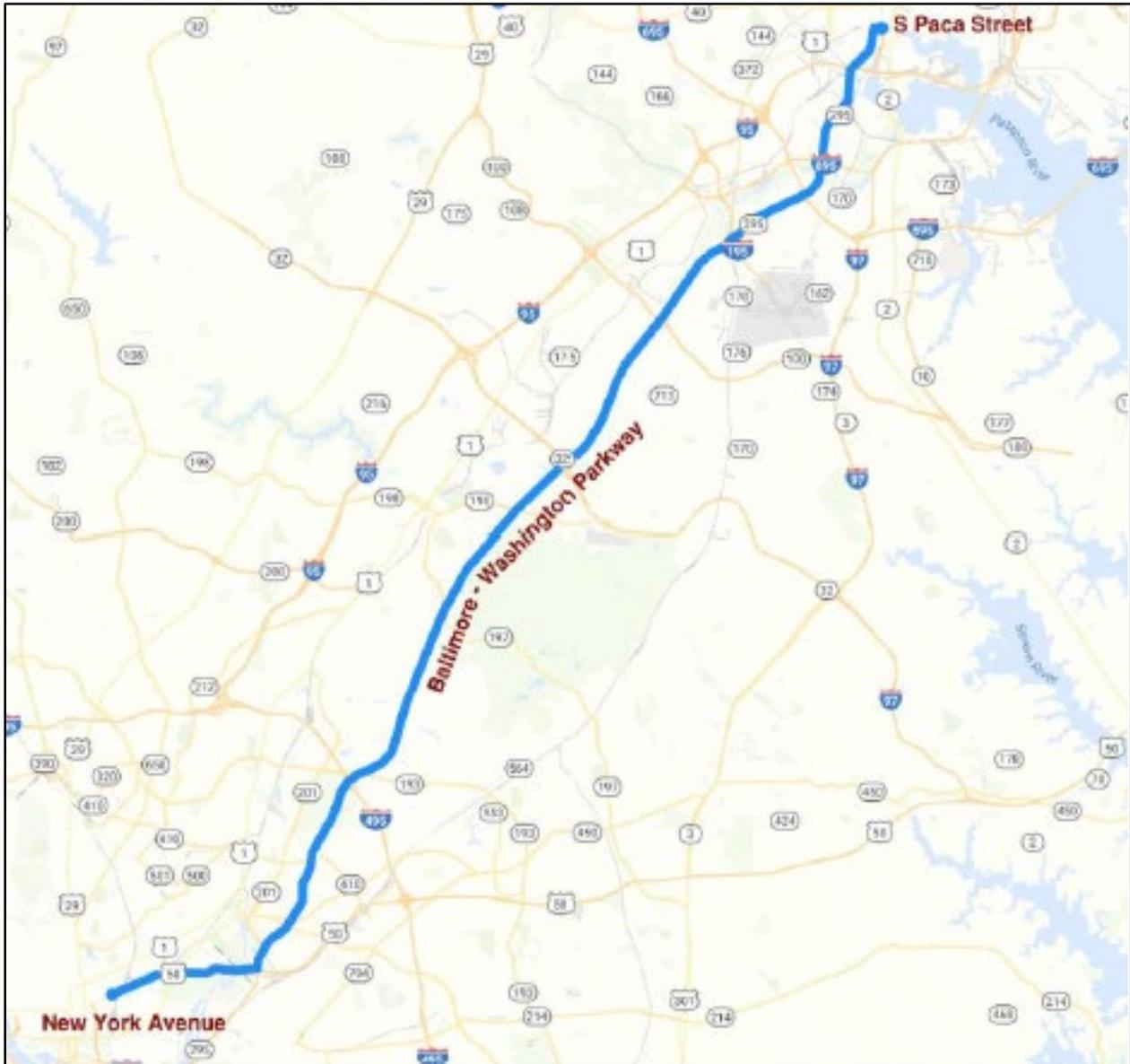


Figure 1: Proposed DC to Baltimore tunnel alignment (approximately 35.3 miles in length)

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ATTACHMENT B

CONSULTING PARTIES:

Anne Arundel County, Office of Planning and Zoning, Cultural Resources Division

Baltimore City Commission for Historic & Architectural Preservation

Baltimore Heritage, Inc.

Committee of 100 on the Federal City

Delaware Tribe of Indians

District of Columbia Department of Transportation

Maryland Milestones/ATHA Inc.

Maryland Transit Administration

National Aeronautics and Space Administration, Goddard Space Flight Center

National Capital Planning Commission

National Security Agency

National Trust for Historic Preservation

Oneida Indian Nation

Onondaga Nation

Preservation Maryland

Prince George's County Planning Department Historic Preservation Commission

Ridgely's Delight Association

The Delaware Nation

U.S. Commission of Fine Arts

U.S. Fish and Wildlife Service, Patuxent Research Refuge