

PROGRAMMATIC AGREEMENT
Among the
FEDERAL HIGHWAY ADMINISTRATION,
MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY
ADMINISTRATION,
MARYLAND TRANSPORTATION AUTHORITY,
AND
MARYLAND STATE HISTORIC PRESERVATION OFFICER

Implementing Section 106 of the National Historic Preservation Act for the
I-695 Over the Patapsco River Francis Scott Key Bridge Replacement Project
Anne Arundel and Baltimore Counties, and Baltimore City, Maryland

WHEREAS, the U.S. Department of Transportation, Federal Highway Administration (FHWA) plans to approve the I-695 Over the Patapsco River Francis Scott Key Bridge Replacement (The Project), administered by the Maryland Department of Transportation State Highway Administration (SHA) and the Maryland Transportation Authority (MDTA); and

WHEREAS, on March 26, 2024 the MDTA Francis Scott Key Bridge, which carries I-695 over the Patapsco River, was struck by a cargo ship leaving the Port of Baltimore, resulting in the collapse of the bridge, impairing essential traffic. Following the incident, Executive Order 01.01.2024.09 was released by the State of Maryland, declaring a State of Emergency as a result of the Key Bridge collapse.

WHEREAS, The Project consists of construction of a replacement bridge in the same location, following the existing centerline, and within existing right-of-way, while incorporating design upgrades that meet current standards and conditions, as described in detail in Attachment 4; and.

WHEREAS, FHWA has determined that the Project is an undertaking, as defined in 36 C.F.R. §800.16(y), and thus is subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, and its implementing regulations, 36 C.F.R. Part 800 as amended; and

WHEREAS, SHA and MDTA intend to deliver the Project using a progressive design-build delivery method; and

WHEREAS, the Project may be implemented in construction phases, yet to be fully defined, and although this Programmatic Agreement (PA) reflects evaluation of the entire defined Project, certain commitments may require phased implementation; and

WHEREAS, pursuant to Section 9 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 and 403) and the General Bridge Act of 1946, a Coast Guard Bridge Permit will likely be required from the United States Coast Guard (USCG) for this Project, and pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 and 403) and Section 404 of the Clean Water Act of 1973 (33 U.S.C. 1344), a Department of the Army permit will likely be required from the United States Army Corps of Engineers (USACE) for this Project; and

I-695 Over the Patapsco River Francis Scott Key Bridge Replacement
Section 106 Programmatic Agreement
June 2024

WHEREAS, the USACE and USCG have agreed FHWA is the lead federal agency for purposes of ensuring that the Project complies with Section 106 of the NHPA, as amended, and codified in its implementing regulations, 36 C.F.R. Part 800, as amended (August 5, 2004) and have agreed to participate in this PA as consulting parties; and

WHEREAS, federal agencies which, at FHWA's invitation, designate FHWA as the lead federal agency for the Project may use this PA to fulfill their obligations under Section 106 of the NHPA according to 36 C.F.R. 800.2(a)(2), without the need for amendment of this PA, provided that FHWA follows the requirements of this PA; and

WHEREAS, SHA, on behalf of FHWA, has established the Area of Potential Effects (APE) for the project in consultation with the Maryland State Historic Preservation Office (MD SHPO), encompassing the corridor project limits as described above, including areas of direct limits of disturbance, inclusive of all project elements with the potential to affect historic properties, and a sufficient buffer for visual effects where they may be likely to occur; the detailed map of the APE is provided in Attachment 4; and

WHEREAS, FHWA, in consultation with MD SHPO, identified ten (10) historic properties that are listed in, or eligible for inclusion in the National Register of Historic Places (NRHP): Fort McHenry National Monument & Historic Shrine (Maryland Inventory of Historic Places [MIHP] B-8); Baltimore Harbor Tunnel (MIHP B-5333); Canton Grain Elevator (MIHP B-985); Baltimore Municipal Airport, Harbor Field (MIHP B-3603); Baltimore Municipal Airport Air Station (MIHP B-2094); Turner's Station African American Survey District (MIHP BA-3056); Sparrow's Point Shipyard District (MIHP BA-3208); Day Village Historic District (MIHP No. BA-3340); Fort Carroll (MIHP BA-451); and Fort Smallwood Park (MIHP AA-898); and

WHEREAS, FHWA has identified six (6) architectural resources requiring NRHP evaluation, as shown in Attachment 4: 6001 Dock Road; 3901 Fort Armistead Road; 3925 Fort Armistead Road; Fort Armistead Park; BG&E Parcels (Tax Map 110, Parcels 3, 26, 27, and 58); and MDTA's Francis Scott Key Bridge Administration Building; and

WHEREAS, FHWA has elected to phase the identification, evaluation, and effects assessment of certain portions of the APE and historic properties where timing, unavailability of access or design information precluded such identification, evaluation and assessment, as provided in 36 C.F.R. 800.4(b)(2), and 36 C.F.R. 800.5(a)(3); and

WHEREAS, FHWA will ensure additional identification, evaluation, and assessment is completed in a timely manner prior to final design and construction, to allow for meaningful consultation and practical opportunities to avoid, minimize, or mitigate for any potential adverse effects to historic properties; and

WHEREAS, FHWA has initiated consultation pursuant to 36 C.F.R. 800.3(c) with the MD SHPO by letter on May 16, 2024; SHA on behalf of FHWA will continue to consult with MD SHPO and consulting parties under the terms of this PA in order to identify historic properties, assess the

effects of the Project on historic properties, and, if necessary, resolve adverse effects to historic properties; and

WHEREAS, FHWA, pursuant to 36 C.F.R. 800.6(a)(1)(i)(C), on May 16, 2024, initiated Section 106 consultation with the Advisory Council on Historic Preservation (ACHP), and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. 800.6(a)(1)(iii); and

WHEREAS, FHWA, ACHP, SHA, MDTA and the MD SHPO, under the *Amended Programmatic Agreement Among the Federal Highway Administration, the Maryland Department of Transportation State Highway Administration, the Advisory Council on Historic Preservation, the Maryland State Historic Preservation Officer, Implementing Section 106 of the National Historic Preservation Act for the Federal-aid Highway Program in Maryland* (“Statewide PA”), linked in Attachment 2, have agreed to delegate certain authorities relating to Section 106 of the NHPA to SHA and MDTA for Federal-aid Highway Projects in Maryland; and

WHEREAS, SHA, pursuant to the Statewide PA, employs professionals meeting the Secretary of the Interior’s Professional Qualifications Standards (48 Fed. Reg. 44738-39, September 29, 1983) with experience and background in the fields of archaeology, architectural history and/or history who will oversee implementation of stipulations in this PA; and

WHEREAS, SHA and MDTA, on behalf of FHWA, pursuant to 36 C.F.R. 800.4(a)(1), has established the APE for the Project in consultation with the MD SHPO, and, per 36 C.F.R 800.4(b) in consultation with MD SHPO proposed a scope of effort to identify historic properties within the APE, and offered Federally-recognized Native American Tribal Nations (Tribes) an opportunity to provide input on this scope of effort; and

WHEREAS, SHA, MDTA and FHWA, pursuant to 36 C.F.R 800.2(d) have sought and considered the views of the public regarding the Project’s effects on historic properties by providing notice to the public via the project website, and in stakeholder public meetings on June 11, 2024; and

WHEREAS, SHA and MDTA, during the course of consultation, have invited the parties listed in Attachment 4 to participate in consultation on the Project; and

WHEREAS, SHA, MDTA and FHWA, have initiated consultation with Tribes listed in Attachment 4 and provided the Tribes with information about the Project. SHA, on behalf of FHWA, has invited the same Tribes to be consulting parties, as shown in Attachment 4; and

WHEREAS, FHWA, SHA and MDTA have determined archaeological properties are unlikely to be affected by the Project based on information available at the time of execution of the PA; and

WHEREAS, no historic properties exist within the expected limits of disturbance of the project, and no physical effects to historic properties are likely to occur based on information available at the time of execution of this PA; and

WHEREAS, FHWA has invited SHA and MDTA to be invited Signatories to this PA, based on their responsibilities for implementation of its terms, and all Signatories, required and invited, are

referred to as “Signatories” to this document; and.

WHEREAS, FHWA intends to use this PA to comply with 36 C.F.R. Part 800, 54 U.S.C. § 100902, 36 C.F.R. Part 14 and to govern the implementation of the Project and the identification and resolution of any adverse effects.

NOW, THEREFORE, FHWA, SHA, MDTA and MD SHPO, (hereinafter “Signatories”) agree that the Project will be implemented in accordance with the following Stipulations in order to take into account the effect of the Project on historic properties and that these Stipulations will govern compliance of the Project with Section 106 of the NHPA until this PA expires or is terminated.

Stipulations

I. Roles and Responsibilities

A. FHWA is the lead federal agency and is responsible for ensuring the terms of this PA are carried out.

B. SHA and MDTA are delegated authority by FHWA under this PA and the Statewide PA to continue defined aspects of consultation, project compliance review, and implementation of this PA’s terms. SHA and MDTA will jointly be responsible for implementation of this PA excepting where otherwise specified. Additionally:

1. MDTA and/or SHA, using FHWA funding in whole or in part, will enter into an agreement or agreements with a design-build contractor to design and build the Project, using a progressive design-build model. MDTA, in its administrative role with the contractor, will coordinate with and provide SHA all information necessary, and exercise oversight of the contractor to ensure compliance with this PA and its implementation. MDTA and SHA will work informally to resolve any disagreement, but will follow Stipulation X of the PA if resolution is not reached informally. SHA and MDTA may not delegate consultation obligations or other responsibilities related to Section 106 consultation specified in this PA to the design-builder.

2. SHA, on behalf of MDTA and FHWA, will consult with MD SHPO for actions under this PA and 36 C.F.R. 800.

C. SHPO: The MD SHPO has jurisdiction as established in the NHPA for historic properties in Maryland. MD SHPO will:

1. Respond to requests from SHA for concurrence on eligibility determinations, effect determinations, and technical documents within a 30-day review period unless otherwise specified in this PA, or SHA specifically provides for an extended review period at the time of submittal. SHA and FHWA may assume concurrence or no objection to determinations and submittals if no response is received within 30 days, if no extended timeline is specifically

established in the review request or if no timeline is specified in 36 C.F.R. 800. All durations referenced in this PA refer to calendar days.

2. Provide written comments, share general technical assistance/guidance, and make available survey records or other documents necessary to fulfill the requirements of this PA to SHA or its designates.

D. Consulting Parties/Public

1. SHA has consulted with or provided the opportunity to consult to the parties listed in Attachment 4 prior to finalizing this PA.

2. SHA will provide consulting parties who have elected to participate in consultation, regardless of concurring status, with opportunities to consult on Project changes or new elements with the potential to affect historic properties. Consulting parties may sign this PA as concurring parties at any time after execution of the PA with the invitation of SHA or FHWA. Additional consulting parties may be identified at a later time without the need to amend this PA.

3. Concurrence with the PA by a party does not necessarily indicate that the party supports the Project or endorses all stipulations of this PA, but rather indicates the desire of such parties to acknowledge consultation and/or remain involved in implementation of specific terms of this PA.

4. SHA and MDTA will provide for notification of the public for substantial changes to the Project that would result in an expanded APE or new effects to historic properties consistent with 36 CFR 800.8(c)(1)(iv) and procedures under NEPA to ensure ongoing opportunities for public input. As appropriate, this process may identify new consulting parties who may wish to consult at a later time in response to Project refinement.

II. Professional Standards

A. Guidelines, standards and regulations relevant to this PA and its purposes are listed below, and links to these documents are found in Attachment 2. Additionally, it is the intention of the Signatories to interpret this PA to incorporate any subsequent standards, revisions of standards, or applicable guidance issued by the Secretary of the Interior, ACHP, or MD SHPO as then in force during this PA.

1. 36 C.F.R. Part 800: Protection of Historic Properties, as amended (2004);

2. *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (1983);

3. Secretary of the Interior's Professional Qualifications Standards (48 Fed. Reg. 44738-39, September 29, 1983)

4. *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994), including *Technical Update No. 1 of the Standards and*

Guidelines for Archaeological Investigations in Maryland: Collections and Conservation Standards (2018);

5. *Standards and Guidelines for Architectural and Historical Investigations in Maryland* (Maryland Historical Trust, 2023);

6. Program Comment for Actions Affecting Post-1945 Concrete Steel Bridges (77 FR 68790);

7. *Exemption Regarding Historic Preservation Review Process for Effects to the Interstate Highway System* (ACHP Program Comment, 2005)

8. *Section 106 Archaeology Guidance* (ACHP, 2009)

9. National Register of Historic Places Bulletin 15, *How to Apply the National Register Criteria for Evaluation* (National Park Service revised 1997), National Register of Historic Places Bulletin 16A, *How to Complete the National Register Registration Form* (National Park Service revised 1997), and other National Register Bulletins as applicable

10. Secretary of the Interior's Standards for the Treatment of Historic Properties (1995, Revised 2017); and accompanying guidelines for Treatment of Historic Properties (1995, Revised 2017) and Cultural Landscapes (1996)

III. Historic Properties Identification and Effects Assessment

A. *Historic Properties Identification.* SHA and MDTA commit to evaluating the following properties within the APE for eligibility for the NRHP, in accordance with 36 C.F.R. 800.4(c), including providing eligibility determinations to consulting parties and seeking concurrence from MD SHPO:

- 6001 Dock Road
- 3901 Fort Armistead Road
- 3925 Fort Armistead Road
- Fort Armistead Park
- BG&E parcels (Tax Map 110, Parcels 3, 26, 27, and 58)
- Francis Scott Key Bridge Administrative Building

B. *Effect Determination.* Following the evaluation of the properties specified in Stipulation III.A., and at such time as the following information is available: the limits of approach work, bridge type, bridge height, anchorage locations, and locations of any proposed ancillary staging areas, SHA, on behalf of FHWA, will make a finding of effect in accordance with 36 C.F.R. 800.4(d), and 36 C.F.R. 800.5.

1. Finding of No Properties Affected or No Adverse Effect to Historic Properties. Should SHA, on behalf of FHWA, find that no historic properties are affected by the Project or No Adverse Effect to historic properties will result from the Project, and MD SHPO concurs with the finding, in consideration of the views of any consulting parties, SHA and FHWA will proceed with the project, and follow Stipulations IV-XI.

2. Finding of Adverse Effect. If potential adverse effects to historic properties are identified, SHA, MDTA and FHWA will seek to avoid or minimize adverse effects. If adverse effects cannot be completely avoided, and SHA determines there is an adverse effect to historic properties, SHA, MDTA, and FHWA will develop a mitigation plan in consultation with MD SHPO and appropriate consulting parties, identifying mitigation that is reasonable, feasible, and commensurate with the effects to historic properties. SHA will seek concurrence from MD SHPO on the mitigation plan, and, upon MD SHPO concurrence, will implement the provisions of the plan. FHWA, SHA, and MDTA will amend this PA to incorporate its provisions.

3. If SHPO does not concur with the mitigation plan, FHWA, SHA, and MDTA will consult with MD SHPO and appropriate consulting parties to revise the mitigation plan. If the Signatories cannot reach concurrence on the plan, the parties will follow Stipulation X regarding dispute resolution.

IV. Consultation Regarding Project Development

A. As project design advances or ancillary activities not currently known are identified, SHA will initiate consultation with MD SHPO and other consulting parties, and the public per Stipulation I.E. using the following process:

1. On an ongoing basis, SHA cultural resources staff will review proposed changes that affect project location, design, or limits of disturbance, for potential new effects to historic properties.

2. If SHA determines there is potential for new or changed effects, SHA will notify FHWA and consult as described in Stipulation IV.B below.

B. SHA, on behalf of FHWA, consistent with the principles described in 36 C.F.R. §§ 800.3 – 6, will consult with MD SHPO and other Signatories to this PA, and consulting parties identified for this undertaking as appropriate on:

1. Amendments to the APE, consistent with 36 C.F.R. § 800.16(d), including identification and documentation of any new historic properties within the amended APE consistent with 36 C.F.R § 800.4(a) and (b).
2. Changes to the LOD within the existing APE where any additional archaeological investigation would be recommended, including newly identified staging or stockpile areas outside MDTA right-of-way within the APE.
3. New or revised determinations of eligibility for historic properties within the APE as described above, consistent with 36 C.F.R § 800.4(c).
4. New or revised assessment of effects to historic properties within the APE as described above, consistent with 36 C.F.R § 800.5.

C. SHA will provide consultation materials in written or electronic form, and follow timelines for comment opportunity as specified in Stipulation I.C.1.

V. Monitoring of Performance

- A. Specific points for continued consultation are defined in Stipulations III and IV.
- B. Should Adverse Effects be identified, and a mitigation plan be developed in accordance with Stipulation III.B.2, the mitigation plan will include a schedule for periodic regular reporting and/or meetings until the commitments of any mitigation plan are completed, or another point in time identified in the plan.
- C. SHA and MDTA will convene consulting party meetings as necessitated by project advancement described in Stipulation IV or when requested by any Signatory.

VI. Post-Review Discovery of Human Remains

SHA will follow the attached Inadvertent Discovery Plan (Attachment 1) should human remains be identified in any areas of the project.

VII. Other Post-Review Discoveries

SHA will follow the procedures in Attachment 1 of this PA for any inadvertent archaeological discoveries or inadvertent effects to historic properties during construction.

VIII. Confidentiality

The Signatories agree to provide by the provisions of Section 304 of the NHPA, and other applicable requirements, to withhold information concerning the location, character, or ownership of resources where release of such information may endanger the integrity of the resource.

IX. Amendment

Any Signatory to this PA may request that it be amended, whereupon the Signatories will consult in accordance with 36 C.F.R. § 800.14 to consider such an amendment.

Amendments will be effective upon the date of the last signature from the Signatories.

X. Dispute Resolution

A. Should any Signatory or consulting party object at any time to the manner in which the terms of this PA are implemented, within 30 days of information being provided relating to the issue forming the basis of the objection, or within 30 days where the objector can otherwise be reasonably assumed to be aware of the issue forming the basis of objection, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will take the following steps:

1. Forward all documentation relevant to the dispute, including FHWA's proposed resolution, to ACHP. FHWA will request ACHP provide comment on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from ACHP, Signatories and consulting parties and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
2. If ACHP does not provide its advice regarding the dispute within the 30-day period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and consulting parties to the PA and provide them with a copy of such written response.
3. In the case of objections related to NRHP eligibility, any Signatory may object in writing within 30 days to an SHA or FHWA determination of eligibility. If SHA and FHWA are unwilling to revise the determination in response to the objection or other relevant information, FHWA (or SHA on its behalf) will submit the determination to the Keeper of the National Register of Historic Places for a determination pursuant to 36 C.F.R. Part 63.

B. Objections from the Public: Should a member of the public object to an action taken under this PA, or compliance with the PA, within 30 days of information being provided relating to the issue forming the basis of the objection, or within 30 days where the objector can otherwise be reasonably assumed to be aware of the issue forming the basis of objection, FHWA will ensure that SHA consults with the objecting party to respond to the objection in coordination with FHWA where relevant, provided the

objection is made in writing to FHWA or SHA contacts identified in Attachment 3 or any subsequent updates to Attachment 3. SHA and FHWA will inform other Signatories of the objection and proposed resolution. Should a Signatory disagree with the proposed resolution, the Signatories will follow Stipulation X.

C. FHWA's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

XI. Termination

A. Any Signatory to this PA may terminate it by providing 30 days' notice in writing to the other Signatories, provided that the Signatories will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

B. If any Signatory to this PA determines that a term will not or cannot be carried out, that party shall immediately consult with the other Signatories to attempt to develop an amendment per Stipulation IX, above. If within 30 days (or another time period agreed to by all Signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other Signatories.

C. In the event of termination, FHWA will comply with 36 C.F.R. § 800 for all remaining actions, or until a new agreement is reached fulfilling such requirements.

This PA will continue in full force and effect until 10 years from the date of execution of the PA, or such time of final acceptance of the Project and when all terms of this PA have been met, should the terms be met prior to the 10-year expiration. The PA will be invalid if the Project is terminated or authorization for the Project is rescinded. At any time in the six-month period prior to its expiration, the Signatories will consult to consider an extension or amendment of the PA. At such time, the Signatories may consider an amendment to extend the PA unmodified for an additional specified duration or consult to amend the PA in accordance with Stipulation IX. No extension or amendment will be effective until all Signatories have signed the amendment or amendment to extend.

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I-695 Over the Patapsco River Francis Scott Key Bridge Replacement Project
Anne Arundel and Baltimore Counties, and Baltimore City, Maryland**

FEDERAL HIGHWAY ADMINISTRATION

**By: VALERIYA
REMEZOVA**
 Digitally signed by VALERIYA
REMEZOVA
Date: 2024.07.01 13:37:33 -04'00'
Valeriya Remezova, Division Administrator

Date: 7/1/2024

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MARYLAND STATE PRESERVATION OFFICER

By:  **Date:** 6-13-2024
Elizabeth Hughes, State Historic Preservation Officer

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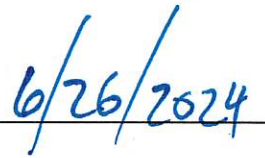
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MARYLAND TRANSPORTATION AUTHORITY

By:


Bruce Gartner, Executive Director

Date:



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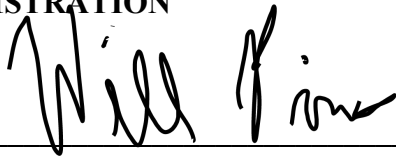
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**MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY
ADMINISTRATION**

By:



William Pines, P.E., Administrator

Date: 6/18/2024

CONCURRING PARTY PAGE

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Anne Arundel and Baltimore Counties, and Baltimore City, Maryland**

By: _____

Date: _____

Print Name: _____

Organization: _____

Attachments

1. Inadvertent Discovery Plan
2. Links to Documentation Referenced
3. Contact Information for FHWA, MDTA and SHA staff (to be updated as necessary)
4. Section 106 Initiation Letter

Attachment 1

Inadvertent Discovery Plan

A. Unanticipated Impacts to Architectural Historic Properties: if the Project causes unanticipated impacts to any National Register of Historic Places (NRHP) eligible, listed, or contributing buildings, sites, structures, or objects of the built environment, the contractor must notify the engineer and immediately cease any activity causing ongoing damage until consultation occurs. SHA shall, in consultation MD SHPO, determine if adverse effects have occurred to the property/properties and develop a plan for the protection of the historic property, and minimization or mitigation of impacts. If mitigation is identified, FHWA, SHA, MD SHPO, and other Signatories as necessary will execute a Memorandum of Agreement or amend this PA to record the identified mitigation. SHA or MDTA may hold the contractor(s) liable for any or all costs resulting from this process following appropriate processes identified in its contract instruments.

B. Unanticipated Damage to Known Archaeological Resources: if unauthorized excavation occurs outside the approved limits of disturbance (LOD) or other approved boundaries designed to protect archaeological resources or cemeteries and thereby causes impacts to known, NRHP-eligible properties, SHA and/or MDTA will ensure any activity causing ongoing damage is stopped until consultation occurs. SHA will conduct a damage assessment consistent with the model used for such assessments under the Archaeological Resources Protection Act (<https://www.nps.gov/archeology/pubs/techbr/tchBrf20.pdf>). SHA will use the results of the assessment in consultation with the MD SHPO to determine if the resource has been adversely affected and determine appropriate mitigation. If the resource is of known or suspected Native American affiliation, FHWA, with assistance from SHA shall consult with federally recognized Indian Tribes as appropriate. If the resource is affiliated with other known descendant groups or consulting parties, SHA will consult with such parties as well. If mitigation is identified, FHWA, SHA, MD SHPO, and other Signatories as necessary will execute a Memorandum of Agreement or amend this PA to record the identified mitigation. SHA or MDTA may hold the contractor(s) liable for any or all costs resulting from this process following appropriate processes identified in its contract instruments.

C. Unanticipated Discovery of Human Remains: Should any burials, interments, or human remains (hereafter, “remains”) be encountered during construction, SHA and/or MDTA will ensure all applicable construction work in the vicinity of the remains is immediately stopped to prevent damage to the remains, or to any additional remains that might be present in the vicinity. A minimum 100-foot buffer around identified remains will be established by SHA and/or MDTA free of disturbance, to be adjusted as appropriate for the site conditions. Construction may occur outside the buffer unless evidence of additional remains is found. If remains are suspected to be human but not confirmed, SHA will ensure that such confirmation is made by a qualified professional. Human remains will at all times be treated respectfully and access and visibility limited to the site of discovery to authorized personnel only. Within Maryland, pursuant to State of Maryland Criminal Code § 10-402, the State’s Attorney must authorize movement or removal of any remains until determined to be archaeological. If the remains are determined to be archaeological, SHA and the MD SHPO will consult to determine treatment of the remains and any other necessary treatment such as work needed to define extent of remains in the most expeditious manner feasible.

If the remains are determined archaeological and suspected to be of Native American origin, SHA, in coordination with FHWA, shall provide notification to tribal governments in accordance with any expressed tribal consultation preferences within 24 hours or as soon as practicable. SHA and/or FHWA will consult with affected federally recognized Indian Tribes, the Maryland Commission on Indian Affairs and appropriate Maryland Indian groups as appropriate regarding treatment of the remains. SHA and/or MDTA will accommodate tribal cultural preferences to the extent practicable during such an event. If remains can be associated with other known descendant communities or organizations, such parties shall also be consulted.

In consultation with the MD SHPO, Federally Recognized Indian Tribes, and FHWA as appropriate, and other identified descendant/affiliated consulting parties, the SHA shall develop a plan for the treatment or disposition of the remains or follow provisions of an existing Treatment Plan developed per this PA. SHA and/or MDTA shall implement the provisions of the agreed Treatment Plan.

Should the remains be associated with, or constitute an intact archaeological resource, provision **D** below is also applicable.

D. Unanticipated Discovery of Archaeological Resources: If previously unidentified archaeological features, artifacts, or other materials (hereafter, “resource”) are discovered during construction, all ground-disturbing work in the vicinity of the resource shall be temporarily suspended or modified to prevent further damage to the resource, and SHA will provide a reasonable buffer where ground disturbance is prohibited to cover the extent of the resource that may not be exposed.

The SHA archaeologist shall perform a preliminary inspection to identify the resource and evaluate its likelihood of NRHP eligibility. Following this inspection, construction may resume in the vicinity of but outside the boundary of the archaeological resource as defined by the SHA archaeologist. If the resource is potentially eligible for the NRHP, SHA will consult with the MD SHPO on an eligibility determination and, if determined eligible for the NRHP, every effort shall be made to minimize impacts through redesign or modification of construction methods. If the resource is of known or suspected Native American affiliation, FHWA, with assistance from SHA shall consult

with federally recognized Indian Tribes as appropriate. If the resource can be reasonably identified with other descendant or affiliated communities, SHA shall also attempt to consult with such parties.

In consultation with the MD SHPO, SHA shall develop a plan for the treatment of any resource determined eligible. SHA shall describe actions proposed to avoid, minimize, or mitigate adverse effects, and request MD SHPO, tribal, and any other consulting party comments within 5 working days, unless there is a life or safety hazard requiring immediate interim action. SHA will disclose any interim action affecting the eligible resource taken in the event of a life or safety hazard. SHA, at its discretion, may establish a longer comment period if practicable in consideration of potential safety, cost, public travel disruption, and other factors.

SHA shall then implement the provisions of the agreed-upon plan and/or amend this PA to document the resolution, should the resource be determined eligible and should the Project adversely affect the resource.

Attachment 2

Links to Documentation Referenced In the I-695 Over the Patapsco River PA

Federal Codes and Regulations

36 C.F.R. Part 14 and 54 U.S.C. § 100902

Rights-of-Way

<https://www.ecfr.gov/current/title-36/chapter-I/part-14>

<https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title54-section100902&num=0&edition=prelim>

36 C.F.R. Part 63

Dispute Resolution of Determinations of Eligibility for Inclusion in the NRHP

<https://www.ecfr.gov/current/title-36/chapter-I/part-63>

36 C.F.R. Part 79

Curation of Federally Owned and Administered Archaeological Collections

<https://www.ecfr.gov/current/title-36/chapter-I/part-79>

36 C.F.R. Part 800

Implementing Regulations of Section 106 of the National Historic Preservation Act

<https://www.ecfr.gov/current/title-36/chapter-VIII/part-800?toc=1>

40 C.F.R. 1506.6(a)

Public involvement – National Environmental Policy Act

<https://www.ecfr.gov/current/title-40/chapter-V/subchapter-A/part-1506#1506.6>

54 U.S.C.

- National Historic Preservation Act

§ 306108 Effect of Undertaking on Historic Property

- [https://uscode.house.gov/view.xhtml?req=\(title:54%20section:306108%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:54%20section:306108%20edition:prelim))

§ 307103 Access to Information (Section 304)

- <https://www.achp.gov/digital-library-section-106-landing/frequently-asked-questions-protecting-sensitive-information>

State Codes and Regulations

Maryland Criminal Code § 0-402

Courts and Judicial Proceedings

<https://law.justia.com/codes/maryland/2013/article-gcr/section-10-402>

I-695 Over the Patapsco River Francis Scott Key Bridge Replacement

Section 106 Programmatic Agreement

June 2024

Guidelines and Standards

Advisory Council on Historic Preservation

- *Exemption Regarding Historic Preservation Review Process for Effects to the Interstate Highway System* (ACHP Program Comment, 2005)
https://www.achp.gov/sites/default/files/exemptions/2017-01/final_interstate_exemption_notice.pdf
- *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects* (ACHP March 2023)
<https://www.achp.gov/sites/default/files/policies/2023-07/PolicyStatementonBurialSitesHumanRemainsandFuneraryObjects30June2023.pdf>
- *Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges* (77 FR 68790)
<https://www.federalregister.gov/documents/2012/11/16/2012-27866/program-comment-issued-for-streamlining-section-106-review-for-actions-affecting-post-1945-concrete>
- *Section 106 Archaeology Guidance* (ACHP, 2009)
<https://www.achp.gov/sites/default/files/guidance/2017-02/ACHP%20ARCHAEOLOGY%20GUIDANCE.pdf>

The Maryland Historical Trust

- *Standards and Guidelines for Archaeological Investigations in Maryland* (Shaffer and Cole 1994)
https://mht.maryland.gov/documents/PDF/archeology/Archeology_standards_investigations.pdf
- *Technical Update No. 1 of the Standards and Guidelines for Archaeological Investigations in Maryland: Collections and Conservation Standards* (2018)
https://mht.maryland.gov/documents/PDF/archeology/Archeology_standards_curation.pdf
- *Standards and Guidelines for Architectural and Historical Investigations in Maryland* (Maryland Historical Trust, Revised 2019)
https://mht.maryland.gov/documents/PDF/research/Survey_standards_architecture_web.pdf
- *NRHP Bulletin 15 – How to Apply the National Register Criteria for Evaluation* (National Park Service revised 1997)
https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf
- Other NRHP Bulletins

<https://www.nps.gov/subjects/nationalregister/publications.htm#:~:text=national%20register%20of%20historic%20places%20bulletins>

- The Secretary of the Interior's Guidelines for the Treatment of Cultural Landscapes (1996)
<https://www.nps.gov/tps/standards/four-treatments/landscape-guidelines/index.htm>
- The Secretary of the Interior's Guidelines for the Treatment of Historic Properties (1995, Revised 2017)
<https://www.nps.gov/tps/standards/treatment-guidelines-2017.pdf>
- The Secretary of the Interior's Professional Qualifications Standards
<https://www.nps.gov/articles/sec-standards-prof-quals.htm>
OR see 48 FR 44738
<https://www.nps.gov/subjects/historicpreservation/upload/standards-guidelines-archeology-historic-preservation.pdf>
- The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (1983)
<https://www.nps.gov/subjects/historicpreservation/upload/standards-guidelines-archeology-historic-preservation.pdf>
- The Secretary of the Interior's Standards for the Treatment of Historic Properties (1995, Revised 2017)
<https://www.nps.gov/tps/standards/four-treatments.htm>
OR <https://www.ecfr.gov/current/title-36/chapter-I/part-68>

Other Referenced Information

- SHA and MDTA Statewide PA:
https://www.roads.maryland.gov/OPPEN/2021_PA_Amendment.pdf

Attachment 3
FHWA, SHA and MDTA Staff Contact Information:

For FHWA:

Mr. Alexander Bienko
Environmental Specialist
FHWA - Maryland Division
George H. Fallon Federal Building
31 Hopkins Plaza, Suite 1520
Baltimore, MD 21201
phone (410) 779-7148

For SHA:

Mr. Steve Archer
Assistant Division Chief
Maryland Department of Transportation State Highway Administration
707 N. Calvert Street
Baltimore, MD 21202
phone (410) 545-8508

For MDTA:

Ms. Melissa Williams
Director
Maryland Transportation Authority
Planning & Program Development
2310 Broening Highway
Baltimore, MD 21224
phone (410) 802-9684 (direct)

Attachment 4
Section 106 Consultation Initiation Letter

May 16, 2024

Ms. Elizabeth Hughes
State Historic Preservation Officer
Maryland Historical Trust
100 Community Place
Crownsville MD 21032-2023

Dear Ms. Hughes:

Introduction and Project Description

On behalf of the Federal Highway Administration (FHWA) and in accordance with the Programmatic Agreement (PA) Implementing Section 106 of the National Historic Preservation Act for FHWA Undertakings in Maryland (Section 106 PA), this letter serves to inform the Maryland Historical Trust (MHT) of the Maryland Department of Transportation State Highway Administration's (SHA) proposed Project to rebuild the Maryland Transportation Authority's Francis Scott Key Bridge carrying I-695 over the Patapsco River. SHA seeks to establish the Area of Potential Effects (APE) and to provide information about historic properties identification within the APE.

On March 26, 2024, the MDTA Francis Scott Key Bridge (Key Bridge), which carries I-695 over the Patapsco River, was struck by a cargo ship leaving the Port of Baltimore, resulting in the collapse of the bridge. The collapse prompted the immediate closure of I-695 between MD 173 (exit 1) and MD 157/Peninsula Expressway (exit 43) and halted vehicle traffic across the Patapsco River as well as marine shipping to and from the Port of Baltimore. Following the incident, Executive Order 01.01.2024.09 was released by the State of Maryland, declaring a State of Emergency as a result of the Key Bridge collapse. Immediate recovery and debris removal actions were conducted.

MDTA and SHA are now proposing to replace the collapsed Francis Scott Key Bridge in the same location as the original structure. The Project is in portions of Baltimore City, Baltimore County, and Anne Arundel County, Maryland. The project limits extend along I-695 from Quarantine Road in Curtis Bay to Broening Highway in Dundalk and is entirely within MDTA's existing right-of-way (ROW). The remaining portions of the old structure will be removed to clear the on-alignment location of the new structure. This would likely involve fully removing the on-land piers and removing the remaining in-water piers to near or below the river bottom (mud line).

The Project includes construction of a replacement bridge that would restore transportation connectivity; incorporate design upgrades that meet current standards and conditions that have changed since construction of the original bridge in 1977; and accommodate existing and future ship navigation on the Patapsco River and into the Port of Baltimore. As the proposed Project is a replacement of the collapsed bridge, the location of the Project would be the same as the old structure and remain within the existing ROW, following the existing centerline across the Patapsco River and the approaches along I-695. The new bridge would have four travel lanes, maintaining the capacity of the former bridge.

The Project proposes several design changes to be incorporated into the replacement bridge to account for advancements in design standards and changes in existing conditions since the original bridge was constructed. A bridge type will be developed that could support a longer main span and higher air draft clearance; and this will likely involve support towers which could be taller than the old bridge to as much as 500-550 feet above the water. The replacement bridge would have a 230-foot minimum air draft and a clear span of 1,200 feet at full air draft along the main span to provide additional overhead clearance for large vessels traveling under the bridge. Considering a change in air draft and clear span, the Project also proposes an increased length to 1,400 feet along the main span with additional piers, increasing the bridge to 2.4 miles in total length with a 4% profile to match the existing alignment and approaches. The new typical section for the Project would meet the design specifications for lanes and shoulders outlined in the American Association of Highway and Transportation Officials (AASHTO) *A Policy on Design Standards – Interstate System* (May 2016) and would include two 12-foot-wide lanes and 10-foot/4-foot-wide shoulders.

The project includes obtaining federal permits from United States Coast Guard (USCG) US Army Corps of Engineers (USACE). On May 2, 2024, FHWA sent an email to the USCG and the USACE, proposing to assume the role of Lead Federal Agency, in accordance with 36 CFR 800.2(a)(2), to fulfill collective federal agency responsibilities under Section 106. USCG and USACE responded on May 13 and 14, 2024, respectively, concurring with FHWA taking this role.

A location map is included as Attachment 1.

Funding

Federal funds are anticipated for this project.

Area of Potential Effects

In determining the Area of Potential Effects (APE) for this project, SHA considered possible visual, audible, atmospheric and/or physical impacts to historic properties, both archaeological sites and architectural resources, which would diminish the integrity of any characteristics that would qualify a property for the National Register of Historic Places (NRHP). The area along the Patapsco River is characterized as an industrial shipping port. The previous steel arch continuous through truss bridge was visually prominent along the Patapsco River to the north and south of the bridge. While the bridge was also visible farther inland, it was less prominent amidst other dominant commercial and industrial buildings and structures comprising the Baltimore skyline. The proposed new bridge will be taller and likely a different bridge type, but will not substantially alter the viewshed along the Patapsco River and does not have the potential to affect historic properties beyond the Patapsco River shoreline. The APE, therefore, is confined to parcels along the Patapsco River shoreline, west to Fort McHenry and east to Fort Smallwood Park, as well parcels directly adjacent to MDTA ROW along I-695 (Attachment 2a-d). The archaeological survey area is defined as the limits of construction disturbance within MDTA ROW from its intersection with Broening Highway to the north and the Quarantine Road intersection to the south.

Proposed Identification Methods and Results

Architecture: There are eight architectural historic properties in the APE.

Resource Name	MIHP No.	NRHP Status
Fort McHenry National Monument & Historic Shrine	B-8	Listed, October 15, 1966
Baltimore Harbor Tunnel	B-5333	Eligible, 2021
Canton Grain Elevator	B-985	Eligible, 2019
Baltimore Municipal Airport, Harbor Field	B-3603	Eligible, 1992
Baltimore Municipal Airport Air Station	B-2094	Eligible, 1994
Turner's Station African American Survey District	BA-3056	Eligible, 2019
Sparrow's Point Shipyard District	BA-3208	Eligible, 2006
Fort Carroll	BA-451	Eligible, 2006
Fort Smallwood Park	AA-898	Eligible, 2013

Additional MIHP resources are associated with these historic properties as contributing/non-contributing resources. A-897 and A-897A, as well as A-898A through A-898I, are associated with Fort Smallwood Park. Likewise, BA-3208-1 through BA-328-5 are associated with Sparrow's Point Shipyard District.

Center Street, 114 (DOE-BA-0042); Avondale Road, 202 (DOE-BA-0015); Carver Road, 105 (DOE-BA-0040); and Fleming Community Center (DOE-BA-0083) were individually evaluated and determined not eligible for the NRHP in the 1990s, before Turner's Station African American Historic District was determined NRHP eligible. All resources except 114 Center Street are contributing resources in the district.

As outlined above, notable effects would be confined to those properties immediately adjacent to the work and/or within limits of disturbance for construction of the new bridge. SHA has determined there is limited potential for other types of effects, in consideration of the prior modern bridge structure. The new structure will be on the same alignment as the prior bridge, but is anticipated to be of increased height, and will likely be a different bridge type than the prior bridge. The prior bridge was visible in whole or in part from a great number of locations in dense, urban Baltimore City and surrounding areas. The replacement bridge will have slightly increased visibility. However, historic properties effects resulting from these changes would be limited to those properties where the differences between the prior bridge and the replacement bridge would be integral to the character, experience or integrity of the historic property.

Given this narrow potential for effects, SHA proposes architectural inventory and evaluation efforts under 36 CFR 800.4(a) consisting of NHRP evaluation of: 1) parcels immediately adjacent to MDTA ROW and project limits and 2) MIHP resources within the APE. Since all MIHP resources within the APE have an NRHP evaluation, resources requiring evaluation include the following:

Unrecorded Architectural Resources
6001 Dock Road
3901 Fort Armistead Road
3925 Fort Armistead Road
Fort Armistead Park
BG&E parcels (Tax Map 110, Parcels 3, 26, 27, and 58)
Francis Scott Key Bridge Administrative Building

The APE also includes four metal girder bridges along I-695: BCZ496061 (1975); BCZ496051 (1975); BCZ492061 (1972); and BCZ492051 (1979). Metal girder bridges are not eligible for the NRHP under the Advisory Council on Historic Preservation Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges (Federal Register Vol. 77, No. 222) and do not require NRHP evaluation.

Archaeology: There are no recorded archaeological historic properties within the archaeology survey area.

There is minimal potential for terrestrial archaeological historic properties within the archaeological survey area. The terrestrial portion of the archaeological survey area has not been subjected to Phase I archaeological survey. A review of soil data, historic topographic maps, and twentieth-century aerial photographs demonstrates that the entirety of the terrestrial archaeological survey area is located on made land and fill with minimal potential to contain archaeological historic properties (USDA-NRCS 2024; USGS 1894, 1946, 1975; HistoricAerials.com 2024). No further terrestrial archaeological work is recommended.

There is also minimal potential for underwater archaeological historic properties. Several prior underwater archaeological surveys have occurred in the archaeological survey area (Koski-Karell, 1979; U.S. Army Corps of Engineers 1992; Pelletier, Williams, and Randolph 2005). There is one archaeological quad file within the archaeology survey area, CURTIS-QF10, the approximate location of a pier at the mouth of Bear Creek, that was recorded based on historical mapping as part of a Phase IA underwater archaeological project ca. 1990. Subsequent underwater archaeological survey in the vicinity of CURTIS-QF10 by Pelletier, William, and Randolph (2005) did not identify evidence of the pier. Additionally, the presence of a dredged channel under the collapsed truss span of the Francis Scott Key Bridge, where recovery efforts are currently focused, suggests no intact, unrecorded resources are likely to be present or affected by the undertaking. No further underwater archaeological work is recommended.

Review Request

FHWA has requested a PA for this project, the scope of which would be commitments to this identification effort, an effects determination following completion of historic properties identification and evaluation, and a process for managing change under the progressive design build project. We request any comments you may have by May 27, 2024 on the APE, that no further archaeological work is necessary, and the scope of identification efforts. Based on the project schedule, SHA will need to execute the PA by July 8, 2024; pending any comments you may have to provide on the content of this letter, we will work with FHWA to provide a draft PA.

We invite, by copy of this letter, the organizations listed in Attachment 3 to provide comments and participate in the Section 106 process. Pursuant to the requirements of the implementing regulations found at 36 CFR Part 800, SHA seeks their assistance in identifying historic preservation issues as they relate to this specific project (see 36 CFR §800.2(c)(3) and (5), and §800.3(f) for information regarding the identification and participation of consulting parties, and §800.4, and §800.5 regarding the identification of historic properties and assessment of effects). For additional information regarding the Section 106 regulations, see the Advisory Council on Historic Preservation's website,

Ms. Elizabeth Hughes
Page Six

www.achp.gov, or contact SHA or MHT. If no response is received by May 27, 2024, we will assume that these offices decline to participate. Please call Sarah Groesbeck at 410-545-0038 (or email sgroesbeck@mdot.maryland.gov) or myself with questions regarding this project.

Sincerely,

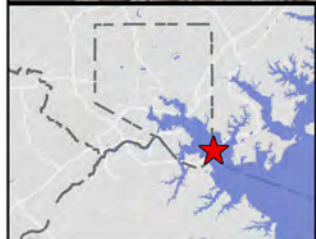


Digitally signed by
Steve Archer
Adobe Acrobat
version:
2024.002.20687

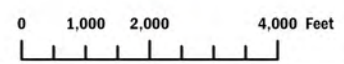
Steve Archer
Assistant Division Chief
Environmental Planning Division

Attachments

cc: Mr. Alex Bienko, Environmental Specialist, MD Division, FHWA
Mr. David Clarke, Federal Preservation Officer, FHWA
Ms. Donna Buscemi, Deputy Director, OPPE, SHA
Ms. Sarah Groesbeck, Architectural Historian, OPPE-EPLD, SHA
Ms. Heather Lowe, Planning and Community Relations Manager, MDTA
Mr. Ray Moravec, Director, OPPE, SHA
Ms. Sushmita Sarkar, Environmental Manager, OPPE-EPLD, SHA
Ms. Melissa Williams, Director, Planning & Program Development, MDTA



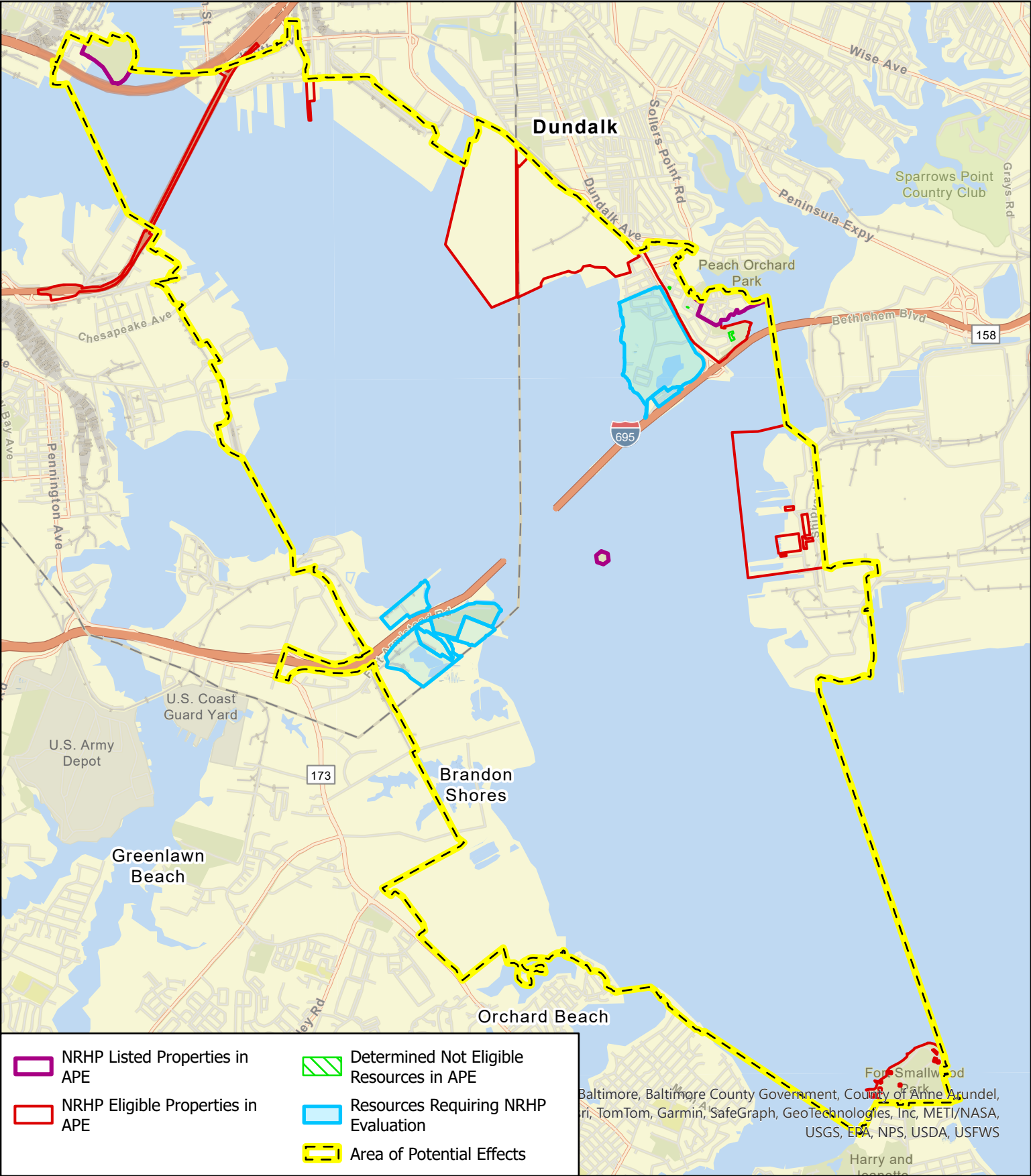
 Project Limits



**Francis Scott Key
Bridge
Rebuild Project**

Project Location

Attachment 2a: Area of Potential Effects Map

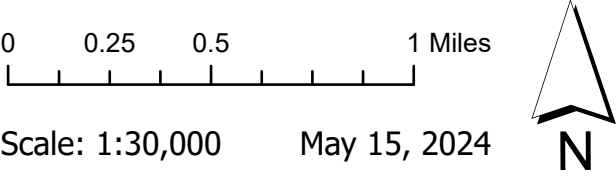


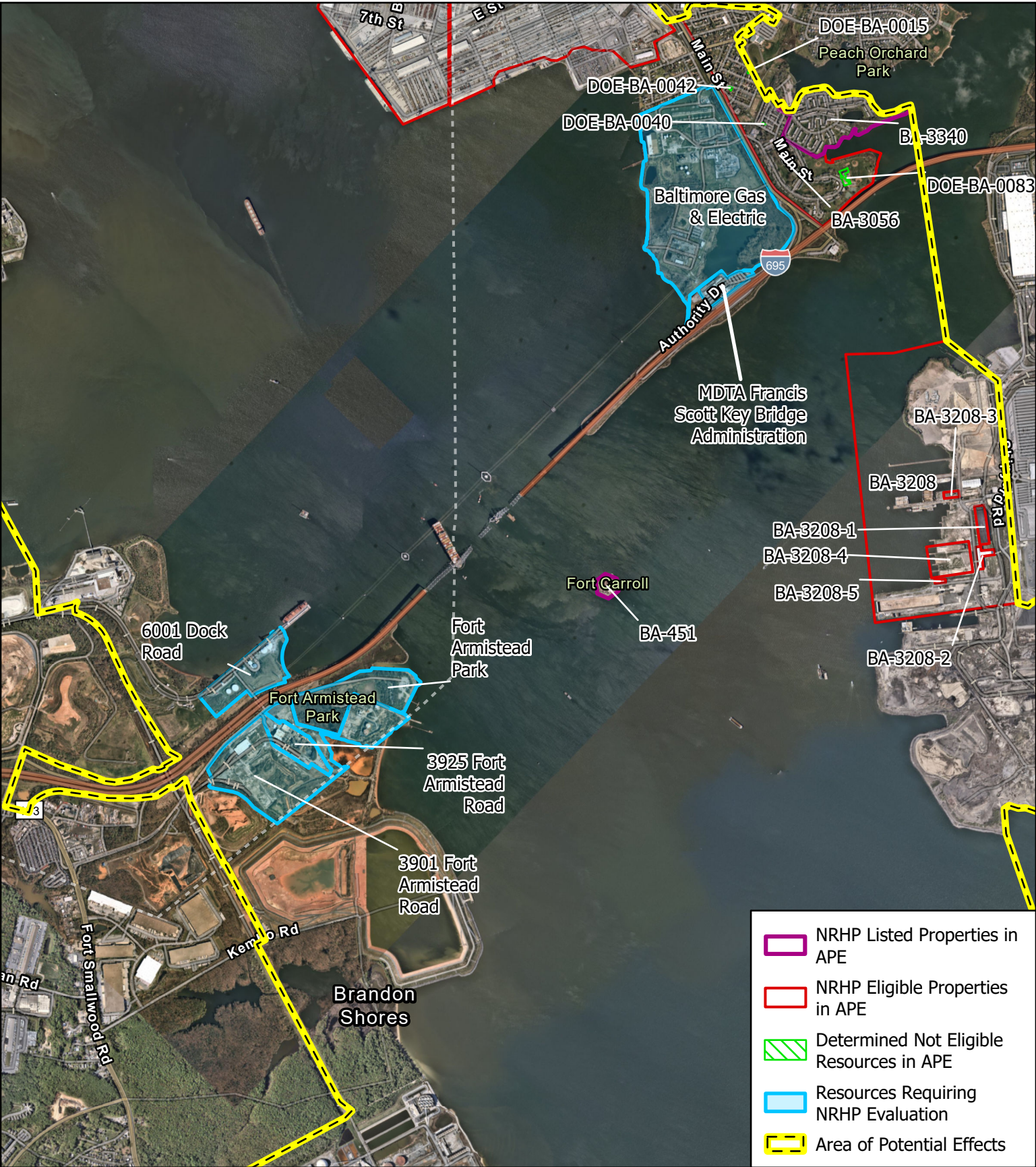
I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge
Baltimore City, Baltimore County, Anne Arundel County

Attachment 2b: Area of Potential Effects Map

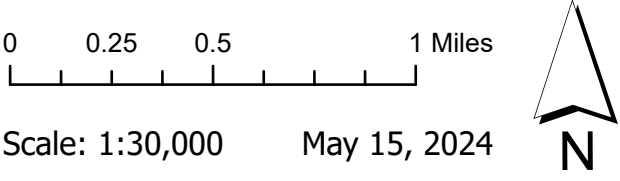


I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge
Baltimore City, Baltimore County, Anne Arundel County





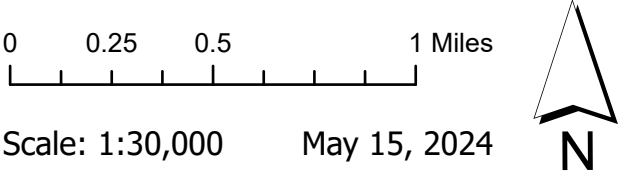
I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge
Baltimore City, Baltimore County, Anne Arundel County



Attachment 2d: Area of Potential Effects Map



I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge
Baltimore City, Baltimore County, Anne Arundel County



Attachment 3

Francis Scott Key Bridge Rebuild Consulting Parties

Organization	Contact Person	Email
Advisory Council on Historic Preservation	Mandy Ranslow	mranslow@achp.gov
Anne Arundel County Department of Recreation and Parks	Erica Matthews	rpjack50@aacounty.org
Anne Arundel Co. Office of Environmental & Cultural Resources	Darian Beverungen	PZBeve19@aacounty.org
Anne Arundel County Office of Transportation	Samuel Snead	trsnea19@aacounty.org
Anne Arundel County Trust for Preservation	Patricia Melville	actforpreservation@gmail.com
Baltimore City Commission for Historical and Architectural Preservation	Eric Holcomb	eric.holcomb@baltimorecity.gov
Baltimore City Department of Planning	Chris Ryer	Chris.Ryer@baltimorecity.gov
Baltimore City Department of Transportation	Corren Johnson	Corren.Johnson@baltimorecity.gov;
Baltimore Heritage	Johns Hopkins	hopkins@baltimoreheritage.org
Baltimore National Heritage Area	Shauntee Daniels	sdaniels@baltimoreheritagearea.org
Baltimore County Landmarks Preservation Commission	Caitlin Merritt	cmerritt@baltimorecountymd.gov
Baltimore County Traffic Engineering and Transportation Planning	Angelica Daniel	adaniel@baltimorecountymd.gov
Fort McHenry National Monument and Historic Shrine	Robert Stewart	robert_stewart@nps.gov
Friends of Fort McHenry	Melanie Santiago-Mosier	info@friendsoffortmchenry.org
Maryland Commission on Indian Affairs	Keith Colston	keith.colston@maryland.gov
Maryland Port Authority	Amanda Pañafiel	apenafiel@marylandports.com
National Park Service Northeast Region	Mark Eberle	mark_eberle@nps.gov
Preservation Alliance of Baltimore County, Inc.	Anne Gryczon	Director@PreservationABC.org
Preservation Maryland	Nicholas Redding	nredding@presmd.org
Turner Station Conservation Team	Gloria Nelson	glorianelson8@verizon.net
United States Army Corps of Engineers	Joseph DaVia	joseph.davia@usace.army.mil
United States Coast Guard	Hal R. Pitts	hal.r.pitts@uscg.mil

Attachment 3

MD State Recognized Tribes

Cedarville Band of Piscataway	Natalie Standing-on-the-Rock Proctor	piscatawayindians@gmail.com
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Federally Recognized Tribes

Absentee-Shawnee Tribe of Oklahoma	Devon Frazier	dfrazier@atribe.com
Delaware Nation	Katelyn Lucas	klucas@delawarenation-nsn.gov
Delaware Tribe of Indians	Susan Bachor	sbachor@delawaretribe.org
Eastern Shawnee	Lora Nuckolls	thpo@estoo.net
Oneida Indian Nation	Jesse Bergevin	jbergevin@oneida-nation.org
Onondaga Nation	Anthony Gonyea	ononcomm@gmail.com
Pamunkey Indian Tribe	Shaleigh Howells	Shaleigh.howells@pamunkey.org
St. Regis Mohawk	Darren Bonaparte	darren.bonaparte@srmt-nsn.gov
Seneca-Cayuga	William Tarrant	wtarrant@sctribe.com
Shawnee Tribe	Tonya Tipton	tonya@shawnee-tribe.com
Tuscarora Nation	Bryan Printup	bprintup@hetf.org

Wes Moore, Governor
Aruna Miller, Lt. Governor



Rebecca L. Flora, AICP, LEED ND / BD+C, Secretary
Elizabeth Hughes, MHT Director and
State Historic Preservation Officer

Maryland DEPARTMENT OF PLANNING MARYLAND HISTORICAL TRUST

May 16, 2024

Steve Archer
Assistant Division Chief, Environmental Planning Division
Maryland Department of Transportation State Highway Administration
707 N. Calvert Street
Baltimore, MD 21202

Re: MDTA Francis Scott Key Bridge
I-695 over the Patapsco River
Initiation of Section 106 Review
Baltimore City, Anne Arundel County and Baltimore County, Maryland

Dear Mr. Archer,

Thank you contacting the Maryland Historical Trust (MHT), a division of the Maryland Department of Planning, on behalf of the Federal Highway Administration (FHWA) to initiate the Section 106 review process for the above-referenced project. We look forward to working with your agency and other involved parties to successfully complete the preservation requirements for the proposed undertaking.

Based on our review of your letter and the information presented at recent Interagency Review Meetings, we understand that Maryland Department of Transportation State Highway Administration (SHA) proposes to replace the Maryland Transportation Authority's (MDTA) Francis Scott Key Bridge in the same location as the original structure. The project limits extend along I-695 from Quarantine Road in Curtis Bay to Broening Highway in Dundalk and is entirely within MDTA's existing right-of-way (ROW). The remaining portions of the collapsed structure will be removed to clear the on-alignment location of the new structure.

Your letter seeks to initiate the Section 106 process for this undertaking, establish an Area of Potential Effects (APE) for the project, and determine the scope of cultural resources identification efforts. MHT concurs with MDTA/SHA's defined APE for cultural resources, as illustrated in Attachment 2 of your submittal. We recognize that MDTA/SHA may make further refinements to its APE as planning proceeds - based on the addition of ancillary actions or other design modifications.

As you are aware, considerable information already exists regarding identified historic and archaeological resources within this large study area. The table provided with your letter includes most of the known historic properties within the APE, however, we request that you add the National Register-listed Day Village Historic District (MIHP No. BA-3340) to your inventory of existing cultural resources. MHT agrees with MDTA/SHA's historic property investigation methodology for unrecorded architectural resources that consists of the National Register evaluation of parcels immediately adjacent to MDTA ROW and project limits. These resources include: 6001 Dock Road, 3901 Fort Armistead Road, 3925 Fort Armistead Road, Fort Armistead Park, BG&E property (Tax Map 110, Parcels 3, 26, 27, and 58), and the Francis Scott Key Bridge Administrative Building.

Previous studies and current recovery efforts suggest that there is minimal potential for terrestrial and underwater archaeological historic properties within the archaeological study area. Therefore, MHT agrees with MDTA/SHA's recommendation for no further archaeological work at this stage in project planning. Once MDTA/SHA has developed more detailed design and construction plans, it will need to reassess whether further cultural resources investigations are warranted, in consultation with MHT, particularly for any staging areas, anchorages, and other related ancillary actions.

We agree with the list of potential consulting parties for this undertaking, presented in Attachment 3 of your letter. As the Section 106 coordination and public outreach efforts progress, additional relevant parties may be identified and invited to participate in the consultation.

Finally, MHT acknowledges the need to execute a Programmatic Agreement (PA) for this undertaking that will memorialize MDTA/SHA's commitments to 1) complete the identification of historic properties, 2) make an effects determination following the evaluation of historic properties within the APE, and 3) create a process for ongoing consultation and managing changes under this progressive design build project. MHT is committed to working with MDTA/SHA, FHWA, and other involved parties to successfully execute and implement the PA to meet the project's schedule deadlines.

Thank you for initiating consultation with MHT early in project planning for this undertaking. If you have questions or require any assistance, please contact Beth Cole (for archaeology) at beth.cole@maryland.gov or Tim Tamburrino (for the historic built environment) at tim.tamburrino@maryland.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Elizabeth Hughes", with a long horizontal flourish extending to the right.

Elizabeth Hughes
Director/State Historic Preservation Officer

EH/BC/TJT/202402473

From: [Schizik, Lauren \(DOP\)](#)
To: [Sarah Groesbeck \(Consultant\)](#)
Cc: [Ryer, Chris \(DOP\)](#); [Holcomb, Eric \(DOP\)](#)
Subject: RE: Section 106 Consultation: Francis Scott Key Bridge Rebuild in Baltimore City, Baltimore County, and Anne Arundel County Maryland
Date: Thursday, May 16, 2024 10:12:23 AM

Good morning Sarah,

Thank you for inviting CHAP to serve as a consulting party for this Section 106 process. I am accepting this invitation on Eric's behalf while he is out of the office.

Best,
Lauren

Lauren Schizik (she, her)

Historic Preservation Planner Supervisor and Acting Executive Director, CHAP

City of Baltimore | Department of Planning

417 E. Fayette St., 8th Floor | Baltimore, MD 21202

410-396-5796

<http://chap.baltimorecity.gov>



OUR MISSION: To build Baltimore as a diverse, sustainable and thriving city of neighborhoods and as the economic and cultural driver for the region.

OUR EQUITY STATEMENT: An equitable Baltimore addresses the needs and aspirations of its diverse population and meaningfully engages residents through inclusive and collaborative processes to expand access to power and resources.

From: Sarah Groesbeck (Consultant) <SGroesbeck.consultant@mdot.maryland.gov>

Sent: Thursday, May 16, 2024 9:57 AM

To: Schizik, Lauren (DOP) <Lauren.Schizik@baltimorecity.gov>

Subject: FW: Section 106 Consultation: Francis Scott Key Bridge Rebuild in Baltimore City, Baltimore County, and Anne Arundel County Maryland

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Hi Lauren,

This originally went to Eric Holcomb but I got his out of office message. I'm forwarding this to you because of the abbreviated comment period.

Thanks,
Sarah

From: Sarah Groesbeck (Consultant)
Sent: Thursday, May 16, 2024 9:44 AM
To: Sarah Groesbeck (Consultant) <SGroesbeck.consultant@mdot.maryland.gov>
Cc: Steve Archer <SArcher@mdot.maryland.gov>
Subject: Section 106 Consultation: Francis Scott Key Bridge Rebuild in Baltimore City, Baltimore County, and Anne Arundel County Maryland



**OFFICE OF PLANNING &
PRELIMINARY ENGINEERING**
environmental • social • economic responsibility

Environmental Planning Division

Good Afternoon,

On behalf of the Federal Highway Administration, the Maryland Department of Transportation State Highway Administration (SHA) is transmitting the attached Section 106 consultation initiation letter for Project No. AB490M83, Francis Scott Key Bridge Rebuild in Baltimore City, Baltimore County, and Anne Arundel County. We request any comments to SHA Cultural Resources by May 27, 2024. No hard copies will follow.

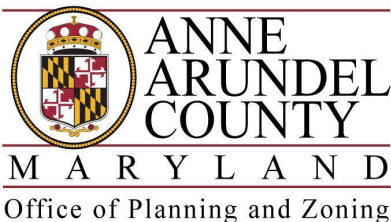
If you have questions or comments, please contact me or Steve Archer.

Thank you,
Sarah



Sarah Groesbeck
Consultant Architectural Historian
Cultural Resources Section
Environmental Planning Division (EPLD)

410.545.0038 **office**
sgroesbeck@mdot.maryland.gov
Maryland State Highway Administration
707 North Calvert Street, Baltimore, MD 21202-3601



2664 Riva Road, P.O. Box 6675
Annapolis, MD 21401
410-222-7450

Jenny B. Dempsey
Planning and Zoning Officer

May 17, 2024

Sarah Groesbeck
Environmental Planning Division
Maryland State Highway Administration
707 N. Calvert Street
Baltimore, MD 21202

Re: Section 106 Consultation: Francis Scott Key Bridge Rebuild – Project No. AB490M83

Dear Ms. Groesbeck,

Thank you for providing Anne Arundel County's Cultural Resources Section in the Office of Planning & Zoning the opportunity to comment on the above referenced project as part of the Section 106 consultation process. Based on the information provided, it is our understanding that the Francis Scott Key Bridge is to be replaced by a new bridge in the same original location as the Key Bridge. The only historic resource within the APE that is located in Anne Arundel County is Ft. Smallwood Park (AA-898) and associated contributing and non-contributing buildings within the park. As noted in the information your office provided, Ft. Smallwood Park is eligible for listing in the National Register of Historic Places; and therefore, would need an evaluation of effects.

In addition, our office concurs on the Maryland Historical Trust's recommendation of no adverse effect for archaeological resources at this stage, but that further archaeological review may be warranted as the planning continues.

Our office looks forward to continuing to participate in the consultation process as this project moves forward.

Sincerely,

Ms. Darian Beverungen
Senior Planner, Cultural Resources Section
Office of Planning & Zoning