

**APPENDIX A**  
**Programmatic Agreement**  
**(included in main volume of EA)**

**APPENDIX A-1**  
**Programmatic Agreement dated March 2001**

**PROGRAMMATIC AGREEMENT  
AMONG THE  
FEDERAL TRANSIT ADMINISTRATION,  
METROPOLITAN TRANSPORTATION AUTHORITY,  
AND  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER  
REGARDING IMPLEMENTATION OF THE  
MTA/LIRR EAST SIDE ACCESS PROJECT**

**WHEREAS, the Federal Transit Administration ("FTA") has identified through an Environmental Impact Statement ("EIS") prepared under the National Environmental Policy Act that the MTA/LIRR East Side Access Project may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places; and**

**WHEREAS, the FTA has consulted with the Advisory Council on Historic Preservation ("the Council") and the New York State Historic Preservation Officer ("SHPO") pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act; (16 USC 470f), and Section 110(f) of the same Act (16 USC 470h-2(f)); and**

**WHEREAS, the Metropolitan Transportation Authority ("MTA") has participated in the consultation and has been invited to execute this Programmatic Agreement; and**

**WHEREAS, the New York City Landmarks Preservation Commission ("LPC") has been included in the consultation as a consulting party; and**

**WHEREAS, pursuant to 36 CFR Section 800.8(c), FTA is utilizing the process under the National Environmental Policy Act ("NEPA") to comply with its requirements under Section 106 of the National Historic Preservation Act; and**

**WHEREAS, the parties have determined that it is appropriate to enter into a Programmatic Agreement;**

**NOW, THEREFORE, FTA, MTA, and SHPO agree that the MTA/LIRR East Side Access Project (the "East Side Access Project") shall be administered in accordance with the following stipulations to ensure that potential effects on historic and archaeological resources are taken into account and to satisfy FTA's Section 106 responsibility for all aspects of the project.**

**STIPULATIONS**

**FTA, MTA, AND SHPO AGREE THAT THE FOLLOWING STEPS WILL BE UNDERTAKEN IN CONNECTION WITH THE EAST SIDE ACCESS PROJECT AND THAT FTA WILL INCLUDE THE OBLIGATIONS SET FORTH IN THIS AGREEMENT AS PART OF ITS RECORD OF DECISION AND AS A CONDITION OF FTA'S APPROVAL OF A GRANT(S) ISSUED FOR THE PROJECT, TO ENSURE THAT THESE MEASURES ARE IMPLEMENTED AS PART OF THE COMPLIANCE WITH THE SECTION 106 PROCESS AND THE SUBSEQUENT PLANNING, DESIGN, AND CONSTRUCTION OF ANY APPROVED PROJECT ALTERNATIVE.**

## **I. ARCHAEOLOGICAL RESOURCES**

The EIS prepared under NEPA identify several areas that may be archaeologically sensitive within areas of potential effect ("APEs") for the project. The following measures will be carried out in connection with implementation of the East Side Access Project for all areas within those APEs that MTA in consultation with SHPO identified as potentially archaeologically sensitive and in which construction activities will occur.

### **A. Soil Borings**

At all sites where the potential for archaeological sensitivity was identified through Stage 1A evaluation and where soil borings were determined to be appropriate, MTA in consultation with SHPO will develop and implement a soil boring program to better delineate the filling and grading that have occurred and determine archaeological sensitivity. At all sites where borings confirm the potential for archaeological resources to exist, MTA will conduct further subsurface testing, in consultation with SHPO, in accordance with Paragraph I.B, below.

### **B. Field Testing**

At all sites where the potential for archaeological resources to exist is confirmed by soil borings conducted under Paragraph I.A above, MTA, in consultation with SHPO, will perform further subsurface testing to identify the presence or absence of archaeological resources. The field evaluation and testing program will be developed by MTA in consultation with SHPO and at a level sufficient to determine if sites meet the criteria for listing in the National Register. In consultation with FTA and SHPO, MTA will apply the National Register criteria and reach one of the following conclusions:

1. The site does not meet the National Register criteria; no further action is required.
2. The site does meet the National Register criteria, in which case the site will be treated in accordance with Paragraph I.C below.
3. A dispute exists regarding whether the criteria are met, in which case the opinion of the Keeper of the National Register of Historic Places at the National Park Service ("the Keeper") will be sought to resolve disagreements, and the site treated in accordance with the Keeper's findings.

MTA will notify SHPO of conclusions regarding evaluation of all sites for National Register eligibility.

### **C. Mitigation and Data Recovery**

MTA, in consultation with SHPO, will consider measures for avoidance of archaeological sites, such as design modification, rather than data recovery. For those sites determined to be eligible for inclusion in the National Register where MTA determines, in consultation with FTA and SHPO, that avoidance is not practicable, MTA, in consultation with SHPO, shall develop and implement a data recovery plan that is consistent with the Secretary of the Interior's *Standards for the Treatment of Historic Properties* and *Standards and Guidelines for Archeological Documentation* and the Council's *Treatment of Archeological Properties* and subsequent amendments.

The plan will be designed to recover data sufficient to address significant research issues and test assumptions and thus substantially preserve the archaeological value of National Register eligible or listed sites; allow for addressing unanticipated resources or site conditions; include a process for consultation with SHPO; and include a schedule of proposed data recovery efforts.

#### **D. Professional Standards**

MTA shall ensure that all archaeological research, testing, and analysis conducted pursuant to this Agreement are carried out by or under the direct supervision of a person or persons meeting the Secretary of Interior's Professional Qualifications Standards and certified by the Register of Professional Archeologists. FTA shall ensure that all final archaeological reports are responsive to the New York Archaeological Council's Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State and to the Department of the Interior's *Format Standards for Final Reports of Data Recovery Program*.

#### **E. Curation**

MTA shall develop, in consultation with SHPO, and in accordance with 36 CFR Part 79, a plan for the analysis and curation of material and records from any archaeological excavations. MTA shall be responsible for the implementation of such a plan.

#### **F. Phasing of Construction Activities and Archaeological Field Work**

MTA will ensure that all steps practical to ensure that archaeological field analysis and data recovery, if required, will be completed prior to construction activities in the vicinity of affected resources. The MTA, in consultation with FTA and SHPO, will develop a plan to appropriately phase the archaeological field analysis and data recovery with construction activities.

## **II. HISTORIC PROPERTIES/STRUCTURES**

In the EIS for the East Side Access Project, within the APEs for the East Side Access Project, MTA, in consultation with SHPO, determined that one historic property, Grand Central Terminal, is a National Historic Landmark, and that 20 historic properties/structures are listed or eligible for listing on the State and National Registers and/or New York City Landmarks. These properties are as follows: in Manhattan (New York County), Grand Central Terminal, Park Avenue Viaduct, Grand Central Terminal Post Office, New York Central (Helmsley) Building, Waldorf-Astoria Hotel, St. Bartholomew's Church and Community House, Seagram Building, Four Seasons Restaurant (interior), Lever House, Racquet & Tennis Club, Vanderbilt Avenue Building, Yale Club, Vanderbilt Concourse Building, Roosevelt Hotel, Postum Building, Graybar Building, and Hotel Intercontinental; and in Queens County, Sunnyside Gardens Historic District, Switch Tower Q in Sunnyside Yard, and Office (formerly Signal Cabin F) in Sunnyside Yard.

In consultation with SHPO, the physical and contextual impacts on the historic properties/structures were assessed and potential adverse effects identified. It was determined that the project (under Option 2, the selected engineering option for the project in Manhattan) would have the potential for impacts on Grand Central Terminal and the Yale Club in Manhattan (New York County); and Switch Tower Q and the Office in Sunnyside Yard, Queens County. A comprehensive program for treatment of historic properties/structures will be developed and implemented by MTA in the manner set forth below.

#### **A. Construction Protection Plan**

The MTA, in consultation with SHPO, will develop and implement a construction protection plan to ensure the protection of Grand Central Terminal, the Yale Club, Switch Tower Q and the Sunnyside Yard Office, and any other historic resources listed on or determined eligible for the National Register or designated as New York City Landmarks from damage due to the construction of the East Side Access Project. The MTA shall ensure that any construction conducted within the APE of an identified historic resource (e.g., within 75 feet of that resource) will be included in the construction protection plan.

## **B. Design Specifications**

The MTA, in consultation with SHPO, will develop design specifications to ensure that new elements constructed as part of the East Side Access Project inside Grand Central Terminal are compatible with the terminal's historic and architectural qualities. The MTA, in consultation with SHPO, will also develop design specifications to ensure that new elements constructed as part of the East Side Access Project within the contextual APE (i.e., within visual range of a resource) for the Yale Club and any other historic resources listed on or eligible for the National Register or New York City Landmarks are compatible with the historic and architectural qualities of those resources. The design and specifications for those elements of the East Side Access Project will be developed in consultation with the SHPO and submitted to the SHPO for approval.

## **III. REPORTING**

MTA shall ensure that all final archaeological reports and all final historic resources reports resulting from the actions pursuant to this Agreement shall be provided to SHPO.

Annual reports about archaeological resources and historic structures will be completed and provided by MTA to FTA and the SHPO one year from the date this Agreement is fully executed and every year thereafter until project completion. The signatories to this Agreement will review implementation of the Agreement and determine whether revisions are needed at the time the reports are submitted. If revisions are needed, the parties to this Agreement will consult to make such revisions.

## **IV. DISPUTE RESOLUTION**

Should the SHPO object within 30 days to any action proposed pursuant to this agreement, FTA shall consult with the objecting party to resolve the objection. If FTA determines that the objection cannot be resolved, FTA shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all pertinent documentation, the Council will provide FTA with recommendations or comments, which FTA will take into account in reaching a final decision regarding the dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; FTA's responsibility to carry out all actions under this agreement that are not the subject of the dispute will remain unchanged.

## **V. OTHER**


The SHPO and FTA may monitor activities carried out pursuant to this Programmatic Agreement, and will review such activities if so requested. MTA will cooperate with the FTA and SHPO in carrying out their monitoring and review responsibilities.

Any party to this Programmatic Agreement may request that it be amended, whereupon the parties will consult to consider such amendment.

If the East Side Access Project does not proceed, this Agreement shall be terminated.

**EXECUTION AND IMPLEMENTATION OF THIS PROGRAMMATIC AGREEMENT  
EVIDENCES THAT FTA HAS SATISFIED ITS SECTION 106 RESPONSIBILITIES FOR ALL  
INDIVIDUAL UNDERTAKINGS OF THE PROGRAM.**

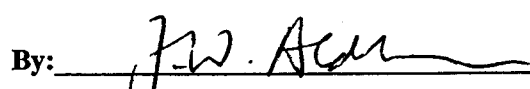
**FEDERAL TRANSIT ADMINISTRATION**

By:  Date: 02/02/01  
Letitia Thompson  
Regional Administrator, Region II

**METROPOLITAN TRANSPORTATION AUTHORITY**

By:  Date: 1/22/01  
Anthony F. Japha  
Chief Program Executive, MTA/LIRR East Side Access

**NEW YORK STATE HISTORIC PRESERVATION OFFICER**

By:  Date: 19 January '01  
J. Winthrop Aldrich  
Deputy Commissioner for Historic Preservation