

Martin County comments regarding Programmatic Agreement dated February 26, 2016: **FOR THE ALL
ABOARD FLORIDA INTERCITY PASSENGER RAIL PROJECT
ORLANDO TO MIAMI, FLORIDA**

13th Whereas Clause. This clause describes the outreach conducted for the Project pursuant to NEPA, not Section 106. ACHP has stated that those NEPA scoping sessions did not satisfy or even initiate Section 106 consultation. As written, this clause gives the inaccurate impression that issues relating to the Section 106 process were a significant focus of the meetings.

The 14th whereas clause. This section provides the status of the Seminole engagement. The County suggests adding the date of this engagement.

18th Whereas Clause. Among the deficiencies raised in the County's previous objections to the Section 106 process were various deficiencies that precluded the County from effective participation in the consultation. The County does not believe the 1A 46 Guidelines were fully followed and was deficient in achieving that standard.

Section III.A.iii. This section only provides 10 business days for a consulting party to decide whether to join the Bridges Advisory Group. For some consulting parties that are governmental entities, this is not adequate time to secure the authorizations necessary to participate, especially if it falls during a holiday or typical vacation-time period. The County requests that 30 calendar days be provided for consulting parties to respond.

Section III.A.iii. Recommendations from the Bridges Advisory Group should go to FRA as well as AAF.

Section III.A.iv. First, this section would have the Bridges Advisory Group review plans for proposed bridges once the plans were advanced to the 75% design stage. In order to provide meaningful input, the Bridges Advisory Group should review plans before they have advanced to final design. The County requests that preliminary plans at the 30% design stage be shared with the Bridges Advisory Group and again at 60%, 90% and final plan submittals. If bridge plans already have advanced beyond the 30% design stage, these plans should be shared with the Bridges Advisory Group as soon as the group is formed.

In addition, this section only provides 10 business days for the Bridges Advisory Group to meet, review and provide comments on the proposed bridge plans. Given the number of parties likely to constitute the Bridges Advisory Group and the importance and complexity of the bridge designs, this is an unrealistic time period. The County requests that 60 calendar days be allowed for the Bridges Advisory Group to review and provide comments on proposed bridge plans. Additionally, the County recommends that the responses to the comments be provided timely or within a reasonable time period as to allow for Group feedback.

The County understands that the recommendations are to be advisory only. However, FRA in consultation with SHPO and ACHP, should be explicitly authorized to require AAF to implement those economically and technically feasible recommendations that are: (i) in AAF's

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opinion consistent with engineering and industry standards, and (ii) necessary to minimize and mitigate effects on historic resources.

Section III.B.i. The PA does a good job of documenting the bridges prior to their demolition or reconstruction. The County suggests the FRA provide for laser scanning (3D imaging technology) of the bridges to allow for a 3D perspective of the historical nature of the bridges.

Section IV.A. This section references an “Archaeological Monitoring/Unanticipated Discoveries Plan,” but a copy of that plan is not attached to the draft Programmatic Agreement, nor does it appear to have been reviewed or approved by FRA, ACHP or the Consulting Parties. A draft archaeological monitoring plan was provided to the Consulting Parties in September 2015, in advance of the one Consulting Parties meeting. However, no revised plan has been circulated to the Consulting Parties. Due to the importance of this plan, it must be reviewed and approved by FRA, in consultation with SHPO and ACHP, and, in the spirit of the previously noted cooperation, the Consulting Parties should have an opportunity to review and comment on it as well.

Section IV.B. The appointment of an Independent Archaeological Monitor (“IAM”) is an excellent concept. However, in order for the IAM’s role to be meaningful, a mechanism must be included in the Programmatic Agreement to allow the IAM to raise concerns with the Project Archaeologist and FRA, and for FRA to issue a stop work order, if appropriate. As currently written, the Programmatic Agreement does not provide any means or method for the IAM to immediately voice concerns other than through weekly status reports to FRA, nor does the Programmatic Agreement allow for any party other than the Project Archaeologist to determine that a significant resource is endangered or that work should halt until appropriate steps can be developed to deal with any such resource. Recognizing this timing may not be sufficient to protect the historic or significant resources, the County strongly recommends the authority of the IAM be amended to reflect this ability to protect the resources of the County.

Section IV.B.i. Selecting an archaeological monitor may not be an area of great expertise for FRA, a federal transportation agency. SHPO, on the other hand, is the entity within the State of Florida that should be most familiar with the qualifications of historic resources consultants. Accordingly, the County requests that SHPO prepare a list of acceptable candidates from which FRA will prioritize the candidates to select and, subsequently, approve the IAM in cooperation with the consulting parties.

Section IV.B.iii. The County, in light of being respectful of the IAM’s schedule, recommends at least 48 hours’ notice (reasonable opportunity) for being present in all ground disturbing and monitoring activities.

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Section IV.B.iv. As the County understands this section, The IAM is the field representative for the Agreement and the parties, and is onsite during the most if not all activities. The agreement refers to AAF's Project archeologist is to notify the IAM of significant artifacts or features discovered. The County recommends this role be reversed. The IAM will alert AAF's project archeologist of, in his opinion, discoveries that may be of significance.

Section IV.C.i. The County is concerned about the selection of Janus Research to serve as the Project Archeologist in light of the work performed by this consultant to date. Janus served as the historical resources consultant on the DEIS and prepared the original Cultural Resources Assessment Report. Since Janus did not recognize many of these sites as sufficiently important to merit protection under Section 106, it should not be assigned with primary responsibility for their protection during the course of construction.

Section IV.C.i. Due to the importance of the archaeological monitors who will be working under the supervision of the Project Archeologist, the County recommends that a minimum level of educational and/or professional experience that complies with the expected duties required for individuals hired to perform this task. In addition, the County recommends that the Project Archeologist consult with the Independent Archaeological Monitor as to the appropriate number and placement of the monitors at each site.

Section IV.C.vi., second bullet. Providing seven (7) calendar days is an inadequate time frame for the Consulting Parties to review and comment on appropriate treatment measures for newly discovered National-Register eligible archaeological resources. Any such resource will be significant and will require thoughtful evaluation by the Consulting Parties. The County recommends a minimum of 30 calendar days should be provided for this review.

Section IV.C.viii. The Project Archeologist should present the results of the archeological monitoring to the IAM, AAF, FRA, SHPO, affected Native American Tribes and any Consulting Party requesting copies of such information.

Section V.C. AAF should consult with SHPO, FRA and ACHP in the event it proposes to use private or public property outside of the existing APE for direct effects in order to locate and implement the new activities so as to limit the effects on archaeological and historic properties. The Consulting Parties must also be notified and given an opportunity to comment. This approach is consistent with the procedures outlined in the draft Programmatic Agreement.

Section VII. The County strongly believes that it is essential for the Consulting Parties to be kept abreast of developments during implementation of the Project. At an absolute minimum, a monthly conference call to provide status reports should be held with the Consulting Parties. If the Consulting Parties only receive status reports on a six month basis it is possible that they would only receive one or two such updates, assuming the Project were to be constructed in the

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short time period suggested by the FEIS. The County feels this is an inadequate reporting timeframe and suggests monthly conference calls be held with the parties for updates.

This section should require that any amendments to the Programmatic Agreement require consultation with the Consulting Parties before the amendment is executed. This is consistent with the approach to the development of the Programmatic Agreement in the first instance, and with Section 106.

Section XIII. The County recommends, if the Agreement is terminated , that the consulting parties be notified immediately.

Table 8. The County has identified that site 8SL3 is missing.